

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 22, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Alicia Miecznikowski, a rising fourth-grade student at Norge Elementary School

E. PRESENTATION – Recognition of Williamsburg Landing’s 25th Anniversary

F. PUBLIC COMMENT

G. CONSENT CALENDAR

1. Minutes –
 - a. May 23, 2010, Closed Session Meeting
 - b. May 24, 2010, Closed Session Meeting
 - c. June 8, 2010, Regular Meeting
 - d. June 17, 2010, Closed Session Meeting
2. Contract Awards – Annual Engineering Services
3. Resolution of Recognition – Williamsburg Landing’s 25th Anniversary
4. Grant Award – Virginia Department of Health – Bicycle Safety - \$1,000
5. Grant Award – Virginia Department of Health – Boating Safety - \$923.74
6. Williamsburg-James City County (WJCC) Schools “Safe Routes to School” Grant Execution Authorization – \$126,000
7. Grant Award – Chesapeake Bay Restoration Fund – \$5,900
8. Code Violation Lien – Trash and Grass Lien
9. Code Violation Lien – Trash and Grass Lien
10. Revision to Chapter 7 of the Personnel Policies and Procedures Manual

H. PUBLIC HEARINGS

1. Case No. Z-0001-2009/SUP-0007-2010/MP-0001-2009. Colonial Heritage Deer Lake
2. Case No. SUP-0013-2010. Chickahominy Road Manufactured Home
3. Case No. SUP -0026-2009. Constance Avenue Wireless Communications Facility
4. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communications Facility
5. FY 2011-2016 Six Year Secondary Road Program
6. Case No. SUP-0004-2010. Courthouse Commons
7. Case No. ZO-01-10. Amendments to Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs Way-Finding Signage

-CONTINUED-

8. Case Nos. ZO-0002-2010 and SO-0001-2010. Amendments to Chapter 24, Zoning, Article III, Site Plan, Sections 24-142 through 24-160 and Chapter 19, Subdivisions, Article II, Procedures and Documents to be Filed, Section 19-19 through 19-31 – Review Criteria and Procedures for Administrative and Commission Review of Conceptual Plans, Site Plans and Subdivisions

I. BOARD CONSIDERATION

1. Contribution to VRS (Virginia Retirement System) Plan 2
2. Referendum Question – November 2010
3. Request for a Limited-Access Break on Route 199

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

N. RECESS to 4:30 p.m. on June 29, 2010

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AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF MAY 2010, AT 1:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

C. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter involving interviews for the prospective County Administrator.

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

At 1:30 p.m., Mr. Kennedy recessed the Board into Closed Session.

At 5:55 p.m., Mr. Kennedy reconvened the Board.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, to consider a personnel matter, the interviews of the prospective County Administrator.

D. RECESS to 7:30 a.m. on May 24, 2010.

At 5:55 p.m., Mr. Kennedy adjourned the Board to 7:30 a.m. on May 24, 2010.

Sanford B. Wanner
Clerk to the Board

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AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF MAY 2010, AT 7:30 A.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

At 7:30 a.m. on May 24, 2010, Mr. Kennedy reconvened the Board.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

C. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter involving interviews for the prospective County Administrator.

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

At 7:31 a.m., Mr. Kennedy recessed the Board into Closed Session.

At 12 p.m., Mr. Kennedy reconvened the Board.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, to consider a personnel matter, the interviews of the prospective County Administrator.

D. ADJOURNMENT to 4 p.m. on May 25, 2010.

Mr. McGlennon made a motion to adjourn.

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

At 12 p.m., Mr. Kennedy adjourned the Board to 4 p.m. on May 25, 2010.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF JUNE 2010, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Brad Wellman, a fifth-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

Mr. Kennedy read the rules of public comments to the citizens and reminded them of the three-minute time frame which allows the public to speak.

1. Ms. Virginia Kory, 145 Roger Smith, spoke to the Board about the Code of Ethics for review at each meeting. She stated she would like to see the Code available for the public at each meeting.

2. Mr. William O. Halteman, 109 Randolph's Green, spoke on the Cell on Wheels (COW) Tower which has been operating inside a R4 zoning district since 2005. He discussed a letter from the Zoning Division which allows the tower to remain on the property.

3. Mr. David Boisselle, 121 Wilderness Lane, asked the Board to support Bill H.R. 1034 pertaining to the Honor and Remember Flag, which recognizes all individuals who have served in the military.

4. Mr. Robert Richardson, 2786 Lake Powell Road, spoke about ethics in the County.

5. Mr. Jack Fowler, 109 Wilderness Lane, discussed the boat ramp at Little Creek Reservoir.

6. Mr. Edward Oyer, 139 Indian Circle, asked citizens and staff to remember the military personnel and mentioned the Flea Market on Ron Springs Road is open.

F. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the Consent Calendar.

1. Minutes –
 - a. May 25, 2010, Work Session Meeting
 - b. May 25, 2010, Regular Meeting
2. Bid Award – Scott’s Pond Stream Restoration - \$148,950.42

RESOLUTION

BID AWARD - SCOTT’S POND STREAM RESTORATION - \$148,950.42

WHEREAS, competitive bids were advertised for the Scott’s Pond Stream Restoration project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being Environmental Quality Resources, Arbutus, MD with a bid of \$148,950.42; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Scott’s Pond Stream Restoration project in the total amount of \$148,950.42.

3. Bid Award - Ironbound Square Regional Stormwater Management Facility - \$494,227

RESOLUTION

BID AWARD - IRONBOUND SQUARE REGIONAL

STORMWATER MANAGEMENT FACILITY - \$494,227

WHEREAS, competitive bids were advertised for the Ironbound Square Regional Stormwater Management Facility project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being George Nice and Sons, Inc. with a bid of \$494,227; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Ironbound Square Regional Stormwater Facility in the total amount of \$494,227.

4. Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures
 - a. Capital Projects for School Purposes
 - b. Capital Projects for Stormwater Management

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for school purposes, namely, the construction of a high school multi-use space and capital maintenance, including refurbishments, new HVAC and roofs, at four school buildings (collectively, the "Projects"); and

WHEREAS, the County may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County from the proceeds of one or more tax-exempt obligations to be issued by the County (the "Indebtedness").

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$6,900,000.
3. This resolution shall take effect immediately upon its adoption.

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA
DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for Stormwater Management purposes, namely drainage improvements, stream restoration, flood management, and stormwater retention ponds; and

WHEREAS, the County may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County from the proceeds of one or more tax-exempt obligations to be issued by the County (the "Indebtedness").

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$30,000,000.
3. This resolution shall take effect immediately upon its adoption.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5).
NAY: (0)

G. PUBLIC HEARINGS

1. Case No. SUP-0024-2010. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower

Mr. Kennedy noted that a deferral was requested by the applicant until July 13, 2010, and asked if anyone would like to speak to this matter as the Public Hearing was still open.

As no one wished to speak to this matter, Mr. Kennedy and the Public Hearing will remain open.

Mr. Kennedy recognized Planning Commissioner Al Woods in attendance.

2. Case No. HW-0002-2010. Busch Gardens Germany Attraction

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment for a height limitation waiver to permit a new single tower attraction in Busch Gardens. The attraction is proposed to reach a height of 260 feet above finished grade and would be located in the Germany area of the park by the current location of the Der Katapult ride. The attraction exceeds the 60-foot height limitation imposed by the M-1 Zoning District. To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter's Grove Country Road, also owned by Busch Properties. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2 on property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board with the issuance of a height limitation waiver. The applicant conducted an unofficial balloon test in April to help evaluate potential visual impacts of the tower. As a result of that test and the balloon's visibility from the adjacent Kingsmill neighborhood, the applicant adjusted the proposed location of the tower so it would be less visible from Kingsmill and conducted a second balloon test on May 17, 2010.

Mr. Kennedy opened the Public Hearing.

1. Mr. Larry Giles, Vice President of Engineering at Busch Gardens stated he was satisfied with the staff report and was present to answer any questions the Board may have.

Mr. Goodson mentioned he was pleased Mr. Giles met with citizens in Kingsmill to discuss the new attraction in Busch Gardens. Mr. Goodson asked Mr. Giles about a cell tower on the ride.

Mr. Giles responded that he spoke with Mr. Dane Brendell, AT&T, and that the tower does not meet the standard of a cell tower.

2. Ms. Nancy Sutter, 117 Pierces Court, mentioned her concern is the noise and tower from the Germany attraction at Busch Gardens.

Mr. Kennedy closed the Public Hearing.

Mr. Goodson responded to Ms. Sutter about the noise himself. The noise will be limited versus the other roller coasters.

Mr. McGlennon noted this ride is replacing two rides taken down in the same section in the park and that Busch Gardens is an amusement park.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. HW-0002-2010. BUSCH GARDENS GERMANY ATTRACTION

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

WHEREAS, Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment, LLC for a Height Limitation Waiver to allow for the installation of a single tower attraction that is approximately 260 feet above grade (the "Attraction"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0002-2010; and

WHEREAS, the location of the proposed Attraction is depicted on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approve Height Limitation Waiver HW-0002-2010 to grant the applicant a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower up to 260 feet tall as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower attraction (the "Attraction") up to 260 feet above finished grade as generally shown on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines." For the purposes of this application, "finished grade" is defined as 80 feet above sea level.
2. **Lighting:** All lighting locations and specifications shall be shown on future development plans. Unless otherwise required by the Federal Aviation Authority, installation of any lights on the Attraction at points above 60 feet in height or installation of lights which direct light upward to illuminate any part of the Attraction or surrounding theme park areas shall be prohibited, with the sole exception being that landscape-shielded "wall-washer" type fixtures may be installed to illuminate vertical (solid) wall surfaces related to the Attraction.

3. **Color Scheme:** The color of the Attraction at any point at or above 60 feet above finished grade shall be muted and designed to minimize visual impacts. A color scheme plan shall be submitted to, and approved by, the Director of Planning for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Attraction.
4. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this Height Limitation Waiver or this Height Limitation Waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
5. **Severance Clause:** This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP -0012-2010. Camp Road Tower Development Corporation Wireless Tower

Mr. Jason Purse, Senior Planner, finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The visual effect of the tower will be discreet in most locations and should not adversely impact the nearby scenic resources. Because of the existing topography and tree cover in the area, the tower should only be visible from the rear section of Camp Road. This tower will provide needed wireless coverage to an underserved area of the County. Staff recommends approval of the Special Use Permit (SUP) application for the Camp Road tower with the attached resolution.

This application, as proposed, is in general compliance with the Comprehensive Plan. While the tower will have a limited visual impact on Camp Road, the impact is minimized by the location. Given the existing tree buffer, topography, and the distance from the surrounding residential areas, staff concurs that the applicant has selected an appropriate location for this tower to provide wireless service to an underserved area.

Mr. Icenhour asked if adjacent properties owners were notified of the tower.

Mr. Purse responded that adjacent properties owners were notified of the tower.

Mr. Icenhour also asked about a neighborhood public meeting based on location.

Mr. Purse responded that generally meetings are held; however; since this was not a large neighborhood this did not comply for a meeting.

Mr. Icenhour asked about comments being received from the property owners.

Mr. Purse responded that some comments were received and they wanted more information. Staff spoke with a citizen who had some concerns and the citizen was contacted by the applicant.

1. Ms. Gloria Freye, Attorney for McGuire Woods, on behalf of the applicant and also in attendance was Mr. John McGalesky, Georgia Towers. Ms. Freye discussed the tower for NTelos which needs to expand its coverage along Route 60 to the New Kent County line. NTelos needs the service for voice data and broadband internet access. The area is rural and zoned A-1. The tower is 800 feet from the nearest resident. A balloon test was conducted and was not visible from Route 60 or Diascund Road to Barnes Road. Thirteen property owners were notified and only three responded. Their concerns were about the setbacks, a vacant field, and visibility. The tower is not visible from the road.

Mr. Icenhour asked the applicant if any clearing will be done to construct the tower.

Ms. Freye responded this will be done to achieve as well as there will be additional coverage but the ground equipment will not be visible.

Mr. Goodson mentioned the comment letters from other carriers.

Ms. Freye commented that NTelos will be the lead carrier for this site and is not aware of the comment from the other carriers.

Mr. Goodson asked if four carriers can go on this site.

Ms. Freye commented that the tower can accommodate four carriers.

Mr. McGlennon asked Ms. Freye to elaborate about the communication with a property owner who asked for additional screening.

Ms. Freye responded the property owner owns the vacant lot and because of the way that the driveway is situated they have an exposed view and supplemental trees to block the view of the tower will be installed.

Mr. McGlennon stated this is not a condition of the application.

Ms. Freye responded it is not; however, the screening will be installed on the residence's property.

1. Mr. Fowler, 109 Wilderness Lane, discussed his concerns of the A1 area 15 to 20 years from now and asked the Board to limit placement of towers in the County. He asked the Board to think about the future development of James City County, particularly when the lease may need to be renewed.

Mr. McGlennon asked Mr. Rogers if the County has had any cases that cell towers have been approved and then gained reapproval.

Mr. Rogers responded that it has not happened. Time limits on SUPs are items viewed as transitional uses and are not seen as a transitional use where there is a time limit.

Mr. McGlennon asked if the operator has the responsibility to dismantle the tower.

Mr. Rogers responded that it is their responsibility and it is also stated in the ordinance.

Mr. Purse responded that the applicant is required to post a bond six months prior to dismantle the tower for discontinued use.

Mr. Kennedy made the motion to adopt the resolution.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5).
NAY: (0)

RESOLUTION

CASE NO. SUP-0012-2010. CAMP ROAD TOWER DEVELOPMENT

CORPORATION WIRELESS TOWER

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. Byron Scyzgial of Georgia Towers LLC has applied for an SUP to allow for a 199-foot wireless communications facility; and

WHEREAS, the proposed tower is shown on a preliminary site plan, entitled “Kings Corner” dated March 8, 2010; and

WHEREAS, the property is located at 126 Camp Road on land zoned A-1, General Agricultural, and can be further identified as James City County Real Estate Tax Map/Parcel No. 1020100012; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 5, 2010, recommended approval of this application by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0012-2010 as described herein with the following conditions:

1. A maximum of one wireless communications tower shall be permitted at the property located at 126 Camp Road, further identified as James City County Real Estate Tax Map No. 1020100012 (“Property”). The tower and supporting equipment shall be located and designed as generally shown on the overall site layout plan, prepared by BC Architects Engineers, titled “Kings Corner” and dated March 8, 2010 (“Master Plan”).
2. The tower shall be located on the Property in a manner that maximizes the buffering effects of existing trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
3. The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning or his designee prior to final site plan approval.
4. The maximum height of the tower, including the lightning rod, shall not exceed 199 feet from existing grade.
5. Within 30 days of the issuance of a final Certificate of Occupancy (CO) by the County Codes Compliance Division, certification by the manufacturer or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be

accommodated inside the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.

6. No advertising material or signs shall be placed on the tower.
7. The tower shall be designed and constructed for at least four users and shall be certified to that effect by an engineering report prior to the site plan approval.
8. A final CO shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
9. The tower shall be freestanding and shall not use guy wires for support.
10. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Director of Planning. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
11. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower as depicted on Sheet C-1 of the Master Plan.
12. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Borrow Pit Renewals

- a. Case No. SUP-0009-2010. USA Waste of SUP 0010-2010 Virginia Landfills, Inc.
- b. Case No. SUP-0010-2010. Branscome, Inc.

Mr. Goodson stated that since he has a business relationship with the applicant from Case No. SUP 0010-2010 Branscome, Inc. he would like to abstain, but will vote on Case No. SUP-0009-2010.

Ms. Kate Sipes, Senior Planner, stated that Mr. Vernon Geddy has applied on behalf of USA Waste of Virginia Landfills, Inc. and Branscome, Inc. to renew its permit to operate a borrow pit at 700 Blow Flats Road. A separate application Case No. SUP-0010-2010, Branscome, Inc. has been filed as requested. For over 40 years, Henry S. Branscome, Inc. has operated a borrow pit in the southernmost portion of the County. Branscome, Inc. utilizes the borrow pit as an area where sand and clay are mined for use as fill material in off-site building and roadway construction. USA Waste of Virginia Landfills, Inc. uses the borrow pit to mine clay material for use at a local landfill. In the M-2, General Industrial, Zoning District, “crushed stone, sand, gravel, or mineral mining; storage and distribution of same” is a specially permitted use. Two SUPs (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. At that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the permits as a condition of approval. In 1997, the SUPs were reevaluated and renewed for a subsequent three years. In 2000 and again in 2005, the SUPs were once again renewed with a five-year time limit as a condition of the approval. The two existing SUPs will expire on September 13, 2010. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two SUPs without any time limit in order to reduce administrative tasks for the businesses. The

Environmental Division prefers to include a time limit on the SUPs. The regulations regarding environmental protection change constantly and having an opportunity periodically to review the conditions of the operation allows the County to address these changes, which is critical for the potential future redevelopment of the property for economic development purposes. The sunset provision has been set at five years from the date of approval. Staff is comfortable with extending the time period from five years to eight years and is now proposing the expiration date be set at December 31 of the renewal year 2018.

Mr. McGlennon questioned if the eight-year renewal has any relationship with the State regulations.

Ms. Sipes stated that there is an annual application with the State.

Mr. McGlennon asked if the borrow pits were no longer municipal on the site, it is his understanding that an SUP would not be allowed on the site.

Ms. Sipes stated that is correct.

Mr. Vernon Geddy, Geddy, Harris, Franck, and Hickman, LLP, spoke to the Board about USA Waste of Virginia Landfills, Inc. and Branscome, Inc. Branscome, Inc. has been in operation for over 40 years. All mining is on an "as needed" basis for its jobs and landfill.

Mr. Icenhour thanked Mr. Geddy for answering his concerns and questions about the landfills. Mr. Icenhour asked him how the landfills could continue to be in operation for another 20 years and how deep the mining operation goes.

Mr. Jay Lipscomb, Environmental Manager of Branscome, Inc. responded that the sand and gravel go down 10 to 12 feet.

Mr. Icenhour stated it will not go any further than 10 or 12 feet.

1. Mr. Edward Oyer, 139 Indian Circle, commented on left-turn lanes west bound at Route 60 and Blow Flats Road; trucks exiting the roads from the borrow pits from Blow Flats Road; traffic congestion from trucks waiting to turn left onto Blow Flats Road; no access for emergency vehicles or traffic to pull over; stated that three lanes are needed and asked the applicant to modify the intersection; and mentioned that there is a lot of truck traffic activity coming from and going to the borrow pits.

Mr. Goodson made a motion to adopt the resolution SUP-0009-2010.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5). NAY: (0).

Mr. Icenhour made a motion to adopt the resolution SUP-0010-2010.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (4). ABSTAINED: Goodson (1).

RESOLUTION

CASE NO. SUP-0010-2010. BRANSCOME, INC. BORROW PIT RENEWAL

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

WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same, is an SUP in the M-2, General Industrial, Zoning District; and

WHEREAS, the applicant has requested to amend existing SUP-0019-2005 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 750 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100002; and

WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0010-2010 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on-site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals, and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled, "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.

7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only “inert material” shall be used as fill during the reclamation of the property. For the purposes of the SUP “inert material” shall be defined as “clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe.” Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - A. The extent and depth of the area mined over the previous calendar year.
 - B. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - C. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - E. A certification as to the amount of disturbed acreage on-site.
 - F. A certification that all fill used after the date of issuance of this permit is “inert material,” as defined above.
 - G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - H. A delineation of the extent of the areas covered by the State Mining Permit.
10. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
12. This SUP shall be valid until December 31, 2018.

RESOLUTION

CASE NO. SUP-0009-2010. USA WASTE OF VIRGINIA LANDFILLS, INC.,

BORROW PIT RENEWAL

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

WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same is an SUP in the M-2, General Industrial Zoning District; and

WHEREAS, the applicant has requested to amend existing SUP-0020-2005 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 700 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100003; and

WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0009-2010 as described herein with the following conditions:

13. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
14. No more than 40 acres of the site shall be disturbed at any one time.
15. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
16. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
17. The hours of operation shall be limited to daylight hours, Monday through Saturday.
18. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.
19. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development. Encroachment into the Resource Protection Area (RPA)

will be allowed only after obtaining expressed written consent by the Environmental Division Director and only for the sole purpose of creating tidal wetlands.

20. Only “inert material” shall be used as fill during the reclamation of the property. For the purposes of the SUP, “inert material” shall be defined as “clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe.” Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
21. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - I. The extent and depth of the area mined over the previous calendar year.
 - J. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - K. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - L. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - M. A certification as to the amount of disturbed acreage on-site.
 - N. A certification that all fill used after the date of issuance of this permit is “inert material,” as defined above.
 - O. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - P. A delineation of the extent of the areas covered by the State Mining Permit.
22. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
23. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
24. This SUP shall be valid until December 31, 2018.

5. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic, Adoption of State Law, Generally

Mr. Rogers spoke about the ordinance to amend Chapter 13, Motor Vehicles and Traffic, Adoption of State Law; he stated this is an annual update on the Driving Under the Influence (DUI) ordinance which will match the General Assembly July 1, 2010. This ordinance will allow the James City County Police Department to uninterruptedly enforce of this law locally and to comply with the State laws. Staff recommends adoption of the law.

Mr. Icenhour asked if we are required to do this every year.

Mr. Rogers stated that was correct and to be safe we do this yearly to make sure we do not get challenged. This is recommended by the General Assembly.

Mr. McGlennon asked if the County is required to do this.

Mr. Rogers stated that the Virginia Code does not require this, but the Virginia Supreme Court does.

Mr. McGlennon asked if the County have to be consistent with State law.

Mr. Rogers responded to Mr. McGlennon that the County does.

Mr. Goodson moved to adopt the ordinance.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5).
NAY: (0).

H. BOARD CONSIDERATION

1. Grant Allocation - Energy Efficiency and Conservation Block Grant from the Virginia Department of Mines, Minerals, and Energy - \$498,625

Ms. Stephanie Luton, Purchasing/Management Services Director, gave a presentation to the Board of Supervisors to discuss the grant application. As part of its mission to investigate green building funding, incentives, legislation, and economic development opportunities, the Finance Subcommittee of the Green Building Roundtable applied for and received a \$498,625 Energy Efficiency and Conservation Block Grant (EECBG) from the Virginia Department of Mines, Minerals and Energy. The EECBG program helps local governments create jobs and drive economic development by implementing strategies that encourage energy efficiency and renewable energy initiatives. The program emphasizes a community-based approach to help meet these goals. This grant was competitive with 148 applications from across the Commonwealth resulting in 26 awards. The County's grant program will focus on removing the three main barriers to an effective energy-efficient building retrofit market: poor access to information, funding, and skilled workers.

The grant consists of \$258,625 for the program's staff and operating budget through April 2012, \$210,000 to capitalize a revolving loan fund for audits and energy-efficient building retrofits and \$30,000 for a training program for local contractors interested in performing the audits and retrofits.

One full-time limited-term Building Energy Conservation Coordinator position will develop and implement a strategy for transforming the energy efficiency and conservation performance of buildings in our community. Successful implementation of the strategy will require specialized knowledge in a number of fields including construction, financing, and marketing. To meet these needs, the program plan includes up to 4,160 temporary staff hours and professional consultant contractual services as required.

This program was initiated by Mr. Kennedy through the Green Building Roundtable Committee.

Ms. Luton presented a spreadsheet of the funding. The program will be monitored through the Purchasing Division.

Mr. McGlennon congratulated Ms. Luton and Mr. Rick Hanson, Administrator of Housing and Community Development, on securing this grant. The grant will train workers throughout the region to build and export our skills to other communities to bring funds back to the County. He also commented on the effort and great opportunity.

Mr. Goodson asked if the grant allowed for the staffing under a consultant.

Ms. Luton mentioned the grant did state it would be a County employee and would be very close with the Housing Showcase Grant.

Mr. Wanner stated that it is a limited-term position.

Mr. McGlennon moved for a motion to approve the grant resolution.

Ms. Jones expressed her concerns for this grant and that it should be left to the private sector. She congratulated Ms. Luton on the work done.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, and Kennedy (4). NAY: Jones (1).

I. PUBLIC COMMENT

1. Mr. Jack Fowler, 109 Wellness Lane, commented on environmental issues with a couple of businesses located in the County. He also commented on the cell tower.

2. Mr. William O. Halteman, 109 Randolph's Green, commented on the Communications on Wheels (COW).

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the public speaking comments decorum and asked the County Attorney to explain the decorum. He also commented on the resignation of Mr. Chris Henderson from the Planning Commission.

4. Mr. Edward Oyer, 139 Indian Circle, commented regarding ignoring the Grove area and the traffic impact concerning the two SUP's borrow pit renewals on Route 60.

5. Ms. Ann Jurczyk, 3644 Bridgewater Drive, Chesapeake Bay Foundation, asked the Board to support the Bill Chesapeake Bay Clean Water Act.

Mr. Kennedy asked Mr. Rogers to address the concerns of the public speaking decorum comments.

Mr. Rogers stated that comments by citizens are opportunities for the citizens to come before the Board and speak. Public comment is not required by law.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner announced that James City County has been chosen for the 2010 Achievement Award given by the National Association of Counties (NACO) for Public Education and Input for Historic Past, Sustainable Future: The 2009 Comprehensive Plan.

Development Management received an award from The Alliance for Innovation for Outstanding Achievement in Innovation for the Case Track 2.0: Opening Development Tracking to Citizens and Applicants 24/7. Both awards represent the transparency of the County.

Mr. Wanner stated that a closed session was listed for this evening, but the Board should consider those appointments in open session. He indicated to the Board an appointment for Colonial Group Home Commission, an appointment extension for a member, and a reappointment for Economic Development Authority. He recommended the Board discuss these during the Board Requests and Directives and stated that at the conclusion of the Board's business, it would adjourn to 4 p.m. on June 22, 2010.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked if there was a motion to appoint Mr. Anthony Conyers, to a four-year term on the Colonial Group Home Commission, term to expire on June 30, 2014; to extend Ms. Sue Mellen, Assistant Manager of Financial and Management Services, term to expire March 31, 2011; and to reappoint Mr. Marshall Warner on the Economic Development Authority, term to expire June 30, 2014.

Mr. McGlennon moved for a motion to appoint Mr. Conyers to a four-year term on the Colonial Group Home Commission, term to expire on June 30, 2014; to extend Ms. Mellen's term to March 31, 2011; and to reappoint Mr. Warner on the Economic Development Authority, term to expire June 30, 2014.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5). NAY: (0).

Mr. Goodson stated that Mr. Todd Halacy, Williamsburg Resident Administrator, Virginia Department of Transportation (VDOT), commented that the State will allow permissive left-turns on Interstate 64 at Busch Gardens.

Mr. Icenhour commented on the Chesapeake Bay Foundation Clean the Bay Day. Over 127 volunteers cleaned seven miles of shore line and Best Management Practices (BMPs). The volunteers pulled over 2,000 pounds of debris. Clean the Bay Day was a success and he thanked all the volunteers.

Mr. Kennedy asked Mr. Wanner to review the delivery of packets to Board members on Mondays a week before meetings.

Mr. Wanner responded with having the Planning Commission packets instead to assist the Board on reading of the materials being presented for cases which will be reviewed by the Board.

Mr. Kennedy mentioned his concerns of having the packets early for review. He commented on possibly reviewing the housekeeping ordinance throughout the County and would notify Mr. Wanner if they concur.

Mr. Icenhour commented on citing people with unkept yards and that it can only be done to occupied homes. The Board would review the ordinances of other jurisdictions to see what they are doing to address these issues.

Mr. Kennedy mentioned the Board will be meeting in a closed session over 15 days.

Mr. McGlennon moved the motion to adjourn to 4 p.m. on June 22, 2010.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (5).
NAY: (0).

M. ADJOURNMENT to 4 p.m. on June 22, 2010.

At 8:30 p.m. Mr. Kennedy adjourned the Board.

Sanford B. Wanner
Clerk to the Board

060810bos_min

AT A SPECIAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 17TH DAY OF JUNE 2010, AT 8:00 A.M. AT LEGACY HALL, 4301 NEW TOWN AVENUE, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Leo P. Rogers, County Attorney
John A. Anzivino, Senior Vice President and Client Representative, Executive Search Services

C. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Sections 2.2-3711(A)(1) and (A)(29) of the Code of Virginia for the consideration of a personnel matter related to the hiring of a new County Administrator.

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

Mr. Kennedy recessed the Board into Closed Session at 8:01 a.m.

At 9:25 a.m., Mr. Kennedy reconvened the Board.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Sections 2.2-3711(A)(1) and (A)29 of the Code of Virginia, to consider a personnel matter related to the hiring of a new County Administrator.

D. ADJOURNMENT to 4 p.m. on June 22, 2010.

At 9:26 a.m., Mr. Kennedy adjourned the Board to 4 p.m. on June 22, 2010.

Leo P. Rogers
County Attorney

061710bossm_min

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Stephanie Luton, Purchasing/Management Services Director
SUBJECT: Contract Awards – Annual Engineering Services

A Request for Proposals (RFP) was solicited from qualified engineering firms to establish contracts for professional engineering services. The required engineering services were organized into major groups with Sub-Groups as listed below with the number of received proposals listed after each Sub-Group name.

Basic Engineering

Sub-Group A Civil Engineering – 11 proposals
Sub-Group B Stormwater Infrastructure Engineering – 14 proposals
Sub-Group C Environmental Engineering – 10 proposals
Sub-Group D Landscape Planning & Landscape Architecture Engineering – 9 proposals
Sub-Group E Surveying – 12 proposals
Sub-Group F Geotechnical Engineering and Soil Scientist Engineering – 6 proposals

James City Service Authority Water, Wastewater, Hydro-Geological, and related Engineering Services

Sub-Group A Water and Wastewater Engineering – 18 proposals
Sub-Group B Hydro-Geological Engineering – 7 proposals

Site Plan Review Engineering Services – 4 proposals

Traffic and Transportation Engineering – 7 proposals

Interested firms responded to the RFP by describing their interest, qualifications, project approach, and experience in performing similar work. Panels of staff members representing Stormwater, Environmental, Planning, Capital Projects, Parks and Recreation, James City Service Authority, and Purchasing evaluated proposals, conducted interviews, and selected the most qualified firms in each group. Rate schedules were negotiated with the selected firms. These schedules will be used to calculate the cost for individual projects performed under these annual contracts.

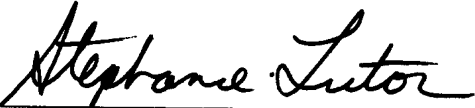
The contracts have an initial term of one year with four additional one-year options available to the County. The RFP included cooperative procurement provisions that allow Williamsburg-James City County Schools to use the engineering firms if they so choose. Firms selected for contract award are listed in Attachment A by group.

Staff recommends approval of the attached resolution awarding a contract to the firms listed in Attachment A.

Contract Awards – Annual Engineering Services

June 22, 2010

Page 2


Stephanie Luton

CONCUR:

John E. McDonald

SL/gb

CA_AnnEngSrcs_mem

Attachments

RESOLUTION

CONTRACT AWARDS-ANNUAL ENGINEERING SERVICES

WHEREAS, a Request for Proposals has been advertised and evaluated for annual engineering services;
and

WHEREAS, the firms listed in Attachment A with this resolution were determined to be the best
qualified to provide the required engineering services in their respective groups.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia,
hereby awards the contracts for annual engineering services to the firms listed in
Attachment A.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

CA_AnnEngSrcs_res

ATTACHMENT A**ANNUAL ENGINEERING SERVICES PROPOSED CONTRACT AWARDS**

FIRM NAME	SERVICE GROUP TITLE
	<u>Basic Engineering</u>
AES Clough Harbour Associates Mitchell-Wilson Timmons Group URS Corporation Vanasse Hangen Brustlin	Sub-Group A- Civil Engineering
AES Clough Harbour Associates Mitchell-Wilson Timmons Group URS Corporation Vanasse Hangen Brustlin Williamsburg Environmental Group	Sub-Group B-Stormwater Infrastructure Engineering
A. Morton Thomas&Associates EEE Consulting Kerr Environmental Services Kimley-Horn&Associates Vanasse Hangen Brustlin Williamsburg Environmental Group	Sub-Group C – Environmental Engineering
Clough Harbour & Associates Vanasse Hangen Brustlin Williamsburg Environmental Group	Sub-Group D -Landscape Planning and Landscape Architecture Engineering
AES Inframap Corporation Mitchell-Wilson Precision Measurements Spectra Group,Inc	Sub-Group E-Surveying
ECS Mid Atlantic GET Solutions	Sub-Group F-Geotechnical Engineering and Soil Scientist Engineering

ATTACHMENT A**ANNUAL ENGINEERING SERVICES PROPOSED CONTRACT AWARDS**

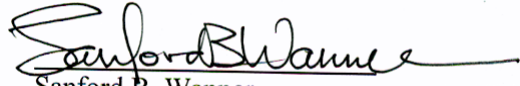
FIRM NAME	SERVICE GROUP TITLE
	<u>James City Service Authority Water, Wastewater, Hydro-Geological and related Engineering Services</u>
AES Camp Dresser & McKee O'Brien & Gere Rummell, Klepper & Kahl URS Corporation Whitman, Requardt & Associates	Sub-Group A – Water and Wastewater Engineering
Russnow-Kane & Associates	Sub-Group B – Hydro-Geological Engineering
Johnson, Mirmiran & Thompson Patton Harris Rust & Associates	<u>Site Plan Review Engineering Services</u>
Kimley-Horn & Associates URS Corporation	<u>Traffic and Transportation Engineering Services</u>

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Resolution of Recognition – Williamsburg Landing’s 25th Anniversary

Williamsburg Landing will celebrate its 25th Anniversary on July 15, 2010. The Continuing Care Retirement Community (CCRC) has been an important part of the James City County community since its inception and provides excellent care to its residents. Many of its Board members and residents help to enrich the local community and contribute to the vitality of James City County.

I recommend adoption of the resolution recognizing Williamsburg Landing’s 25th Anniversary.


Sanford B. Wanner

SBW/nb
25thWmbgLndg_mem

Attachment

RESOLUTION OF RECOGNITION

WILLIAMSBURG LANDING'S 25TH ANNIVERSARY

WHEREAS, Williamsburg Landing is located in James City County and has provided an exemplary Continuing Care Retirement Community (CCRC) to its residents during the last 25 years; and

WHEREAS, it was conceived and founded by members of the James City County/Williamsburg community and is operated as a nonprofit corporation by a Board of Directors comprised of local citizens; and

WHEREAS, it has always adhered to the highest industry standards for service, governance, and quality of care, and has received the Commission on Accreditation of Rehabilitation Facilities (CARF)/CCRC accreditation in 2009 as a testament to excellence in-care; and

WHEREAS, the Board members, staff, and many residents contribute their time, energy, and talents to making James City County and the Greater Williamsburg area a quality community; and

WHEREAS Williamsburg Landing will officially celebrate its 25th Anniversary as a CCRC with ceremonies on July 15, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby calls upon all citizens of the County to join them in recognizing the 25th Anniversary of Williamsburg Landing.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

25thWmbgLndg_res

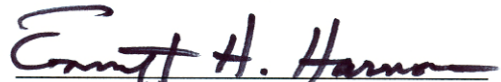
MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Grant Award – Virginia Department of Health – Bicycle Safety – \$1,000

The James City County Police Department has been awarded a Bicycle Helmet Safety grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$1,000. The funds are to be used for the purchase of youth bicycle helmets for distribution at Bike Rodeos and other Community Service Unit events where bicycle safety education is delivered.

This is the fourth consecutive year that the Department has received the funding from VDH for this project. Through this program, the Department has distributed more than 300 helmets and plans to distribute an additional 100 helmets through this award.

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
GA_BHelmets_mem

Attachment

RESOLUTION

GRANT AWARD – VIRGINIA DEPARTMENT OF HEALTH – BICYCLE SAFETY - \$1,000

WHEREAS, the James City County Police Department has been awarded a Bicycle Helmet Safety grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$1,000; and

WHEREAS, the funds are to be used for the purchase of youth bicycle helmets for distribution at Bike Rodeos and other Community Service Unit events where bicycle safety education is delivered; and

WHEREAS, there are no matching funds required of this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following budget appropriation amendment to the Special Projects/Grants fund:

Revenue:

VDH FY 11 – Bicycle Helmet Safety	<u>\$1,000</u>
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Expenditure:

VDH FY 11 – Bicycle Helmet Safety	<u>\$1,000</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

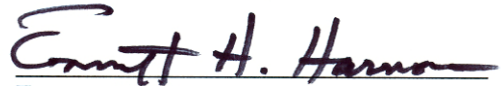
GA_BHelmets_res

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Grant Award – Virginia Department of Health – Boating Safety – \$924

The James City County Police Department has been awarded a Boating Safety/Life Jacket grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$924. The funds are to be used for the purchase of life jackets for distribution when the Marine Patrol encounters boaters that have inadequate quantities of or improper life jackets appropriate for the passengers on board. Funds will also be used to develop a Boating Safety brochure, which will include life jacket information and be distributed by the Marine Patrol while on routine maritime patrol and throughout the community, as deemed beneficial.

Staff recommends the adoption of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
GA_Boating_mem

Attachment

RESOLUTION

GRANT AWARD – VIRGINIA DEPARTMENT OF HEALTH – BOATING SAFETY – \$924

WHEREAS, the James City County Police Department has been awarded a Boating Safety/Life Jacket grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$924; and

WHEREAS, the funds are to be used for the purchase of life jackets for distribution by the Marine Patrol when necessary and for the development of a Boating Safety brochure, which will include life jacket information; and

WHEREAS, there are no matching funds required of this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following budget appropriation amendment to the Special Projects/Grants fund:

Revenue:

VDH FY 11 – Boating Safety	<u>\$924</u>
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Expenditure:

VDH FY 11 – Boating Safety	<u>\$924</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

GA_Boating_res

MEMORANDUM

DATE: June 22, 2010

TO: The Board of Supervisors

FROM: Luke Vinciguerra, Planner
Alan Robertson, WJCC Schools Facilities Manager

SUBJECT: Williamsburg-James City County (WJCC) Schools "Safe Routes to School" Grant Execution Authorization - \$126,000

The Virginia Department of Transportation's (VDOT) Safe Routes to School (SRTS) Program is a grant program that assists interested schools in developing plans, activities, and infrastructure improvements to make bicycling and walking to school a safe and appealing transportation option for students in kindergarten through eighth grade. In consultation with school principals, the Parent Teacher Association, and other community leaders, the County and Williamsburg-James City County (WJCC) Schools submitted a Board-endorsed grant application requesting funds for priority infrastructure and program projects to aid in the safe transport of children to and from school. The grant provides 100 percent funding; no match will be required of the locality. The County and WJCC Schools have been awarded \$126,000 for a pedestrian signal and crossing improvements at James River Elementary School. No other proposals from the original grant application were funded.


Staff will work closely with WJCC Schools to ensure the project is designed and executed properly. It is staff's intent to designate the Facilities Manager of WJCC Schools as the manager of this project.

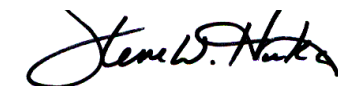
Staff recommends approval of the attached resolution authorizing the County Administrator to execute the grant agreement and appropriating the grant funds.

Luke Vinciguerra

Alan Robertson

CONCUR:


Emmett H. Harmon



Steven W. Hicks

LV/AR/gb
SafeRteSch_mem

Attachment

RESOLUTION

WILLIAMSBURG-JAMES CITY COUNTY (WJCC) SCHOOLS “SAFE ROUTES TO SCHOOL”

GRANT EXECUTION AUTHORIZATION - \$126,000

WHEREAS, James City County in partnership with Williamsburg-James City County Schools has been awarded \$126,000 from the Safe Routes to School (SRTS) Program for a pedestrian signal and crossing improvements at James River Elementary School; and

WHEREAS, in accordance with the SRTS Program of the Virginia Department of Transportation (VDOT) allocation procedures, it is necessary that a request by Resolution be made and that VDOT fund SRTS be awarded for a pedestrian signal and crossing improvements at James River Elementary School; and

WHEREAS, the County is not required to provide local matching funds; records of receipts of expenditures of funds granted to the County may be subject to audit by the Department of Transportation, Commonwealth of Virginia, (the “Department”) and by the State Auditor of Public Accounts, and funds granted to the County for defraying the expenses of the County shall be used only for such purposes as authorized in the Code of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee(s), for and on behalf of James City County (the “County”), to enter into an agreement with the Department in the amount of \$126,000 to defray the costs borne by the County for this SRTS project; to accept from the Department reimbursements in such amounts as expenses are submitted, and to furnish the Department such documents and other information as may be required for meeting grant requirements. The Board of Supervisors certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A of the *Code of Virginia*, 1950, as amended.

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

Revenue:

Safe Routes to School’s Program	<u>\$126,000</u>
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Expenditure:

Safe Routes to School’s Program	<u>\$126,000</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

SaferteSch_res

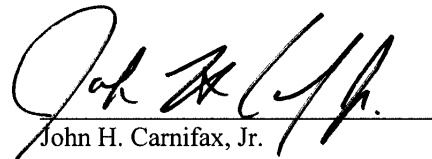
MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: John H. Carnifax, Jr., Director, Division of Parks and Recreation
SUBJECT: Grant Award – Chesapeake Bay Restoration Fund – \$5,900

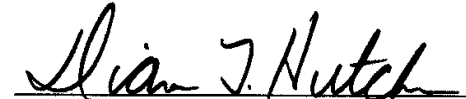
James City County's Division of Parks and Recreation has been awarded a \$5,900 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

The purpose of the matching grant is to assist with the cost of offering a special environmental education program for every REC Connect Summer Camp site for children to study the Chesapeake Bay Watershed and its importance to the community. The experience is modeled after the existing, weeklong Camp Marine Marshals that may be space- and cost-prohibitive for many area children. As part of the experience, children will visit Chickahominy Riverfront Park to conduct water quality testing and go on an eco-tour of the Chesapeake Bay.

Staff recommends approval of the attached resolution to accept the \$5,900 grant for the special marine camp and to appropriate the funds as described in the attached resolution.


John H. Carnifax, Jr.

CONCUR:


Diana F. Hutchens

JHC/nb
GA_ChesBay_mem

Attachment

RESOLUTION

GRANT AWARD – CHESAPEAKE BAY RESTORATION FUND – \$5,900

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching environmental component to the Division’s REC Connect Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$5,900 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenue:

From the Commonwealth	<u>\$5,900</u>
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Expenditure:

Chesapeake Bay Restoration Fund	<u>\$5,900</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

GA_ChesBay_res

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: John Rogerson, Zoning Officer
SUBJECT: Code Violation Lien - Trash and Grass

The Zoning Administrator certifies that, having received a complaint, the Code Compliance Officer inspected the property listed below. Notification of a violation for trash and/or grass was sent to the property owners. Following failure of the property owners to take corrective action, the County contracted to have the property cleaned. Owners were sent notification of payment due. They failed to pay.

Owners: Barbara A. Bullock & Janice Hillman
3232 Reade's Way
Williamsburg, VA 23185-2421

Description: 3232 Reade's Way

Tax Map/Parcel Nos.: (46-1)(07-0-0101)

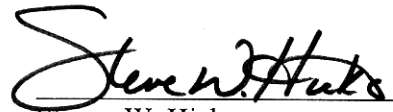
Filing Fee: \$10.00

Total Amount Due: \$250.00

Staff recommends that the Board of Supervisors execute the attached resolution to establish a lien.

John Rogerson

CONCUR:


Steven W. Hicks

JR/tlc
bullock_mem

Attachment

RESOLUTION

CODE VIOLATION LIEN – TRASH AND GRASS

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	Barbara A. Bullock & Janice Hillman 3232 Reade's Way Williamsburg, VA 23185-2421
DESCRIPTION:	3232 Reade's Way
TAX MAP/PARCEL NOS.:	(46-1)(07-0-0101) James City County, Virginia
FILING FEE:	\$10.00
TOTAL AMOUNT DUE:	\$250.00

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

bullock_res

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: John Rogerson, Zoning Officer
SUBJECT: Code Violation Lien - Trash and Grass

The Zoning Administrator certifies that, having received a complaint, the Code Compliance Officer inspected the property listed below. Notification of a violation for trash and/or grass was sent to the property owners. Following failure of the property owners to take corrective action, the County contracted to have the property cleaned. Owners were sent notification of payment due. They failed to pay.

Owners: Darl L. Mann, Jr. & Janet Mann
101 Oxford Road
Williamsburg, VA 23185-3227

Description: 2809 Durfey's Mill Road

Tax Map/Parcel Nos.: (47-4)(01-0-0003)

Filing Fee: \$10.00

Total Amount Due: \$320.00

Staff recommends that the Board of Supervisors execute the attached resolution to establish a lien.

John Rogerson

CONCUR:


Steven W. Hicks

JR/tlc
Dmann_mem

Attachment

RESOLUTION

CODE VIOLATION LIEN – TRASH AND GRASS

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	Darl L. Mann, Jr. & Janet Mann 101 Oxford Road Williamsburg, VA 23185-3227
DESCRIPTION:	2809 Durfey's Mill Road
TAX MAP/PARCEL NOS.:	(47-4)(01-0-0003) James City County, Virginia
FILING FEE:	\$10.00
TOTAL AMOUNT DUE:	\$320.00

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

Dmann_res

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: James Pete Peterson, II, Assistant Director, Human Resource Department
SUBJECT: Revision to Chapter 7 of the Personnel Policies and Procedures Manual

Staff recommends two changes to Chapter 7, Standards of Conduct, of the Personnel Policies and Procedures Manual to make the policy more equitable. The revised policy is attached.

Recommended Change No. 1

Change the definition of a “work day” in Section 7.5.C.3. from “*the number of hours the employee is authorized to work in a 24-hour period*” to “*the number of sick leave hours accrued monthly by the employee.*” This mirrors the definition in Chapter 5, Employee Benefits, and makes the number of hours in the day of employees working non-standard shifts, such as Fire Rescue Technicians and part-time employees, comparable to those of employees working standard shifts

Recommended Change No. 2

Move one of the examples of misconduct in Chapter 7, Section 6. CAT3.N., *Failure to report to the Director of Human Resources being charged with a felony or other criminal offense within one work day of the offense*, from a Category 3 (First Offense Discharge) to a Category 2 (First Offense Suspension) Conduct. Staff feels that this is a lesser offense than other Category 3 conduct for which we feel discharge is appropriate for a first offense, i.e., a criminal conviction that is related to job performance, or where continuing the employee could constitute negligence, or is conduct unbecoming of an employee.

Staff recommends approval of the attached resolution.

James Pete Peterson, II

CML/tlc
Chp7rev_mem

Attachments

RESOLUTION

REVISION TO CHAPTER 7 OF THE

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the County is committed to treating employees equitably; and

WHEREAS, the revised policy would be more equitable to employees who work nonstandard shifts; and

WHEREAS, the revised policy would better reflect the severity of certain employee conduct.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached revisions to Chapter 7, Standards of Conduct, of the James City County Personnel Policies and Procedures Manual.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

Chp7rev_res

proceedings for discharge are initiated. However, discharge shall be appropriate for first violations of extreme misconduct. No employee has a right or guarantee to any progressive disciplinary measure.

B. Classification of Disciplinary Measures - Disciplinary measures include:

1. Verbal reprimands.
2. Written reprimands.
3. Suspensions.
4. Reductions in grade.
5. Demotions.
6. Discharge.

C. Definition of Disciplinary Measures.

1. Verbal Reprimand: A verbal communication directed to an employee for the purpose of making a final statement regarding inappropriate conduct. Any verbal reprimand shall be documented on Discipline Form A (see Appendix B) within two days of the reprimand and forwarded to the Human Resource Manager who shall place the document in the employee's personnel file.
2. Written Reprimand: A written communication directed to an employee for the purpose of making a final statement regarding inappropriate conduct. Any written reprimand shall be documented on Discipline Form B (see Appendix B) within two days of the reprimand and forwarded to the Human Resource Manager who shall place the document in the employee's personnel file. A copy of the written reprimand shall be delivered to the employee.
3. Suspension: A temporary separation of one or more full work days from employment for the purpose of reprimanding an employee for inappropriate conduct. A "work day" is defined as ~~the number of hours the employee is authorized to work in a 24-hour period.~~ *the number of sick leave hours accrued monthly by the employee.* A suspension may be with or without pay. An initial suspension shall not exceed ten work days. A second suspension within any twelve-month period shall not exceed twenty work days. Any suspension without pay for work days equivalent to more than one

work day shall result in the loss of the accumulation of sick leave and annual leave for that pay period.

4. Reduction in Salary: The adjustment of an employee's wages to a lower salary in the salary range to which he is assigned on the County pay plan for the purpose of reprimanding the employee for inappropriate conduct.
5. Demotion: Demotion in this chapter shall always mean disciplinary demotion. A disciplinary demotion is the assignment of an employee to a lower classified position for the purpose of reprimanding the employee for inappropriate conduct. Demotion shall not be used as a disciplinary measure if the employee cannot qualify for the lower position, or if such demotion would require the displacement of another employee. A demotion shall be accompanied by a reduction in range and salary.
6. Discharge: A dismissal from employment for the purpose of reprimanding an employee for inappropriate behavior. An employee who is discharged forfeits all accumulated sick leave.

D. Procedure

1. Normal procedure.
 - a. It shall be the responsibility of the department manager to document any inappropriate conduct thought to justify a suspension, reduction in range, demotion, or dismissal on Discipline Form C (see Appendix B) and to deliver it to the Human Resource Manager.
 - b. The Human Resource Manager shall conduct an investigation within five working days and document the findings on Discipline Form C.
 - c. If the Human Resource Manager determines that a lesser disciplinary measure is appropriate, he/she shall direct the department manager to take appropriate action.
 - d. If the Human Resource Manager determines that the disciplinary measure is warranted, he/she shall notify the employee of the proposed disciplinary measure in writing to avail him/her an opportunity to respond to the proposed disciplinary measure.

- G. Threatening, or interfering with the work of fellow employees or supervisors.
- H. Acceptance of gifts or gratuities from any person, company, or corporation, or any other act that constitutes a conflict of interest as defined in the Comprehensive Conflict of Interest Act, Code of Virginia, 1950, as amended.
- I. Failure to report known work-related illegal activity of any employee.
- J. Unauthorized non-County employment or activity which interferes with the performance of an employee's assigned duties and responsibilities.
- K. Fighting on County property or during the working day.
- L. Failure of a public safety employee designated in Section 2.8.K. to refrain from the use of tobacco products on or off duty.
- M. *Failure to report to the Director of Human Resource being charged with a felony or other criminal offense within one work day of the offense.*

Appropriate disciplinary measure for Category 2 conduct occurring in any 12 month period:

First offense - suspension, reduction in grade, and/or demotion

Second offense - discharge

Category 3 Conduct

Category 3 Conduct includes inappropriate conduct unacceptable to the proper operation of the County. Category 3 offenses include, but are not limited to:

- A. Use of alcohol or unlawful use or possession of controlled substances on County property during working hours.
- B. Testing positive for alcohol at a level of .04 or greater, or testing positive for drugs as defined in the County's Substance Abuse Policy, Chapter 3.
- C. Testing between .02 and .039 on an alcohol return-to-duty test, or on any subsequent alcohol follow-up testing.
- D. Failure to report to work without proper notice to supervision for three consecutive work days.

- E. Falsification of County records, including, but not limited to vouchers, time records, leave records, insurance claims, or the application for employment.
- F. Three or more garnishments involving more than one indebtedness during any 12-month period.
- G. Gambling on County property or during working hours.
- H. Theft or unauthorized removal of County property or employee property.
- I. Unauthorized possession of firearms or other weapons on County property or during working hours.
- J. Participation in any kind of work slowdown, sit down, or similar concerted interference with County operations.
- K. Unauthorized use of County documents, records, or confidential information.
- L. Job-related lying, stealing, or cheating.
- M. Any criminal conviction for an act occurring on or off the job which is related to job performance, or is of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the County's duties to the public or other employees, or which adversely affects the reputation of the County, or is conduct unbecoming of an employee.
- ~~N. Failure to report to the Director of Human Resource being charged with a felony or other criminal offense within one work day of the offense.~~

The appropriate disciplinary measure for any Category 3 Conduct is discharge.

REZONING-0001-2009/SPECIAL USE PERMIT-0007-2010/MP-0001-2009. Colonial Heritage Deer Lake Staff Report for the June 22, 2010, 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

May 5, 2010, 7:00 p.m.
June 22, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Greg Davis, Kaufman and Canoles

Land Owner: Lennar Corporation

Proposal: To rezone a 130.3-acre portion of the 731.5-acre Deer Lake parcel located at 499 Jolly Pond Road from A-1, General Agricultural, with proffers, to MU, Mixed-Use, with amended proffers, with a Special Use Permit for the extension of public utilities.

Location: 499 Jolly Pond Road

Tax Map/Parcel No.: 2240100007

Parcel Size: 731.5 acres (130.3 acres subject to the new rezoning)

Zoning: A-1, General Agricultural, and MU, Mixed-Use, with proffers

Proposed Zoning: MU, Mixed-Use, with amended proffers

Comprehensive Plan: Rural Lands and Low-Density Residential

Primary Service Area: Outside, but requesting public water and sewer service

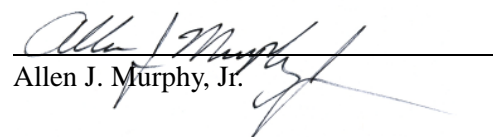
STAFF RECOMMENDATION

The applicant has requested that this case be deferred until the July 13, 2010, meeting. Planning staff concurs with this decision on the part of the applicant and recommends that the Board of Supervisors defer this case as requested.

Staff Contact: Jason Purse Phone: 253-6685

Jason Purse

CONCUR:



Allen J. Murphy, Jr.

APPROVED MINUTES FROM THE MAY 5, 2010 PLANNING COMMISSION MEETING

Z-0001-2009 / MP-0001-2009 / SUP-0007-2010 – COLONIAL HERITAGE DEER
LAKE

Mr. Jason Purse stated Mr. Greg Davis, on behalf of Lennar Corporation, applied to rezone 130.3 acres of the 731.5 acre Deer Lake parcel at 499 Jolly Pond Road from A-1, General Agricultural, with Proffers, to MU, Mixed Use with Amended Proffers. A special use permit is also requested to extend public utilities to the site. The applicant is no longer requesting a special use permit for the residential cluster, since Mixed Use zoning would allow the cluster's density and yard requirements. The proposal has been amended since the last Planning Commission public hearing to allow for private streets. Schools proffers have been withdrawn after the cluster was revised from workforce housing to age-restricted housing. Park proffers will develop an on-site trail rather instead of payments to the County. Access points have been moved, resulting in the removal of the Jolly Pond traffic study proffer. Staff finds the proposal contrary to the Comprehensive Plan and violates the Primary Service Area (PSA). The proposed 90 acre open space area shows no distinct environmental benefit compared to the rural cluster. The development's 4.6 dwelling units per acre exceed the 0.33 units per acre for rural lands without public utilities. Staff recommends denial of master plan amendment, rezoning, and special use permit.

Mr. Krapf asked if staff had received inquiries about extending the PSA to new or existing developments since the April Commission meeting.

Mr. Purse stated that at least one developer has contacted JCSEA staff regarding requirements to connect to public water.

Mr. Krapf asked about the proposal's net environmental benefits.

Mr. Scott Thomas stated Colonial Heritage has a 10-Point Stormwater Master Plan. He stated the system uses BMP's, open space, and low-impact development throughout the area. Deer Lake itself serves as BMP. Different points are awarded for different types of open space. More points are earned for buffers beside existing resource protection areas (RPA's). The reconfigured proposal layout reduces additional RPA buffering. Although 90 acres of open space is added, only 8.25 additional acres can be added to the stormwater system. Open space areas have to be natural and undisturbed.

Mr. Krapf stated the previous proposal used distributed impacts for its impervious cover. The current proposal uses concentrated impervious cover with stormwater passing through forebay treatments and into Deer Lake.

Mr. Thomas stated there were positives and negatives to each proposal. The rural cluster fits the natural topography better. Clearing could be minimized during both utilities installation and construction. The Mixed Use cluster would have to be mass cleared and would concentrate pollutants in Deer Lake.

Mr. Fraley asked about the benefits of the area being subject to the Yarmouth Creek Watershed Management Plan.

Mr. Thomas stated that the Yarmouth management plan's application was beneficial.

Mr. Fraley stated that newly proposed blocked open space was agreeable due to the parcel's large size. He stated the new proposal preserves high-permeable Types A & B soils.

Mr. Thomas stated the elimination of septic drain fields would be a positive environmental impact.

Mr. Fraley stated that distributed stormwater runoff was preferable to concentrated stormwater runoff. He asked if there would be discharge into Yarmouth Creek under the rural cluster design.

Mr. Thomas stated that either proposal would have some impact on Yarmouth Creek. He stated that under the residential cluster, the road could impact multiple headwater streams. The rural cluster, following a ridgeline, would avoid most of the intermittent streams. Under the residential cluster, the runoff only pours into a small section of Deer Lake.

Mr. Peck asked if incremental development was a major source of watershed pollution over the past decade.

Mr. Thomas stated that non-point source pollutions, including urban development, agriculture, and transportation, impact the watershed.

Mr. Peck stated the large yards use large amounts of fertilizer outside County control. He asked if those fertilizers are a significant source of pollution.

Mr. Thomas stated that fertilizers were a source of pollution, but that the County has several fertilizer use educational programs. He stated he was unsure if smaller lots lead to less fertilizer usage.

Mr. Peck asked about the primary policy goals of the PSA. He stated the PSA should reduce the cost of public utilities and reduce sprawl-driven environmental impacts.

Mr. Purse stated that the PSA is one of the County Comprehensive Plan tools. Staff expects development to occur in the PSA and tries to guide growth there. The rural cluster will not be a part of the PSA.

Mr. Peck asked if the rural cluster wells would have a unified rate structure.

Mr. Purse stated that they would have a unified rate structure.

Mr. Peck stated that individual groundwater systems are costly compared to using central water systems. He stated the services were being extended one way or another, in violation of

PSA policy. Current ratepayers would pay for this extension of the PSA.

Mr. Purse stated that the PSA and central wells were growth-management tools for the rural lands. He stated central wells were very cost prohibitive, and few of those developments have taken place. Densities in A-1 have also been reduced to lessen growth.

Mr. Peck asked Mr. Purse to elaborate on the use of the PSA to sequence the provision of County services.

Mr. Purse stated that one current school and two under construction were built outside of the PSA. Their locations were selected in part to place them in proximity to the most users. The School Selection also considered land availability.

Mr. Peck stated that schools, a major sports complex, a major park, a recycling center, a new police station, and fire station were all in the PSA near the proposal.

Mr. Purse stated that no public facilities were lacking in that area, and that staff attempts to direct all growth inside the PSA. He stated incremental development outside the PSA ultimately causes the need for more facilities.

Mr. Peck stated that denying the proposal would not achieve PSA policy goals to reduce JCSA costs or reduce pollution.

Mr. Purse stated that Planning staff would not support a suburban residential development outside of the PSA. Suburban development is considered between one and four units per acre. By-right developments outside of the PSA include the 1 unit per 3 acres density.

Mr. Fraley stated that staff was receiving by-right rural lands proposals with central wells that were not subject to public hearings. He stated central wells and higher densities were not cost-prohibitive enough.

Mr. Purse stated that as part of the Zoning Ordinance update, several actions can be taken to remedy those types of situations.

Mr. Fraley stated the Comprehensive Plan contained three action items on PSA boundary review.

Mr. Purse stated the approval of the proposal could result in many more units in the area, with a proposed density of 4.6 units per acre.

Mr. Purse stated that proposed units are within the Colonial Heritage master plan limit.

Mr. Henderson asked if the trigger for Planning Commission review of the proposal was private roads being prohibited in R-2 zoning.

Mr. Purse stated that due to the proposed change in zoning, staff had to re-advertise the

proposal, and it essentially became a new application.

Mr. Henderson stated that the applicability of private roads in R-2 should be considered during Zoning Ordinance updates.

Mr. Krapf stated that if any part of an application is returned to the Planning Commission, the entire application is subject for discussion. He stated the Deer Lake case was one of the most significant cases ever before the Commission. The Commission has an obligation to clarify all aspects of a returned case.

Mr. Peck stated that most of the County's water comes from groundwater. He stated the JCSA does not expect the State to grant any withdrawal increase since the aquifer is stressed.

Mr. Allen Murphy stated that the County has an agreement with Newport News for supplemental groundwater. He stated the aquifer is stressed at certain times of the year. The Newport News contract was based on surface water.

Mr. Peck stated that the State was monitoring the peninsula's aquifer for stress. He stated the Hampton Roads Planning Commission discussed the State tightening groundwater withdrawals. Central groundwater systems are mandated under current rural cluster policy. Those policies are mandating additional aquifer stress.

Mr. Peck opened the public hearing.

Mr. Greg Davis, representing the applicant, stated the case had gone through minor technical changes since last month's meeting and approval. He stated that since the Commission recommended the development become part of Colonial Heritage, the proposed access to Jolly Pond Road has been eliminated. Private Colonial Heritage roads will be used. The cluster design and benefits are retained, with only minor changes to access. There will be no additional units or traffic impact. The age-restricted development would create a positive fiscal impact due to creating very few school children. Dispensing with central wells would benefit JCSA.

Mr. Krapf asked if the applicant agreed with the staff position that neither the rural or residential cluster proposals result in positive fiscal impacts for the County.

Mr. Davis stated that the age-restricted proposal would provide a positive fiscal impact of \$89,000 annually. He stated if the Commission had guided the development as workforce or market rate housing, the fiscal impact would be negative due to students.

Mr. Purse stated that age-restricted housing has a better fiscal impact than other forms. Colonial Heritage has a positive fiscal impact to due to large commercial spaces.

Mr. Krapf stated that the school proffers had been withdrawn in violation of the Board of Supervisors policy that age-restricted communities should pay school proffers.

Mr. Davis stated the age-restricted development will place no burden on County schools.

He stated the Board proffer policy does not exempt age-restricted housing, but mandates “reasonableness and rough proportionality.” Colonial Heritage, with 580 homes, has generated 2 school kids total. Colonial Heritage’s positive fiscal impact improves with the approval of the Deer Lake cluster. Elimination of the Jolly Pond access will cost the applicant another \$400,000 to connect to Colonial Heritage.

Mr. Arch Marston stated that the \$400,000 in traffic costs was the net sum from moving access from Jolly Pond Road to Colonial Heritage.

Mr. Jacob Hostetter, 6323 Glen Wilton, stated that workforce housing was needed in the area, but has been removed from the proposal. He stated a road to the existing highway would make sense environmentally and financially.

Ms. Sarah Kadec, 3504 Hunters Ridge, stated that she expects the Commission to follow its own Comprehensive Plan. The Comprehensive Plan should prohibit expansion of the PSA. The proposal’s school proffer removal and environmental impacts are negative.

Mr. Craig Metcalf, 4435 Landfall Drive, stated the Commission has gone against staff recommendations on the proposal. He stated he supported staff recommendations.

Mr. Bob Spencer, , Vice-President of the James City County Concerned Citizens (J4Cs), 9123 Bush Hill Drive, stated the newly adopted Comprehensive Plan was already being discarded. Staff recommendations are also ignored. The J4Cs recommended no expansion of the PSA during the Comprehensive Plan process. Proposed proffers should take effect immediately.

Mr. Peck closed the public hearing.

Mr. Joe Poole stated the application has gone from bad to worse since the last meeting. The density increase from .33 to 4.6 is unacceptable in an area designated Rural Lands by the Comprehensive Plan. Removed school proffers are also unacceptable. Moving outside the PSA sets a dangerous precedent. If the application is approved, proposals outside of the PSA will increase.

Mr. Krapf stated this case represents a litmus test of whether the Comprehensive Plan will be enforced. He stated if the proposal is approved, there will be heavy development pressure outside the PSA. The applications benefits are mostly hollow and already used for other requirements. Converting rural lands to Mixed Use outside the PSA is not the answer to growth.

Mr. Henderson stated if the PSA line were drawn topographically, and not arbitrarily, Deer Lake would already be in the PSA. He stated he would be prepared to support the applicant, but had wished to see additional restrictions. Colonial Heritage will not create a fiscal impact on Schools.

Mr. Fraley stated the proposal’s benefits are substantial. He stated the proposal’s Mixed Use areas extended too far. SUPs and rezoning are exceptions by nature, and will not set

precedent for future PSA discussions.

Mr. Peck stated the Comprehensive Plan makes the PSA a tool; it does not make the PSA inflexible. Positive proposed benefits compensate for extending the PSA. Both County water and rural lands policies should be reviewed comprehensively. The project is in the best interest of the County.

Mr. Poole stated he wished the issue of PSA expansion had been thoroughly discussed during the Comprehensive Plan process.

Mr. Peck stated the proposal's facts lead him to believe it follows the Comprehensive Plan.

Mr. Henderson moved for approval of the rezoning, special use permit, and master plan.

In a roll call vote, the Commission recommended approval (4-2: Yes: Maddocks, Fraley, Henderson, Peck; No: Poole, Krapf; Absent: Woods).

SPECIAL USE PERMIT-0013-2010. Chickahominy Road Manufactured Home Staff Report for the June 22, 2010, Board of Supervisors Public Meeting

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 2, 2010, 7:00 p.m.
June 22, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Sandra Kimrey, Oakwood Homes
Land Owner: Martha Walker Estate
Proposal: To allow the placement of a manufactured home.
Location: 2818 Chickahominy Road
Tax Map/Parcel No.: 2230100002
Parcel Size: 0.57 acres
Existing Zoning: R-8, Rural Residential
Comprehensive Plan: Rural Lands
Primary Service Area: Outside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, meets the administrative criteria for placement of a manufactured home and is consistent with the Rural Lands Land Use designation. Staff recommends the Board approve this application subject to the conditions listed in the attached resolution.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

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

Proposed Changes Made by the Planning Commission

None.

PROJECT DESCRIPTION

Ms. Sandra Kimrey has applied for a Special Use Permit (SUP) to allow for the placement of a manufactured home at 2818 Chickahominy Road. Manufactured homes not located within the Primary Service Area (PSA) in the R-8, Rural Residential, District require an SUP. The proposal is to demolish the existing residential structure and replace it with a manufactured home. The applicant has informed staff that the current structure is leaking and is in poor condition. The proposed manufactured home would be a double-wide, roughly 60-foot by 28-foot 2010 Oxford model manufactured home (Attachment 3).

PUBLIC IMPACTS

Environmental

Watershed: Yarmouth Creek

Staff Comments: The Environmental Division has no comments on the SUP application at this time.

Public Utilities and Transportation

The property has access to public water, should the SUP be approved, the manufactured home would have the option to connect; no additional impacts should result from the proposal.

Regulations for Manufactured Homes Requiring Special Use Permits

The Zoning Ordinance requires the following conditions to be met for manufactured homes with an SUP (staff comments in *italics*):

1. An application and vegetative screening plan shall be submitted to the administrator.

The applicant has provided a plat showing the proposed location of the manufactured home and the existing tree line. As the proposed manufactured home location does not interfere with the existing tree line, staff finds the provided documentation adequate to screen the manufactured home.

2. No manufactured homes shall be placed within 300 feet of any of the following interstate highways, principal or minor arterial streets, or major collector streets: I-64, Richmond Road, John Tyler Highway, Route 30, Croaker Road, Centerville Road, and Greensprings Road.

The proposed manufactured home exceeds 300 feet from the aforementioned roads.

COMPREHENSIVE PLAN

Land Use

Rural Lands Development Standards	a) Uses in Rural Lands should preserve the natural, wooded, and rural character of the County. Particular attention should be given to the following: <ol style="list-style-type: none"> i. Locating structures and uses outside of sensitive areas; ii. Maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible, especially along roads and between uses; iii. Discouraging development on farmland, open fields, and scenic roadside vistas; iv. Encouraging enhanced landscaping to screen developments located in open fields using a natural appearance or one that resembles traditional hedgerows and windbreaks; v. Locating new roads so that they follow existing contours and old roadway corridors whenever feasible; vi. Limiting the height of structures to an elevation below the height of surrounding mature trees; vii. Minimizing the number of street and driveway intersections along the main road by providing common driveways and interconnection of developments; and
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	<p>viii. Utilizing lighting only where necessary and in a manner that eliminates glare and brightness.</p> <p>b) Site non-agricultural/non-forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/forestal uses, open fields, and important agricultural/forestal soils and resources.</p> <p>c) Encourage the preservation and reuse of existing agricultural structures such as barns, silos, and houses.</p>
	<p>Staff Comment: Manufactured homes are not specifically mentioned in Rural Lands; however, the use is not in conflict with any Rural Lands development standard.</p>

Staff finds this application, as proposed, consistent with the Rural Lands Development Standards recommended in the Comprehensive Plan.

Manufactured Home Placement Guidelines Policy

In 1989 the manufactured home placement guidelines were created as minimum standards for administrative review by staff (staff comments in *italics*):

Access: From a public health and safety standpoint, manufactured homes should be located on a public road which is part of the Virginia Department of Transportation (VDOT) system or on a private road built to an acceptable standard. If the use is located on a private road, an absolute minimum acceptable standard should be set for an all-weather road in cases where there are less than three homes served by that private road.

Access will be provided by an existing driveway with a previously recorded access easement.

Landscaping/buffering: Section 20-10 of the Zoning Ordinance requires that a vegetative screening plan be submitted by the SUP applicant. Staff has a standard landscaping plan which we require with lots that are entirely open. If a lot is wooded, staff has been recommending that a minimum 20-foot strip be left undisturbed adjoining property lines. A larger strip has been recommended with larger properties.

The surrounding vicinity and the subject property are heavily wooded by mature trees. Additionally, the proposed manufactured home will be over 500 feet away from Chickahominy Road. Given the current tree density, staff finds that the home would be well screened from the road and adjacent properties. Staff has proposed SUP Condition No. 6 to ensure adequate screening continues to exist in the future.

Adjacent Uses: It has been the staff practice over the past several years to recommend approval of manufactured homes in areas where manufactured homes already exist. It has not been staff practice to recommend the placement of manufactured homes in areas where there are no other manufactured homes nearby or where they are near established single-family residential subdivisions. According to manufactured home placement guidelines, which have been used historically, manufactured homes should be permitted where two other existing, appropriately located manufactured homes are within 2,000 feet of property measured along all abutting rights-of-way.

Staff has identified three manufactured homes within 1,000 feet and six within 2,000 feet of the property.

Utilities: It has been the staff practice to require a “permit to install a septic system and well” from the Health Department with the application for an SUP or evidence from the Health Department that an existing system is acceptable. The Division of Code Compliance does not release electrical service until the system is installed and an operational permit is obtained from the Health Department.

The property has an existing functioning septic system and a positive recommendation from the Health Department. The property is attached to public water.

Topography and Soils: Adequate soils and topography should be available for locating a manufactured home on a given site.

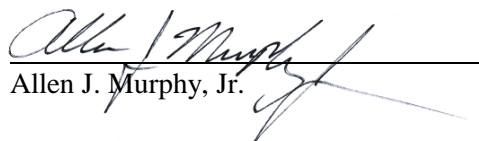
The topography and soils do not appear problematic for the placement of a manufactured home.

RECOMMENDATION

Staff finds the proposal, with the attached conditions, meets the administrative criteria for placement of a manufactured home and is consistent with the Rural Lands Land Use designation. At the June 2, 2010, meeting, the Planning Commission recommended approval of the application by a vote of 7-0. Staff recommends the Board approve the application subject to the conditions listed in the attached resolution.

Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

LV/nb
SUP13_2010.doc

ATTACHMENTS:

1. Resolution
2. Aerial and Location Map
3. Example Oxford Model Home
4. Plat

RESOLUTION

CASE NO. SUP-0013-2010. CHICKAHOMINY ROAD MANUFACTURED HOME

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, Ms. Sandra Kimrey has applied for an SUP to allow for the placement of a manufactured home on a parcel of land zoned R-8, Rural Residential, located outside the Primary Service Area (PSA); and

WHEREAS, the property is located at 2818 Chickahominy Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2230100002; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0013-2010 as described herein with the following conditions:

1. This permit shall be valid for the 2010 Oxford Model double-wide unit (“Double-wide”) applied for or newer/similar unit as determined by the Planning Director.
2. A Certificate of Occupancy (CO) must be obtained for the Double-wide within 24 months from the date of approval of this SUP or the permit shall become void.
3. The Double-wide shall be placed on a permanent concrete foundation and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
4. The Double-wide shall be placed so as to comply with all current setback and yard requirements in the R-8, Rural Residential, Zoning District.
5. The existing residential dwelling shall be demolished before the issuance of a CO for the Double-wide.
6. To ensure adequate screening, no existing trees shall be removed within 20 feet of the property lines unless prior permission is granted from the Planning Director.
7. A single connection is permitted to the adjacent water main on Chickahominy Road with no larger than a ¾-inch water meter. Any lots created by a subdivision of the parent parcel will not be permitted to connect unless the PSA is extended to incorporate the parent parcel.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

SUP13_2010_res

UNAPPROVED MINUTES FROM THE JUNE 2, 2010 PLANNING COMMISSION MEETING

SUP-0013-2010 CHICKAHOMINY ROAD MANUFACTURED HOME

Ms. Sandra Kimrey has applied for a Special Use Permit to allow for the placement of a manufactured home at 2818 Chickahominy Road. The property is outside the primary service area (PSA), is zoned R-8, Rural Residential and is designated Rural Lands on the Comp Plan. Manufactured homes not located within the PSA in the R-8, Rural Residential District require a Special Use Permit (SUP). The proposal is to demolish the existing residential structure and replace it with a manufactured home. The applicant has informed staff that the current structure is leaking and is in poor condition. The proposed manufactured home would be a double-wide, roughly 60' by 28' 2010 Oxford model manufactured home. He stated that staff finds the proposal with the conditions attached meets the administrative criteria for a placement of a manufactured home consistent with the rural lands designation. Mr. Vinciguerra asked that the Planning Commission recommend approval to the Board of Supervisors.

Mr. Henderson asked if staff has received any comments from adjacent property owners.

Mr. Vinciguerra answered that a citizen came in the office and had questions about the case but he did not object to it.

Mr. Peck opened the public hearing.

Ms. Sandra Kimrey of Oakwood Homes stated that the owners who have resided on the property all of their lives is in need of a replacement home. Their home is in need of many repairs and this was the best feasible option for them. The home will have a masonry foundation. She hopes that the Planning Commission recommend approval to the Board of Supervisors.

Mr. Fraley moved for approval with the conditions proposed by staff.

Mr. Poole noted that staff and the applicant are adhering to the 1989 Manufactured Home Guidelines.

Mr. Woods concurred.

In a unanimous roll call vote, the application was approved (7-0; Yes: Fraley, Maddocks, Woods; Krapf, Poole, Henderson, Peck.)

SPECIAL USE PERMIT-0026-2009. Constance Avenue Wireless Communications Facility Staff Report for the June 22, 2010, 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

March 3, 2010, 7:00 p.m.

April 13, 2010, 7:00 p.m. (applicant deferral)

June 22, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant:

Ms. Lisa Murphy of LeClairRyan

Land Owner:

Bryan and Barbara Burris

Proposal:

To allow for the construction of a 114-foot-tall (110-foot tower with a four-foot lightning rod) "slick stick" Wireless Communication Facility (WCF) on the subject property. WCFs are specially permitted uses in the R-8, Rural Residential, zoning district.

Location:

115 Constance Avenue

Tax Map Parcel No.:

4732500002

Parcel Size:

26.83 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The tower will have a limited visual impact on both the Colonial Parkway and Constance Avenue. The tower will be located within an existing stand of trees, and the applicant has proposed a 100-foot tree preservation buffer on all sides of the facility. This tower will provide service to the Colonial Parkway and surrounding neighborhoods. Staff recommends that the Board of Supervisors approve the application with the conditions listed in the attached resolution.

Staff Contact:

Sarah Propst, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On March 3, 2010, the Planning Commission recommended approval of this application by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Ms. Lisa Murphy has applied for a Special Use Permit (SUP) to allow for the construction of a 114-foot (110-foot-tall with a four-foot lightning rod) WCF on the subject property. The site is a 26.83-acre parcel and is zoned R8, Rural Residential. Three WCFs are currently located within a three-mile radius of the proposed tower but do not provide adequate coverage along the Colonial Parkway or the surrounding residential areas to the north and east.

PUBLIC IMPACTS

Environmental

- **Watershed:** The proposed WCF is in Mill Creek; the majority of the driveway is in Powhatan Creek.
- **Staff Comments:** The Environmental Division has no comments on the SUP application at this time. Any site development issues will be dealt with at the site plan level.

Public Utilities and Transportation

The proposed WCF would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area.

Visual Impacts

Based on a publicly advertised balloon test that took place on February 3, 2010, the applicant has provided photo simulations of the proposed tower location from several different vantage points around the vicinity of the site. Simulation photos have been provided for your reference.

The proposed tower would be located within a stand of mature trees. The trees surrounding the site are in the 80- to 90-foot range and a 200-foot scenic easement buffers the tower site from the Colonial Parkway. The proposed tower is more than 500 feet from the Colonial Parkway and over 400 feet from the closest residence on the adjacent property. The tree cover between the tower site and the Colonial Parkway makes the proposed tower barely visible from a limited section of the Colonial Parkway.

The proposed tower has limited visibility along Constance Avenue from Neck-O-Land Road to just before Discovery Lane. The tower will not be visible from any other vantage point within the Powhatan Shores subdivision. The tower has limited visibility from several points along Neck-O-Land Road between Captain John Smith Road and 628 Neck-O-Land Road. Though there is limited visibility, as described it does not appear intrusive.

Wetlands on the property preclude development along the western side of the property and the applicant has proposed a 100-foot tree preservation buffer on all sides of the facility. The applicant has also offered to install a board-on-board fence to enclose the facility and plant additional trees to screen the fence.

Federal Aviation Administration (FAA) requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) must be marked and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the Federal Aviation Administration (FAA), which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and white paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium-intensity white strobe lighting during the day. Because this structure would be less than 200 feet, a marking system would not be required by the FAA.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Low Density Residential: Land uses in this designation are single-family homes, duplexes, accessory units, cluster housing, and recreational areas. This land designation is located within the Primary Service Area (PSA) where public services exist or are expected.</p> <p>Staff Comment: The owner of the property intends to build a residence on this parcel. The inclusion of a WCF on the site will be a secondary use. The limited development associated with the WCF will not have an adverse impact on the surrounding residential neighborhoods and fits in with the goals of the Comprehensive Plan.</p>
Development Standards	<p><i>General Land Use Standard No. 4:</i> Permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed. Particular attention should be given to addressing such impacts as incompatible development intensity and design, building height and scale, land uses, smoke, noise, dust, odor, vibration, light, and traffic.</p> <p>iv. Provide adequate screening and buffering to protect the character of nearby residential areas.</p> <p>Staff Comment: The proposed tower location has limited visibility to some of the surrounding residences along Neck-O-Land Road and Constance Avenue, but is not intrusive. The mature trees adequately buffer the tower from the majority of Powhatan Shores.</p>
Goals, Strategies, and Actions	<p><i>Strategy 1.1.1:</i> Craft regulations and policies such that development is compatible in size, scale, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access controls, and other methods.</p> <p>Staff Comment: The 50-foot by 50-foot facility site will be buffered on all sides by a 100-foot tree preservation buffer; this buffer will help to ensure that no additional trees will be cleared in the general area of the tower. Additionally, a 200-foot scenic easement exists between the tower site and the Colonial Parkway. The existing forest surrounding the site will prevent views of the tower from most vantage points and will limit the view of the tower from all locations.</p>

Community Character

General	<p><i>Wireless Communications Facilities-Page 94:</i> In 1998, the increasing need for new WCFs prompted the County to establish Performance Standards for WCFs and add a new Division in the Zoning Ordinance to address them. The decision to regulate WCFs stemmed from the intent of the County to:</p> <ul style="list-style-type: none"> - Protect health, safety, and general welfare of the community - Preserve the aesthetic quality of the community and its landscape - Protect property values - Protect the historic, scenic, rural, and natural character of the community - Minimize the presence of structures that depart from existing and future patterns of development, especially in terms of scale, height, site design, character, and lighting. - Provide for adequate public safety communications - Allow the providers of WCFs to implement their facilities in a manner that will fulfill these purposes, encourage their co-location, and allow them to fulfill their Federal Communications Commission (FCC) licenses.
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	<p>Staff Comment: Co-location options are encouraged in order to mitigate impacts created by clustered, single-use towers. This WCF will only provide co-location opportunities for one other server, to accommodate a total of two wireless carriers. The applicant is not providing two additional spaces, which is most favorable, because the height of the tower has been lowered and a third carrier would be located within the trees. The tower will have a limited visual impact along a portion of Constance Avenue and part of Neck-O-Land Road. It is well camouflaged from the Colonial Parkway by the surrounding trees and will provide wireless service in an area that is currently underserved.</p>
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This application, as proposed, is in compliance with the 2009 Comprehensive Plan. While the tower will have a visual impact on the surrounding area, the impact is minimized by the location and the design of the tower. Given the existing tree buffer between the surrounding residential areas and the Colonial Parkway, staff concurs that the applicant has selected an appropriate location for this tower, to provide wireless service to an underserved area.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (see Attachment No. 1).

Section 24-124 of the Zoning Ordinance states that “In considering an application for an SUP for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the ‘Performance Standards for Wireless Communications Facilities.’ In general, it is expected that all facilities should substantially meet the provisions of these performance standards.”

These performance criteria note that tower mounted WCFs should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County’s ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted the required SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. This tower will be designed to accommodate two service providers. While providing for three servers would be preferable, due to lowering the height of the tower from the more typical 120 feet to 110 feet, a third carrier would have an antenna within the tree line.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regard to demonstrating the necessity for the tower, the applicant submitted propagation maps showing coverage of the area as unreliable. Alternative locations have been adequately explored and a new 114-foot tower is the most viable option.

Standard A3 recommends that the site be able to contain at least two towers on-site to minimize the need for additional towers elsewhere. The applicant is proposing a tower which can accommodate two servers. Locating a second tower on the site would make the WCF more noticeable from the Colonial Parkway.

Standard A4 regarding allowance of future service providers to co-locate on the tower extension is addressed at the site plan stage through requirements in Section 24-128(3) of the Zoning Ordinance.

B. Location and Design

Performance Standard B1(1) states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses. The proposed tower is appropriate because the tower will be located within an existing stand of mature trees, a tree preservation buffer of 100 feet will be maintained on all sides of the 50-by 50-foot facility. The tower will be shielded from the Colonial Parkway by an additional 200-foot scenic easement.

Performance Standard B1(2) states that towers should be located in a manner to protect the character of scenic resource corridors, historic and scenic resource areas, and viewsheds. The proposed tower will be partially visible from several locations: along a portion of Constance Avenue, along a section of Neck-O-Land Road, the very beginning of Captain John Smith Road, and barely visible along a short stretch of the Colonial Parkway. This location was selected with the input from the National Park Service to ensure a minimal visual disruption to travelers along the Colonial Parkway.

Performance Standard B2 states that for areas designated within a historic or scenic resource area or within a scenic resource, the design should be camouflaged or has minimal intrusion on residential areas, historic and scenic resource or roads in such areas, or scenic resource corridors. The upper part of this tower will be visible through the trees from the Colonial Parkway, a Community Character Corridor. Because of the existing tree buffer, the impact of the tower will be minimal.

Performance Standard B3 states that towers should be less than 200 feet to avoid lighting. This application meets this standard.

Performance Standard B4 states that towers should be freestanding and not supported by guy wires. This application meets this standard.

C. Buffering

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot-wide wooded buffer around the base of the tower and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

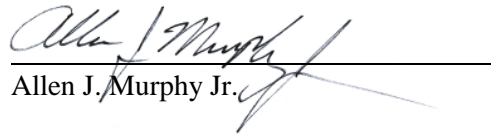
The proposed location of the tower is within a 100-foot tree preservation buffer on all sides of the facility, this has been included as Condition No. 9 for this SUP. The existing tree stand does not camouflage the tower fully, as a portion of the top of the tower is visible along the tree line. Staff believes that the applicant has chosen the most appropriate location for the placement of a tower on this site. The mature tree stands help to mitigate the tower's visual impact from the Colonial Parkway and from Constance Avenue.

RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The tower will have a limited visual impact on both the Colonial Parkway and Constance Avenue. The tower will be located within an existing stand of trees, and the applicant has proposed a 100-foot tree preservation buffer on all sides of the facility. This tower will provide service to the Colonial Parkway and surrounding neighborhoods. At the March 3, 2010, meeting, the Planning Commission recommended approval of this application by a vote of 7-0. Staff recommends that the Board of Supervisors approve the application with the conditions listed in the attached resolution.

Sarah Propst

CONCUR:


Allen J. Murphy Jr.

SP/gb
SUP-26-10WCF.doc

ATTACHMENTS:

1. Resolution
2. Performance Standards for WCFs Policy
3. Binder including: Preliminary Site Plan, Tower Specification Guidelines, Architectural Resource Map, Site Map, Coverage Maps, Narrative of Proposed Use, Letter from the National Park Service, Letter from the Jamestown-Yorktown Foundation, AT&T Collocation Policy, Collocation Study, Site Map, and Photo Simulation from Balloon Test
4. Planning Division Photographs from Balloon Test
5. Location map

RESOLUTION

CASE NO. SUP-0026-2009. CONSTANCE AVENUE

WIRELESS COMMUNICATIONS FACILITY

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, Ms. Lisa Murphy has applied on behalf of LeClairRyan for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned R-8, Rural Residential; and

WHEREAS, the proposed development is shown on a plan prepared by GPD Associates, with a final revision date of June 10, 2010 (the "Master Plan"), listed as Site No. NF430C; and

WHEREAS, the property is located at 115 Constance Avenue and can be further identified as James City County Real Estate Tax Map Parcel No. 4732500002; and

WHEREAS, the Planning Commission, following its public hearing on March 3, 2010, voted 7-0, to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0026-2009 as described herein with the following conditions:

1. **Terms of Validity:** This SUP shall be valid for a total of one wireless communications facility at a total height of 114 feet above existing grade, including all appurtenances, on the property as depicted on the plans entitled, "AT&T, Site Name: Back River Lane, Site No.: NF430C, Site Address: 115 Constance Avenue, Williamsburg, VA 23185," prepared by GPD Associates, and last revised on June 10, 2010
2. **Time Limit:** A final Certificate of Occupancy (CO) shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
3. **Structural and Safety Requirements:** Within 30 days of the issuance of a final CO by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the tower,

including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.

4. **Tower Color:** The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning, or his designee, prior to final site plan approval.
5. **Advertisements:** No advertising material or signs shall be placed on the tower.
6. **Additional User Accommodations:** The tower shall be designed and constructed for at least two users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. **Guy Wires:** The tower shall be freestanding and shall not use guy wires for support.
8. **Enclosure:** The fencing used to enclose the area shall be a board-on-board wood fence or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
9. **Tree Buffer:** A minimum buffer of 100 feet in width of existing mature trees shall be maintained on all sides of the tower facility as shown on Sheet C-1. This buffer shall remain undisturbed except for the access drive, required landscaping and necessary utilities for the tower as depicted on Sheet C-1 of the plans entitled, "AT&T, Site Name: Back River Lane, Site No.: NF430C, Site Address: 115 Constance Avenue, Williamsburg, VA 23185," prepared by GPD Associates, and last revised on June 10, 2010.
10. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

**SPECIAL USE PERMIT-0028-2009. Ingram Road Pegasus Wireless Communications Facility
Staff Report for the June 22, 2010, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

February 3, 2010, 7:00 p.m. (deferred)

April 7, 2010, 7:00 p.m.

Board of Supervisors:

May 11, 2010, 7:00 p.m. (deferred)

May 25, 2010, 7:00 p.m. (deferred)

June 22, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Stephen Romine, LeClairRyan

Land Owner:

Ingram Road, LLC

Proposal:

To allow the construction of a 124-foot (120-foot tower with four-foot lighting rod) "slick stick" Wireless Communications Facility (WCF) on the subject property.

Location:

108 Ingram Road

Tax Map/Parcel No.:

4710100007

Parcel Size:

6.98 acres

Existing Zoning:

B-1, General Business

Comprehensive Plan:

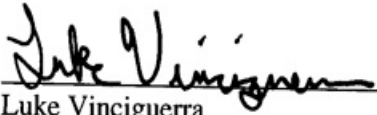
Mixed Use

Primary Service Area:

Inside

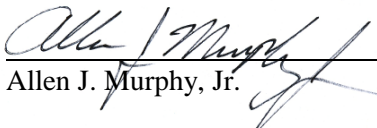
STAFF RECOMMENDATION

After consultation with staff, the applicant has amended the SUP application proposing to move the 124-foot tower from the current location to a location on the north side of the property between an existing building and the adjacent commercial park. The applicant has requested the Board remand the application to the August 4, 2010, Planning Commission meeting in order to advertise a new balloon test prior to Planning Commission consideration of the revised proposal. Staff concurs with this request.



Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

LV/nb
SUP28_2009WCF4-Rem.doc

ATTACHMENT:

1. Application Amendment Request



June 15, 2010

VIA FACSIMILE TRANSMISSION: 757-253-6822 AND ELECTRONIC MAIL

Mr. J. Allen Murphy
Planning Director
James City County
101-C Mounts Bay Road
Williamsburg, Virginia 23187

Mr. Luke Vinciguerra
Planner
James City County
101-C Mounts Bay Road
Williamsburg, Virginia 23187

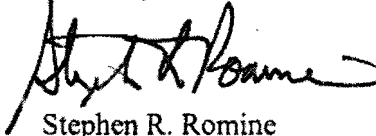
**Amendment of Special Use Permit Application ("Application")
Pegasus Tower Company, Ltd. ("Pegasus")
Site Location: 108 Ingram Road ("Property")
LeClairRyan File No.: 51075.0034**

Dear Mr. Murphy and Mr. Vinciguerra:

In response to Planning staff's recommendation, and after conducting an informal unadvertised balloon test on June 11, 2010, Pegasus would like to amend its Application by relocating the proposed tower to location #1, as shown on the attached sketch. Pegasus requests that the James City County Board of Supervisors remand its Application to the Planning Commission for consideration at its regularly scheduled meeting on August 4, 2010.

Please do not hesitate to contact me should you have any comments or questions regarding this amendment and request.

Sincerely,



Stephen R. Romine

cc: Mr. Craig Clifton (*via electronic mail*)
Mr. Nathan Byrd (*via electronic mail*)
Mr. Harold Timmons (*via electronic mail*)
Mr. Jeffrey Mitchell (*via electronic mail*)

E-mail: Stephen.Romine@LeClairRyan.com
Direct Phone: 757.441.8921
Direct Fax: 757.441.8971

999 Waterside Drive, Suite 2525
Norfolk, Virginia 23510
Phone: 757.624.1454 \ Fax: 757.624.3773

MEMORANDUM

DATE: June 22, 2010

TO: The Board of Supervisors

FROM: Steven W. Hicks, Manager of Development Management

SUBJECT: FY 2011-2016 Six-Year Secondary Road Program

Each year the Virginia Department of Transportation (VDOT), in conjunction with the James City County Board of Supervisors, reviews the Budget Priority List and the Secondary System Construction Program (SSYP) on secondary roads (those roads with route numbers of 600 or greater). As part of the review process, a public hearing announcement is advertised prior to the regularly scheduled Board of Supervisor's meeting on June 22.

The County receives State and Federal allocations yearly to fund proposed secondary improvements. The FY 2011-2016 SSYP allocations totaled \$1,286,414. For FY 2011, the allocation is \$215,726 compared to FY 2009 allocations of \$1,254,782 and FY 2010 \$443,762. Based on the significant reductions in secondary allocations, currently no additional projects can be added to the SSYP. You will find below a brief summary of the current projects on the SSYP Budget Priority List.

1. Ironbound Road Widening (\$16,648,925)

Ironbound Road will be widened to four lanes as follows: the segment between Strawberry Plains Road and Ironbound Square will be widened from two to four lanes with a landscaped median; from there to the Longhill Connector Road it will be widened to five to include a center-turn lane. Both segments will include shoulder-bike lanes and a multipurpose trail or sidewalk. The remaining balance of the project is \$2,549,462 with funding to be completed FY 2014. The project was advertised in May with construction to begin in late summer. The project is expected to be constructed in Fall 2012.

2. Centerville Road/Jolly Pond Road Traffic Signal Installation (\$350,000)

With the construction of the two new schools, the increased traffic will warrant a left-turn lane on Jolly Pond Road at the intersection of Centerville Road and a left-turn lane on Centerville Road onto Jolly Pond Road. The Jolly Pond Road and Centerville Road traffic signal is currently funded with SSYP pending VDOT's review for the need for the traffic signal and opportunities for traffic signal improvement funds. Should the traffic signals meet VDOT's warrants, and traffic signal improvement funds are available, the SSYP funds will not be used. It is recommended that the Board adopt this as its second highest priority.

3. Centerville Road/Longhill Road Intersection Improvements (\$924,420)

The traffic impact analysis (TIA) associated with the SUP for Freedom Park recommends an independent left-turn lane from northbound Centerville Road into Freedom Park along with an independent right-turn lane onto Longhill Road; and a left-turn lane from southbound Centerville Road onto Longhill Road. In addition, the TIA recommends installation of a traffic signal with optimum timing plans responsive to peak/off-peak traffic conditions. The construction of this project is fully funded by State and Federal funds at a cost of approximately \$924,420. The advertisement date for this project is projected to be August 2010. It is recommended that the Board adopt this project as its third priority.

4. Racefield Drive (\$69,357)

As part of the unpaved road funds, these funds are applied to this project yearly until enough money is accumulated to pave the road. Staff recommends this road stay on the SSYP until the project is fully funded and the road is paved.

5. Bridge Funds (\$342,328)

VDOT utilizes a special funding mechanism which provides annual allocations to municipalities for bridge projects. Staff recommends keeping this project on the SSYP in order for the County to continue to receive money towards our bridge projects coffers. The money would be utilized when needed.

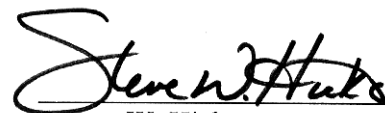
Project recommended to be removed from the SSYP

Croaker Road

This project was planned to consist of lower-cost shoulder and ditch upgrades along a 1.87-mile section south of Croaker Landing Road similar to those done to the section of Ironbound Road between Jamestown Road and Sandy Bay Road. Funding shortfalls have caused this project to be deferred indefinitely. The balance of funds will be reallocated to other priorities once a project has been identified to meet the allocation requirements.

Recommendation

Staff recommends that the Board adopt the Budget Priority identified above as its priorities for the FY 2011-2016 SSYP.



Steven W. Hicks

SWH/tlc
FY11-16SecRd_mem

Attachment:
1. Resolution

RESOLUTION

FY 2011-2016 VDOT SIX-YEAR SECONDARY SYSTEM ROAD PROGRAM

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, James City County has consulted with the VDOT Residency Administrator to set priorities for road improvements on the County's secondary roads; and

WHEREAS, a public hearing was advertised prior to the regularly scheduled Board of Supervisors' meeting on June 22th so that citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Budget Priority List.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves of the Budget Priority List for the Secondary System as presented at the public hearing.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22th day of June, 2010.

FY11-16SecRd_res

**SPECIAL USE PERMIT-0004 - 2010. Courthouse Commons
Staff Report for the June 22, 2010, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

May 5, 2010, 7:00 p.m. (Staff recommended deferral with concurrence from the applicant)

June 2, 2010, 7:00 p.m.

Board of Supervisors:

June 22, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant:

Gregory R. Davis, on behalf of New Town Six, LLC

Land Owner:

New Town Six, LLC

Proposal:

Up to 67,000 square feet of commercial/office development

Location:

5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive

Tax Map/Parcel Nos.:

3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A

Parcel Size:

9.06 acres total

Magisterial District:

Berkeley

Zoning:

M-1, Limited Business/Industrial, District

Comprehensive Plan:

MU, Mixed Use – New Town

Primary Service Area:

Inside

STAFF RECOMMENDATION

Based upon the Comprehensive Plan Mixed Use Land Use Designation, commercial/mixed-use development is appropriate for this location, contingent upon the availability and timing of adequate facilities such as roads. Staff notes the following, based on the traffic study prepared by DRW Consultants, LLC:

- The traffic study presents 2010 Monticello Avenue intersection Level of Service (LOS) results that are worse even today than forecasted in previous traffic studies for this corridor (most recently, the study prepared for New Town Section 9, which assumed a build-out of Sections 7, 8, and 9 by 2015). Staff would note that these lower service levels with current conditions are without most of New Town Sections 7, 8, and 9 being constructed.
- The traffic study presents projected 2016 Monticello Avenue intersection LOS results at build-out of Courthouse Commons that are worse than had been presented in previous traffic studies.
- The traffic study presents 2016 intersection LOS projections that fall below the overall LOS C (with allowance for LOS D lane groups) standard consistently expected and accepted for New Town development at project build-out on this corridor.

- Even with signal optimization (i.e., modifications to traffic signal timing and phasing) or configuration improvements (the West Monticello Plan) explored in the applicant’s traffic study, five of the ten intersections included in this study are projected to have an overall LOS D at project build-out in 2016.

The results of the traffic study indicate a picture of the corridor where intersection and arterial LOS are lower in the near-term than had previously been expected. This raises uncertainties about the timing at which intersection and arterial LOS on the corridor will fall below LOS that had been expected 15 to 20 years in the future (D’s and even some Es) given the more urban nature of the corridor, whether LOS below that (such as E’s and F’s) would therefore occur in that time frame, and whether as a result, additional unidentified improvements would be needed. This is also coupled with the uncertainty of funding known improvements such as the West Monticello Plan. Staff acknowledges that the LOS results are not solely due to the proposed Courthouse Commons project, but as stated in the Comprehensive Plan, maintaining an acceptable LOS for the roads should control the timing and intensity of adjacent development – and this evaluation should look at the cumulative development picture. Considering these factors, staff does not support approving an additional significant traffic generator at this location at this time. Given that this Special Use Permit (SUP) is an “impact SUP” triggered under the ordinance by size (amount of square footage) and traffic generation, staff considers traffic impacts as the primary issue for this proposal and therefore cannot support approval of this application at this time. Should the Board wish to approve this application, staff would recommend attaching the conditions listed in the prepared resolution (Attachment No. 12).

Staff Contact: Ellen Cook Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its June 22, 2010, meeting, the Planning Commission recommended denial by a vote of 4-2. Staff would note that Commissioner Fraley’s approval vote included the expectation that the applicant address three items: reduction in the project square footage, adjustment in the level of funding for the “West Monticello Plan” road improvements, and restrictions on permitted uses. These three items have been addressed in the manner discussed below. Several Commission members also asked that their remarks be communicated to the Board of Supervisors; these are reflected in the attached draft Planning Commission minutes.

Proposed Changes Made Since Planning Commission Meeting

Since the Planning Commission meeting, the applicant has made a number of changes to the proposal. In terms of the Master Plan, the applicant has submitted a revised Master Plan that indicates that the maximum square footage on the site will not exceed 67,000 square feet as opposed to the 83,000 square feet previously proposed (the square footages for the five development areas now total 78,000 square feet, but the overall site would be capped at 67,000 square feet). The Master Plan was also revised to increase the total number of parking spaces shown on Sheet 3 of the Master Plan (from 310 to 342 spaces) – this was achieved by changing the layout of the parking lot in Area 1 to eliminate a central east-west drive aisle and its double row of landscape islands. In addition, the Master Plan was revised to show a smaller building footprint for the building in Area 4, which would mean that a setback reduction request would no longer be sought. Finally, the Master Plan was revised to eliminate a pedestrian circulation route line that had been located along the west side of the parking lot in Area 1 and had connected the internal drive to the sidewalk along Monticello (however, this sidewalk connection is still shown in the applicant’s Design Guidelines) and to add a pedestrian circulation route line to the Busch Office parcel in Area 3.

In connection with the reduction in maximum square footage on the Master Plan to 67,000 square feet, the applicant has provided updated information about the expected trip generation figures that revise downward the amount of trips expected for this site (Attachment No. 10). This information has been reflected in revised SUP Condition No. 11, which sets an overall development limit on AM and PM peak hour trips, and Condition No. 13, which describes the improvements associated with the West Monticello Plan and the applicant’s

proposed monetary contribution toward those improvements. The applicant did not submit a revised Traffic Impact Analysis (TIA) based on the new trip generation figures.

Several other changes were made in relation to SUP conditions. SUP Condition No. 17 has been included which is a list of uses that the applicant would be willing to limit on the property. Staff would note that manufacturing uses would already be restricted by the Zoning Ordinance use codes shown on the Master Plan (as shown on Sheet 3, the Master Plan would allow commercial and office uses). The Attorney's Office has advised staff that other possible M-1 uses to be limited would need to be agreed to by the applicant, due to the nature of the condition – this type of use limitation is more commonly seen through a proffer mechanism. SUP Condition No. 13 has also been revised. As noted above, it now reflects the revised trip generation figures, and it has also been revised to reflect the applicant's offer to base the contribution on the current Virginia Department of Transportation (VDOT) cost estimate rather than the previous estimate calculated in 2006. Finally, SUP Condition No. 16 has been revised to add the following statement: "At the request of the Owner, decisions of the DRB pursuant to the declaration may be appealed to the Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion." This DRC appeal process was added at the request of counsel for the applicant and advice of the County Attorney's office. Staff's comments on this change are included in the Architecture/Site Design & Design Guidelines section below.

PROJECT DESCRIPTION

The proposed development would include up to 67,000 square feet of office and/or commercial development. The development site is zoned M-1, Limited Business/Industrial, District and would require an SUP under Section 24-11 of the Zoning Ordinance due to being comprised of a building or group of buildings which exceed 10,000 square feet of floor area and which are expected to generate a total of 100 or more peak hour trips. While part of the site has been previously developed as a telephone switching station, approximately 65 percent of the 9.06 acres is currently undeveloped and wooded.

The binding sheet of the Master Plan indicates five development Areas. Area 1 shows the footprint and general use (commercial) associated with the proposed Fresh Market grocery store and retail uses. It is staff's understanding that the uses for the other four development Areas are conceptual in nature (restaurant and caretaker apartment, pharmacy with drive-through, bank with drive-through, and office were the conceptual uses listed in the Community Impact Statement (CIS) and traffic study). The applicant has offered to restrict certain M-1 permitted uses from the property – an SUP Condition (No. 16) has been included to that end. The restricted uses are as follows: adult day care centers, automobile sales and service, funeral homes, heavy equipment sales and service, kennels, manufacturing uses listed in County Code Section 24-411, nurseries, vehicle and trailer sales and service, and welding and machine shops. Staff would note that manufacturing uses would already be restricted by the Zoning Ordinance use codes shown on the Master Plan (as shown on Sheet 3, the Master Plan would allow commercial and office uses). Other permitted M-1 uses that were allowed by the general Zoning Ordinance categories of commercial or office could locate in Areas 2–5 of the Master Plan, subject to the overall square footage maximum in the Master Plan and traffic generation limitations found in SUP Condition No. 11. Binding Master Plan Sheet 3 does show building envelop locations for these four Areas. In the staff report for the Planning Commission, staff had noted that the layout shown on Sheet 3 of the Master Plan indicated a potentially significant deficit in ordinance-required parking spaces under the maximum amount of square footage shown in the Development Tabulation on Sheet 3. Based on the uses and revised square footages (which add up to the 67,000 square foot maximum) used to calculate the trip generation figures, it appears that Sheet 3 now shows parking spaces sufficient to meet Zoning Ordinance minimum requirements. As noted above, however, four of the five uses are conceptual at this time, and depending on the uses and square footages that are ultimately proposed, the minimum required parking numbers could change.

Staff would note that since the inception of this project, staff has recommended to the applicant that a rezoning application would allow the applicant maximum flexibility to address the impacts of the proposal. However, the decision was made by the applicant to pursue the proposal as an SUP. In addition, staff would note that the

uses proposed for this project, or uses similar to them, could likely locate elsewhere on this corridor under existing zoning approvals.

Site History and Surrounding Development

A portion of this site (Tax Parcel No. 3840100004) was developed by C&P Telephone (subsequently Bell Atlantic and then Verizon) in the 1970s as a telephone switching station. This parcel has access from New Quarter Drive, which is a private road and has historically been considered a part of New Quarter Industrial Park. Use of this site by Verizon ceased several years ago. In the 1990s, the other undeveloped parcels included in this proposal were shown on the overall New Town Master Plan as New Town Section 10, along with the current Post Office and Advanced Vision Institute (AVI) sites. The original New Town Design Guidelines include Section 10 guidance. However, the property owners at the time did not commit to including these parcels in the original rezoning of New Town to R-8 with proffers, or to any subsequent rezoning to Mixed Use. In terms of surrounding development, the site is across Monticello Avenue from the MU, Mixed Use, zoned New Town development, is adjacent to M-1, Limited Business/Industrial, zoning to the east and south, and borders property zoned B-1, General Business to the west where the James City Service Authority (JCSA) water storage tanks and the land rezoned in 2000 for the not-yet-constructed 15,667-square-foot New Town Office building are located.

Architecture/Site Design & Design Guidelines

During project review, staff requested that the applicant provide building elevations and/or design guidelines, in accordance with the Board's Supplemental Submittal Requirements for Special Use Permits and Rezoning Policy, so that staff could evaluate compliance with the Comprehensive Plan. This project is in the New Town Community Character Area (CCA) and has a land use designation as part of the New Town Mixed Use area. Both the Mixed Use designation description and the Character Area description emphasize consistency of development with the New Town Master Plan and Design Guidelines.

Staff has reviewed the Design Guideline document submitted by the applicant and finds that the guidelines are not entirely consistent in theme and material with the Section 10 guidelines in a number of respects, primarily with regard to the placement of buildings in relation to typical Monticello Avenue build-to lines (which should occur at major intersections such as Monticello/Settler's Market and Monticello/Ironbound Road), minimum amount of building facades along Monticello Avenue, and similarly, in the positioning of parking lot between buildings and the street right-of-way. Instead, the master plan orients most of the buildings to the internal drive, which does provide an alternative way to form an ordered relationship to each other, but results in a suburban shopping style layout more so than the urban layout elsewhere along the corridor.

Since the initial submittal of the project, staff had also suggested that should design guidelines be developed, the guidelines and review of plans and elevations against the design guidelines should be subject to binding New Town Design Review Board (DRB) review. The applicant presented the project and the grocery store elevation to the DRB at its February 18, 2010, meeting. The applicant subsequently presented the Design Guidelines to the DRB at its May 20, 2010, meeting. At that meeting, the DRB approved the project master plan, grocery store elevation, and preliminarily approved the Guidelines, subject to its review of all final revised language. SUP Condition No. 16 has been included which commits the applicant to submitting the final design guideline language to the DRB for approval and to binding review of all project site plans, building elevations, signage, and other site elements by the DRB; and would operate through recorded covenants on the property. As noted above, since the Planning Commission meeting, the following statement has been added to Condition No. 16: "At the request of the Owner, decisions of the DRB pursuant to the declaration may be appealed to the Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion." This DRC appeal process was added at the request of counsel for the applicant and at the advice of the County Attorney's office. This advice from the Attorney's office is due to the nature of the SUP where, unlike a rezoning, there would not be shared covenants between the two developments. Planning staff has concerns about this revised language, as it is a process that is not used elsewhere in New Town, and could dilute the benefit of the condition - consistent review by body that is very familiar with the design guidelines. Furthermore, the DRB was not aware of this appeal process at the

time they approved the design guidelines, master plan and grocery store elevation. The May 20, 2010, DRB minutes are attached to this report (Attachment #8).

Zoning Ordinance Consideration Items

Tower. The Master Plan and CIS indicate that the existing tower would remain on-site in its current location. This tower was constructed in conjunction with the original C&P switching station use and was used for two-way radio communication to company vehicles in the field. Based on staff measurements, the tower is approximately 140-150 feet tall with a self-supporting lattice design. Based on staff's research, the tower is legally nonconforming under the 1971 Zoning Ordinance. The applicant has, to date, not submitted verifiable written documentation confirming the current tower height and the current and planned use of the tower. It is important to note that nonconforming uses and nonconforming structures may not be expanded or relocated unless such expansion or relocation is approved by the Zoning Administrator. Based on the submitted Master Plan, clearing, grading, and site work associated with the proposed project would likely make this tower more visible from Monticello Avenue and Ironbound Road than it is currently.

Building Setback Reduction: The applicant had submitted a letter notifying staff that building setback reductions for one or more buildings might be sought under Section 24-415 of the Zoning Ordinance. In the staff report for the Planning Commission, staff had noted that should this proposed development move forward, the applicant would have the ability to request the Development Review Committee (DRC) approval for specific reduction requests at the plan of development stage when presentations are informed by known building uses and known building, parking and landscaping layout and design. Based on the revised Master Plan, the building footprint in Area 4 is now smaller and a building setback reduction request would no longer be required.

Right-of-Way Landscape Buffer: The applicant has indicated that he/she is seeking a reduction in the average width of the Monticello Avenue Community Character Corridor (CCC) buffer. The current status of the buffer is wooded with a deciduous overstory containing some diseased/dying trees, but many other viable and healthy mature oaks, beech, and other species. The current understory also includes some desirable species, such as hollies. Section 24-96, requires that an average 50-foot landscape area be provided for properties that are adjacent to CCCs. The Master Plan shows a 40-foot average width landscape area, which equates to a 10-foot reduction. In order for the applicant to receive a reduction of 10-feet the proposal would need to meet the standards contained in Section 24-96(d)(1), which are as follows (staff comments are in bold):

The applicant may achieve a maximum reduction of 10 feet by providing superior site design with a combination of elements such as:

- a. Parking located away from public view behind buildings or screened by other architectural features (i.e., decorative brick walls);

The largest parking field shown on the Master Plan is in front of the proposed grocery/retail building. A row of parking previously shown between the building in Area 2 and Monticello Avenue has been removed (although the drive aisle is located between the building and street). A hedge (which is required by Section 24-97 of the Zoning Ordinance) is proposed for screening purposes (staff does not consider this an architectural feature).

- b. Innovative use of grading and topography to minimize visual impacts of parking and other unsightly features (i.e., dumpsters, HVAC equipment, loading areas);

The applicant has not presented information that these criteria has been pursued; however, it is the case that the existing topography of the site to the left of the entrance of Monticello Avenue (which is elevated somewhat above street level) would help screen parking and the potential drive-through lanes in Area 5. Retaining this natural topography to the maximum extent possible would help meet these criteria.

- c. Provision of pedestrian amenities beyond what the ordinance requires. Examples may include brick pavers to connect existing and planned pedestrian walkways, lighting, and benches; or **Sidewalks would be provided in accordance with the ordinance requirements along Ironbound Road and Monticello Avenue. The Design Guidelines and Master Plan show that sidewalk would be provided along both sides of the internal drive (except where there are parking lot drive aisles in Area 1). The Design Guidelines also show sidewalk connections from the internal drive to each of the proposed buildings, as well as a sidewalk connection from Monticello Avenue to the building in Area 2. Finally, a pedestrian connection would be provided between Monticello Avenue and an internal pocket park in Area 4. The Design Guidelines discuss and depict the use of special pavers for certain pedestrian areas and mention the use of street lighting and benches (page 21).**
- d. The use of monument style signs that are of a scale and type that complement the positive features of the surrounding architecture and streetscape. The use of wood, brick, or other natural features is recommended. **The design guidelines specify the use of building face signs and monument signage. The monument signage is depicted as using brick as the sign material.**

Unlike many parcels on the north side of Monticello Avenue within Settler’s Market, this parcel is zoned M-1, Limited Business/Industrial. Both the adjacent Post Office and AVI building, which are not a part of New Town, have provided the 50-foot average width buffer, as have other shopping center style developments along the Monticello Avenue corridor (WindsorMeade Marketplace, Monticello Marketplace). Fifty-foot buffers allow the greatest degree of tree survival since trees in the middle 25–30 feet of the buffer benefit from the stability and wind protection afforded by trees on the outer edges. However, based on several of the criteria above (particularly c and d) and based on commitments to binding DRB review of site plans/building elevations and provision of two pocket parks, staff finds that some degree of flexibility in the 50-foot average width standard is warranted. The 40-foot average buffer provides this flexibility; however, staff finds that this flexibility should be matched with a commitment to preserving specimen trees in the area between the 40 foot line and the 50-foot line, given that the uses on the site other than the Fresh Market are conceptual and therefore presumably retain design flexibility. Also, the Master Plan shows the parking lot drive aisle adjacent to the buffer wider than the minimum width required in the Zoning Ordinance. In addition, based on an initial version of the tree preservation plan (see Attachment 6) which showed the trees outside the 40-foot line and on field observations, it appears that there is the potential for preservation of additional specimen trees. Finally, staff also finds that this flexibility should be matched with a commitment to using the natural topography of the site to assist in screening parking and potential drive-through lanes, especially in Area 5 (which conceptually is the location of a bank with drive-through lanes). For the area within the landscape buffer, the Zoning Ordinance sets limits on grading and clearing activities. Staff has included an SUP Condition (No. 2) to address these matters, and is comfortable with the buffer reduction request based on these terms. Overall, staff would note that the ordinance provides for substantial measures to ensure that buffers which retain existing plant material can still provide a manicured and attractive appearance. The ordinance provides for removal of mature trees and understory trees below certain size thresholds; removal of mature trees and understory trees above the size threshold if they are diseased, compromise safety, or meet certain other criteria; allows understory trees to be limbed-up to a maximum height of six feet and overstory trees to be limbed-up to a maximum of ten feet; and allows the buffer to be supplemented with more formal landscape plantings.

The right-of-way buffer along Ironbound Road is depicted on the Master Plan as 30 feet, which meets the ordinance requirement for non-CCC roads (Ironbound Road is a CCC elsewhere in the County). The Master Plan (Sheet 4) shows that the trees in the VDOT right-of-way would be cleared, and that the land would be graded from the property line to the new edge of the Ironbound Road curb-and-gutter section.

PUBLIC IMPACTS

Archaeology

The applicant's CIS says that this area was examined as part of the original 1990 Phase I New Town Archaeology study. However, based on staff's detailed review of this study, this site does not appear to have been included within the Project Area limits.

Conditions:

- Condition No. 3. Preparation of a Phase I Archeology study for a portion of the site, in accordance with the County's Archaeology Policy.

Staff Comments: While part of the site has been previously developed as a telephone switching station, approximately 65 percent of the 9.06 acres is currently undeveloped and wooded, and the condition calls for preparation of a Phase I archeology study for this area.

Environmental

The property as proposed would drain nearly equally to Powhatan Creek and to Mill Creek. The proposed development will capture runoff in a series of bioretention cells located around the site. Portions of the subject parcel will not drain to a structural BMP; however, these portions will remain largely undeveloped (perimeter buffers). The planned bioretention facilities will be designed to treat the impervious surface runoff and release either to underground infiltration or to existing downstream piping. The planned underground facilities will infiltrate, detain, and release designed storm events for the portions of the site draining to Ironbound Road. For the portion of the site in the Powhatan Creek Watershed, three Special Stormwater Criteria (SSC) measures are required.

Watershed: Powhatan Creek and Mill Creek

Conditions:

- Condition No. 4. All stormwater run-off shall be filtered through a certified pre-treatment device prior to its entering any underground infiltration or attenuation feature.
- Condition No. 5. Proposed stormwater components to treat Areas 1–5 shall be in place and operation prior to construction of any impervious surface in those Areas.
- Condition No. 6. SSC shall apply to all areas of this project.

Staff Comments: Staff has reviewed the CIS and Master Plan and concurs with the approach presented, while providing information that will need to be addressed at the site plan design stage. Appropriate phasing of the stormwater components should be addressed if the project moves forward. SUP Condition No. 4 and No. 6 provide additional environmental protection by specifying that stormwater run-off will be filtered through certified pre-treatment devices prior to entering underground infiltration or attenuation features, and by applying SSC measures site-wide, rather than just the portion of the development in the Powhatan Creek Watershed.

Public Utilities

Public water service is available through a JCSA 16-inch water main located along Monticello Avenue and a 12-inch water main along Ironbound Road. To develop the site, a water system loop will be provided through the development which will interconnect the water mains on Ironbound, Monticello, and New Quarter Drive. The CIS states that previous water modeling of the 16-inch water main has demonstrated sufficient capacity to provide for the water demands in this area with no significant impact to the system.

Public sewer service is projected to be handled by two sources. The CIS states that ideally all sewage would be directed to Lift Station 1-5 (this station is located in Ford's Colony and serves a large portion of New Town as well as other development), but that due to known constraints within that system, no more than 7,395 gallons per day would be sent in that direction (this would be comprised of sewage from Master Plan Areas 2, 4, and 5). The remaining uses (in Areas 1 and 3) would be required to have self maintained sewage pump stations on-site and discharge sewer to the existing force main along New Quarter Drive.

Conditions:

- Condition No. 8. Water Conservation standards to be reviewed and approved by the JCSA.

- Condition No. 9. The waterline in New Quarter Drive shall be looped to the waterline in Monticello Avenue.

Staff Comments: Staff has reviewed the Community Impact Statement and Master Plan, and concurs with the approach presented, while providing information that will need to be considered at the site plan design stage.

Transportation

The development as proposed would have a main entrance on Monticello Avenue across from Settler's Market Boulevard and a secondary entrance on Ironbound Road (also referred to as Old Ironbound Road in the traffic study). These entrances would be connected by an internal drive.

2007 County Traffic Counts: On Ironbound Road from Route 199 to Monticello Avenue, there were 2,602 trips. On Monticello Avenue from Courthouse Street to Ironbound Road, there were 19,466 trips.

2035 Daily Traffic Volume Projected (from 2009 Comprehensive Plan): On Ironbound Road from Longhill Connector to Monticello Avenue, 12,550 trips are projected, this is in the category of being programmed for improvement by VDOT (four lanes). On Monticello Avenue from Route 199 to Ironbound Road, 32,202 trips are projected; this is in the category of needing improvement (six lanes). However, Monticello Avenue is discussed more specifically in later Comprehensive Plan text.

Road Improvements: A number of improvements have been identified for completion by this development in the DRW Consultants, LLC traffic study. These improvements include: widening of Old Ironbound Road northbound at Monticello Avenue to provide a northbound left-turn lane and a northbound shared through right-left-turn lane; modification of the Old Ironbound Road/Monticello Avenue traffic signal to account for higher turning movement volume; connection of the primary Courthouse Commons driveway at Monticello Avenue/Settler's Market Boulevard signalized intersection, with additions/modification of the traffic signal for vehicular traffic; addition of pedestrian signals on Monticello Avenue east of Settler's Market Boulevard to include crosswalk from curb to curb, modifications to median to provide flush pedestrian crosswalk and pushbutton controls, and modifications to curbing and/or pavement necessary for design of pedestrian features under VDOT design criteria; a right-turn taper on Old Ironbound Road northbound at the Courthouse Commons secondary driveway; extension of the westbound left-turn storage bay at the intersection of Monticello Avenue/Settler's Market Boulevard to 275 feet to provide adequate storage capacity; and on the westbound New Quarter Drive approach to Ironbound Road, striping of a stop bar and installation of a stop sign.

Conditions:

- Condition No. 10. Completion of specified transportation improvements.
- Condition No. 11. Limitation on PM and AM trip generation on the site to specified caps.
- Condition No. 12. Signal Timing Plan Development.
- Condition No. 13. Construction or contribution to the "West Monticello Plan."

VDOT Comments: VDOT issued comments on May 26, 2010, stating that in general, the TIA is found compliant with VDOT's 527 Regulations. Per its request, the VDOT letter and Evaluation Report are attached to this staff report (Attachment No. 7). VDOT comments include the following:

- Travel time runs performed on the existing corridor by the consultant demonstrated travel speeds and levels of service that were better than those shown in the applicant's traffic study. Given this, it is difficult to validate the assertion in the conclusions of the study (see Page 26, last paragraph) that travel times will improve on the corridor in the future with the implementation of the West Monticello Plan, signal optimizations, and the planned traffic growth. (Comment No. 5)
- Based on the projected background growth on the corridor, a reduction in travel times and level of service can be anticipated without significant capacity improvements (i.e., the West Monticello Plan). (Comment No. 5)
- VDOT recognizes the benefits to the corridor after implementation of the West Monticello Plan Transportation Improvements as outlined in the submitted traffic study. We note that while this improvement project is currently programmed, it is not fully funded for construction. (Comment No. 7)

Staff Comments: Over the last 20 years or so, Monticello Avenue has been a transportation focus in the County. Substantial government funds have been committed to its construction, maintenance, and improvement. Development along the corridor has been closely scrutinized, ensuring that necessary improvements have been proffered and completed over time. The following information examines this corridor and the proposed Courthouse Commons development in relation to it. Staff notes that the Master Plan now shows a maximum of 67,000 square feet, as opposed to 83,000 square feet shown previously at the Planning Commission meeting. The applicant provided a revised trip generation exhibit (Attachment No. 10), but the traffic study (included as Attachment No. 5) and the information in the staff report below reflect the previously proposed square footage since the traffic study was not revised by the applicant. Given that revised analysis was not submitted by the applicant, staff is unable to provide information about what affect the reduction in proposed square footage would have on intersection or arterial levels of service. At the Planning Commission meeting, in response to questions received by staff, several trip generation scenarios were presented as a comparison of the proposed Courthouse Commons with one or more hypothetical by-right uses of the property. This information is shown in Attachment No. 11, and indicates that by-right uses on the property likely represent significantly lower trip generation potential.

New Town Sections 7, 8, and 9 TIA Results vs. 2010 Existing Conditions according to Courthouse Commons TIA

As each Section or Sections of New Town have gone through the rezoning approval process, specific TIAs have been prepared. The last TIA for an approved New Town Section was the study prepared for Section 9, which also included Sections 7 and 8. The original New Town proffers included the commitment to maintaining overall LOS C (with latitude for LOS D for select turning movements) at seven specified Monticello Avenue intersections at projected project build-out, through planning appropriate development intensities and timing, as well as proffering of necessary improvements. The Section 9 TIA showed that this was achieved, and that it was also achieved for one of the two other intersections examined in the study (Monticello Marketplace and News Road). The LOS deficiency at News Road was planned to be addressed by various turn-lane improvements termed the “West Monticello Plan” (see description below).

The TIA analysis for Courthouse Commons indicates current 2010 Existing Conditions at lower levels of service at New Town Avenue (for lane movements), Route 199, and Monticello Marketplace than had previously been projected for 2015, even though transportation improvements proffered by Sections 7, 8, and 9 have been completed, and only a portion of the development approved for these Sections has been constructed (see Table 1). (The other improvements assumed in the Sections 7, 8, and 9 TIA which have not been completed are to the Ironbound Road/Monticello Avenue intersection at the Williamsburg/James City County border, which may improve LOS at other locations along the corridor.) The applicant has stated that the different LOS results are due to using different factors in the Courthouse Commons TIA than those used in the 2006 Section 9 TIA, specifically, the Peak Hour Factor (per current VDOT regulations/guidance), Lost Time Per Phase (per current VDOT regulations/guidance), and Cycle Length (per current conditions).

Table 1. Sections 7, 8, and 9 TIA Projected 2016 VS. Courthouse Commons TIA 2010 Existing Conditions

Monticello Avenue Corridor Signalized Intersection LOS – PM Peak Hour	New Town Sections 9, and 7 and 8 TIA Results – Projected LOS in 2015 with construction of these sections*		2010 Existing Conditions as presented in Courthouse Commons TIA	
	Overall LOS	Worst-lane group(s) LOS	Overall LOS	Worst lane group(s) LOS
Ironbound Road/Monticello	C	D	C	D
Courthouse Street/Monticello	C	D	C	D
New Town Avenue/Monticello	C	D	C	E
Settler’s Market Boulevard /Monticello	B	D	A	D
Old Ironbound/Casey Boulevard and Monticello	B	D	C	D
Route 199/Monticello	C	D	D	E
WindsorMeade Way/Monticello	B	D	B	D
Monticello Marketplace/Monticello	C	E	D	E
News Road/Monticello	D	F	D	F
Ironbound Road/Strawberry Plains	n/a	n/a	C	D

* These LOS projections include proffered New Town improvements and Ironbound/Monticello Avenue improvements, but not the West Monticello Plan improvements (discussed below).

Courthouse Commons TIA Results

The TIA submitted by the applicant indicates significantly lower LOS between existing conditions and the projected 2016 LOS. In terms of level of service categories, the projected LOS situation in 2016 is similar in the “No-build” and “Build” scenarios. However, this project would add a significant number of trips to new roadway network, incrementally increasing the overall volumes. Improvements to be completed by this project would not result in improving the levels of service (the change in LOS at Ironbound Road is due to a change in the intersection phasing assumptions, not to an improvement to be completed by Courthouse Commons). In the Build scenario, three intersections have overall LOS D, and four intersections have overall LOS E (with LOS F lane groups), which have not been found to be acceptable levels of service for this corridor in the build-out year for past traffic studies. Staff had requested that the traffic engineer provide information as to why these projected levels of service differed so markedly from past corridor traffic studies (see Table 1). As stated, the applicant has attributed the different LOS results to using different factors in the Courthouse Commons TIA than had been used in the 2006 Section 9 TIA, specifically, the Peak Hour Factor (per current VDOT regulations/guidance), Lost Time Per Phase (per current VDOT regulations/guidance), and Cycle Length (per current conditions).

Table 2. Courthouse Commons TIA Results

Monticello Avenue Corridor Signalized Intersection LOS – PM Peak Hour	2010 Existing Conditions		Projected 2016 without Courthouse Commons (“No-build”)		Projected 2016 with Courthouse Commons (“Build”)*	
	Overall LOS	Worst-lane group(s) LOS	Overall LOS	Worst lane group(s) LOS	Overall LOS	Worst lane group(s) LOS
Ironbound Road	C	D	D	D	C	D
Courthouse Street	C	D	C	D	C	D
New Town Avenue	C	E	D	F	D	E
Settler’s Market Boulevard	A	D	B	D	C	D
Old Ironbound/Casey	C	D	E	F	E	F
Route 199	D	E	E	F	E	F
WindsorMeade Way	B	D	D	E	D	D
Monticello Marketplace	D	E	E	F	E	F
News Road	D	F	E	F	E	F
Ironbound Road/Strawberry Plains	C	D	D	D	D	D

* Includes assuming completion of improvements listed in the TIA

Courthouse Commons: Proposed Ways to Address Level of Service Issues

Given the level of service results in Table 2, the applicant included two options in the Courthouse Commons traffic study. The two ideas presented are optimization of the signals along the Monticello Avenue Corridor and construction of the West Monticello Plan improvements, which are discussed in more detail below (see Table 3).

A. Signal Optimization

Signal optimization means adjusting the cycle length (in this case 110 seconds) and phasing (left, through, side street movements), and modification of green time (seconds allocated from the 110 total) of movements through that intersection, and adjusting the offset timing (arrival time of a platoon of vehicles) to arrive at an optimal scenario. Restricting side street turning movements would result in giving more green time to the through (Monticello Avenue) movement along the main line. The traffic study indicates that as compared to existing conditions, side street delays would be on the order of an additional 20 to 30 seconds of wait time (delay) under an optimization scenario. The traffic study optimizes each of the nine Monticello Avenue intersections, but also adjusts to maintain overall signal coordination (as they are currently). The TIA, as shown in Table 3, projects that for the most part, signal optimization results in better levels of service for the corridor; however, four out of the nine Monticello Avenue intersections would still be at an overall LOS D, with some lane groups experiencing LOS E, and there is no improvement at Ironbound Road/Strawberry Plains intersection which is not on the corridor. Signal Optimization can be achieved in the field through data collection, preparation of optimized signal timing plans, and approval by VDOT. In order to implement the revised signal timing plans, the signal timing plans would be configured at each signal cabinet located at each signalized intersection. An SUP condition has been included (No. 12) which is designed to allow for all parties to check/update applicable signal timing plans at two points in the development of Courthouse Commons. VDOT would also need to approve a specific optimization plan in the future for it to be implemented in the field. Monitoring and adjusting signal timings to optimize the function of this corridor will need to be an on-going process for which the County and VDOT will be responsible.

B. West Monticello Plan

The LOS deficiency at News Road noted in past New Town traffic studies was planned to be addressed by various turn-lane improvements termed the “West Monticello Plan,” which includes the following elements:

- For Monticello: Exclusive right-turn lane westbound at WindsorMeade Way; adjust the westbound right-turn radius and remove island at Old News Road; re-stripe for three westbound through lanes between Old News and Monticello Marketplace; pave 10 feet of the existing 12-foot median for a second westbound left-turn lane at News Road.
- For Ironbound Connector (News Road south of Monticello): add an additional northbound through lane, and for the southbound segment, realign the median and provide a dual lane right-turn onto Ironbound Road (and any associated improvements that may be necessary in terms of widening along southbound Ironbound Road to accommodate the proposed second right-turn lane).
- For News Road (north of Monticello): add a lane to provide a dual southbound left-turn.

The TIA, as shown in Table 3, projects that for the most part, the Plan results in better levels of service for the corridor; however, four out of the nine Monticello Avenue intersections would still be at an overall LOS D, with select lane groups experiencing LOS E, and there is no improvement at Ironbound Road/Strawberry Plains intersection. New Town Section 9 and Sections 7 and 8 each proffered a proportionate contribution toward this Plan, based on the best available total cost estimate for these improvements known at the time, which was \$860,000. At the time of the rezoning approval for Sections 7 and 8, the County had secured what it believed to be sufficient funding to proceed with those improvements. Since the time that these percentage contributions were proffered, VDOT has reviewed the project scope and identified a project cost for this plan of \$2,425,000 versus the \$860,000 originally estimated. It appears that at best, an additional \$1,565,000 would need to be secured in order for the improvements in the Plan to be constructed, or that the improvements would need to be done incrementally over an undetermined time period as funds were available. SUP Condition No. 13 includes completion or pro rata share cash contribution toward the Plan. Since the Planning Commission meeting, the applicant has expressed willingness to base this amount on the current known VDOT estimate (\$2,425,000), with the percentage contribution based on 67,000 square feet of uses. Staff would note that as currently stated in the SUP condition the cash contribution would be paid prior to final Certificate of Occupancy for the first structure on the Property. In order to best enforce the condition, staff and the County Attorney’s office would prefer that the contribution be paid prior to final site plan approval or issuance of a building permit for the first structure on the Property. The applicant has indicated that they would only be willing to pay at building permit approval if it were a proportionate payment (in terms of proposed square footage out of the 67,000 total) due as each structure was built on the property. This scenario would likely be even more difficult to administer.

Table 3. Proposed Options for Addressing Level of Service Issues

Monticello Avenue Corridor Signalized Intersection LOS – PM Peak Hour	Projected 2016 with Courthouse Commons (“Build”)		Projected 2016 with Courthouse Commons (“Build”) and Signal Optimization		Projected 2016 with Courthouse Commons (“Build”) and West Monticello Plan	
	Overall LOS	Worst-lane group(s) LOS	Overall LOS	Worst lane group(s) LOS	Overall LOS	Worst lane group(s) LOS
Ironbound Road	C	D	D	D	D	D
Courthouse Street	C	D	C	E	C	E
New Town Avenue	D	E	C	D	D	E
Settler’s Market Boulevard	C	D	C	E	C	E
Old Ironbound/Casey	E	F	D	E	D	E
Route 199	E	F	D	E	D	E
WindsorMeade Way	D	D	C	E	A	D
Monticello Marketplace	E	F	C	E	C	E
News Road	E	F	D	E	C	E
Ironbound Road/Strawberry Plains	D	D	D	E	D	E

Expectations for the Monticello Avenue Corridor

As discussed briefly above, the Monticello Avenue corridor has been analyzed by all New Town sections that have been brought forward for rezoning. The County has acknowledged that Monticello Avenue is more urban in nature and is designed to incorporate pedestrian features, and has recognized that LOS conditions lower than what would otherwise be acceptable may occur 15 to 20 years into the future. However, the County has also consistently held the New Town sections to the proffer put in place with the first New Town rezoning, which was that the overall LOS at section build-out achieves a C or better. With New Town Sections 7, 8 and 9, the County accepted intersection LOS that had lane movements with LOS D, as long as an overall intersection LOS C was maintained for the specified intersections. For Sections 7, 8 and 9, there was one intersection (News Road/Monticello Avenue) which was outside the scope of the original New Town proffer that achieved LOS D; these Sections provided a percentage cash contribution to a group of turn-lane and other improvements prepared by DRW Consultants known as the West Monticello Plan which was designed to improve the LOS of this intersection to the C or better standard.

The traffic study prepared by DRW Consultants for Courthouse Commons presents LOS projections that fall below the standards consistently expected and accepted for development at build-out on this corridor (see Table 2). Even with signal optimization or the West Monticello Plan (for which adequate project funding is no longer secured), the best case scenario is that five of the ten intersections included in this study are projected to have an overall LOS D, which is significant proportion of the intersections on this important corridor/area. Maintaining an acceptable level of service for the roads in this area is paramount and should control the timing and intensity of adjacent development, now and in the future. Given the results presented in the applicant’s traffic study, the fact that significant additional square footage has already been approved on this corridor but not yet built and the uncertainty of whether improvements may be warranted in order to achieve acceptable levels of service in the future, staff does not recommend approving a significant traffic generator such as this project at this location at this time.

COMPREHENSIVE PLAN

Land Use Map

<p>Designation</p>	<p>New Town Mixed Use (Page 156): For the undeveloped land in the vicinity of and including the Route 199/Monticello Avenue interchange, the principal suggested uses are a mixture of commercial, office, and limited industrial with some residential as a secondary use. The development in this area should be governed by a detailed Master Plan which provides guidelines for street, building, and open space design and construction which complements the scale, architecture, and urban pattern found in the City of Williamsburg.</p> <p>Staff Comments: Commercial/mixed-use development of some sort, contingent upon the availability and timing of adequate facilities (such as roads), is appropriate for this location. Both the Mixed Use designation description and the Character Area description (see below) emphasize consistency of development with the New Town Master Plan and Design Guidelines. Staff has discussed the submitted layout and design guidelines in relation to the original Section 10 guidelines above. The DRB approved the master plan and preliminarily approved the design guidelines at their May 20, 2010 meeting.</p>
<p>General Development Standards</p>	<p>a) All developments should refer to the Residential and Commercial/Industrial Development Standards along with the Mixed Use Development Standards.</p> <p>b) Mixed Use developments should create vibrant urban environments that bring compatible land uses, public amenities, and utilities together at various scales. These developments should create pedestrian-friendly, higher-density development, and a variety of uses that enable people to live, work, play, and shop in one place, which can become a destination.</p> <p>c) Mixed Use developments require nearby police and fire protection, arterial road access, access to public utilities, large sites, environmental features such as soils and topography suitable for intense development, and proximity or easy access to large population centers. The timing and intensity of commercial development at a particular site are controlled by the maintenance of an acceptable level of service for roads and other public services, the availability and capacity of public utilities, and the resulting mix of uses in a particular area. Master Plans are encouraged to assist in the consideration of Mixed Use development proposals. The consideration of development proposals in Mixed Use areas should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of land uses and their development impacts.</p> <p>d) Mixed Use developments should focus on place-making. Developments should be designed to create a sense of place and should be seen as community destinations. Focal open spaces, community oriented gathering places, unified architectural design, and a mix of uses and design that encourages pedestrian activity are all examples of creating a sense of place.</p> <p>e) Mixed Use developments should allow for higher development intensities that create more efficient buildings and spaces, which can be less of a burden on the environment, creating a more sustainable community.</p> <p>f) Mixed Use developments should encourage the proximity of diverse uses to make it possible to reduce vehicle trips and vehicle miles traveled, providing for a greater potential for internal capture than with typical suburban development.</p> <p>Staff Comments: While all of the standards above are important and many have been discussed elsewhere in the Staff Report, one of the most critical standards is (c) which states that the timing and intensity of commercial development at a particular site are controlled by the maintenance of an acceptable LOS for roads and other public services.</p>

Environment

General	<i>Powhatan Creek Watershed Management Plan-Page 66:</i> The Board of Supervisors adopted the eight goals and 21 priorities associated with the Powhatan Creek Watershed Management Plan by resolution dated February 26, 2002. Subsequently, the Board adopted revisions and re-adoption of the Powhatan Creek Watershed Management plan by resolution dated October 10, 2006.
Goals, Strategies, and Actions	<p><i>Action 1.1.1 -Page 77:</i> Promote development and land use decisions that protect and improve the function of wetlands and the quality of water bodies.</p> <p>Staff Comment: A portion of this site would drain to Powhatan Creek, and Special Stormwater Criteria measures would be required in this area. As discussed above, additional environmental protection will be achieved by applying SSC measures site-wide, rather than just the portion of the development in the Powhatan Creek Watershed.</p>

Transportation

General	<p><i>Road Capacity and LOS – Page 178-179:</i> Among other issues weighed in previous development proposals, the County is generally supportive of projects that do not degrade surrounding streets and intersections below a LOS “C.” In practical terms, this means that the signalized intersection providing access to the development can not cause more than 35 seconds of delay and development generated traffic does not destabilize the traffic flow on the surrounding streets. New Town is an example where the Board has accepted a LOS of less than “C” for lane groups to allow a more urban, pedestrian-friendly environment.</p> <p><i>Monticello Avenue Plan-Page 181:</i> Currently, access is strictly limited onto this roadway. Given very limited funding, strong efforts should be taken to avoid widening Monticello Avenue to four lanes in any additional locations through coordinated development and continued access management. For the segment from Route 199 to News Road, efforts should be made to maximize capacity through geometric improvements and signal coordination. The addition of new traffic signals is discouraged.</p> <p>Staff Comments: As discussed above, intersection levels of service presented in the traffic study are lower than the LOS C (with LOS D lane groups) standard, both for overall intersections, and for lane groups. While geometric improvements have been identified for the segment from Route 199 to News Road (the “West Monticello Plan”), there is currently a significant funding shortfall for this project that will likely result in implementation delays in the future.</p>
Goals, Strategies, and Actions	<p><i>Action 1.3.4 – Page 188:</i> Encourage pedestrian circulation by providing safe, well-lit, and clearly marked crosswalks and unobstructed sidewalks. Encourage the use of accessible design and provision of shade benches, attractive landscaping, and scenic vistas along pedestrian routes.</p> <p>Staff Comments: This proposal would provide sidewalks along Ironbound Road and retain the sidewalk along Monticello Avenue as required by the Zoning Ordinance. The Design Guidelines include additional pedestrian amenities that will be provided interior to the development, such as specialized pavers and benches.</p>

Community Character

General	<p><i>Monticello Avenue CCC-Page 86:</i> 50 foot average width buffer for commercial uses along this road. This also includes parking and other auto-related areas clearly as a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the corridor.</p> <p><i>New Town CCA – Page 88:</i> In 1997 the Board of Supervisors adopted design guidelines for New Town and has amended them several times as new sections have been developed. The document was prepared by Cooper, Robertson and Partners, and the New Town DRB was created to review all development plans within New Town for compliance with the guidelines. Both the guidelines and master plan establish standards for different areas of New Town. Many</p>
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	of the original design features are now taking shape, and the New Town DRB has been instrumental in adhering to the design guidelines, thus ensuring that the original concept is realized.
Goals, Strategies, and Actions	<p><i>Action 1.1.1-Page 97:</i> Expect that development along Community Character Corridors protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Action 1.2.2 – Page 99:</i> Expect that development along CCAs protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p>Staff Comments: With regard to the CCC landscape buffer, the applicant has requested an average width reduction as discussed above. Staff finds that the proposal meets the Zoning Ordinance criteria for the reduction. With regard to the CCA, staff has reviewed the design guidelines submitted by the applicant and found that they are in some ways not thematically and materially consistent with the original New Town Section 10 Design Guidelines (as discussed above), but which do provide an overall framework for the development that should ensure some consistency with the character of the New Town area. The applicant presented the proposed development to the DRB which approved the master plan and grocery store elevation, and preliminarily approved the design guidelines. The applicant has also committed to binding DRB review of future site plans and building elevations.</p>

Economic Development

General	<i>Community Sustainability Spotlight - Page 27:</i> Economic sustainability requires an adaptive, resilient, diverse, and vibrant economy that provides high quality jobs and stability for County residents. A diverse employment base is, for instance, one of the features which can be used to gauge the sustainability of James City County’s economy.
Goals, strategies and actions	<p><i>Goal – Page 28:</i> Encourage a balanced mixture of commercial, industrial, and residential land uses in a pattern and at a pace of growth supportive of the County's overall quality-of-life, fiscal health, and environmental quality.</p> <p>Staff Comments: When asked to provide information about how the applicant believes this proposal fits in the Economic Development text and goals, strategies and actions, the applicant provided the following information:</p> <p>“The development of this property with the mix of proposed uses represents the highest and best use of the subject property and it will ensure retention of an important member of the County’s business community (i.e., Fresh Market) which would otherwise have abandoned its current location in the County for more suitable sites in adjacent jurisdictions. The development will also attract new businesses to the area and the project will generate significant construction dollars and fees to design professionals, which will help in stabilizing this sector of our local economy which is still recovering from the recent economic downturn. The opening of new businesses will entail the hiring of new employees with a broad range of skill levels from retail staff to professional service providers. The location of this project in what is the center of the County’s emerging commercial/business district helps to contribute to the synergy and diversity of business needed to establish a preminent business district with long-term viability. The project will also be a significant enhancement to the County’s real estate tax base.”</p>

Comprehensive Plan Staff Comments

In terms of Land Use designation and Community Character, staff finds that this proposal is generally consistent with the Comprehensive Plan. However, staff does not find that the proposal is consistent with elements of the Transportation section and elements of the Land Use Development Standards.

RECOMMENDATION

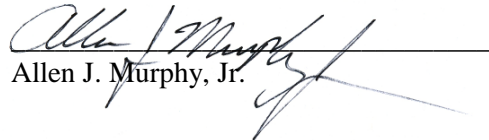
Based upon the Comprehensive Plan Mixed Use Land Use Designation, commercial/mixed-use development is appropriate for this location, contingent upon the availability and timing of adequate facilities such as roads. Staff notes the following, based on the traffic study prepared by DRW Consultants, LLC:

- The traffic study presents 2010 Monticello Avenue intersection LOS results that are worse even today than forecasted in previous traffic studies for this corridor (most recently, the study prepared for New Town Section 9, which assumed a build-out of Sections 7, 8, and 9 by 2015). Staff would note that these lower service levels with current conditions are without most of New Town Sections 7, 8 and 9 being constructed.
- The traffic study presents projected 2016 Monticello Avenue intersection LOS results at build-out of Courthouse Commons that are worse than had been presented in previous traffic studies.
- The traffic study presents 2016 intersection LOS projections that fall below the overall LOS C (with allowance for LOS D lane groups) standard consistently expected and accepted for New Town development at project build-out on this corridor.
- Even with signal optimization (i.e., modifications to traffic signal timing and phasing) or configuration improvements (the West Monticello Plan) explored in the applicant's traffic study, five of the ten intersections included in this study are projected to have an overall LOS D at project build-out in 2016.

The results of the traffic study indicate a picture of the corridor where intersection and arterial LOS are lower in the near-term than had previously been expected. This raises uncertainties about the timing at which intersection and arterial LOS on the corridor will fall below LOS that had been expected 15-20 years in the future (D's and even some E's) given the more urban nature of the corridor, whether levels of service below that (such as E's and F's) would therefore occur in that time frame, and whether as a result, additional unidentified improvements would be needed. This is also coupled with the uncertainty of funding known improvements such as the West Monticello Plan. Staff acknowledges that the LOS results are not solely due to the proposed Courthouse Commons project, but as stated in the Comprehensive Plan, maintaining an acceptable LOS for the roads should control the timing and intensity of adjacent development – and this evaluation should look at the cumulative development picture. Considering these factors, staff does not support approving an additional significant traffic generator at this location at this time. Given that this SUP is an “impact SUP” triggered under the ordinance by size (amount of square footage) and traffic generation, staff considers traffic impacts as the primary issue for this proposal and therefore cannot support approval of this application at this time. Should the Board wish to approve this application, staff would recommend attaching the conditions listed in the prepared resolution (Attachment No. 12).

Ellen Cook

CONCUR:



Allen J. Murphy, Jr.

EC/nb
SUP04-2010.doc

ATTACHMENTS:

1. Location Map
2. Master Plan
3. Community Impact Statement
4. Design Guidelines for Courthouse Commons document
5. Traffic Study
6. Tree Preservation Plan
7. Draft June 2, 2010, Planning Commission Minutes
8. Draft May 20, 2010, DRB Minutes
9. May 26, 2010 VDOT Comments
10. Revised Exhibit 10 – Trip Generation Tables
11. Trip Generation Scenarios: Courthouse Commons vs. “By-Right”
12. Resolution

RESOLUTION

CASE NO. SUP-0004-2010. COURTHOUSE COMMONS

- 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. Gregory Davis has applied on behalf of New Town Six, LLC for an SUP to allow for the construction of commercial and/or office uses on approximately 9.1 acres zoned M-1, Limited Business/Industrial, District; and
- WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers dated June 7, 2010, (the "Master Plan") and entitled "Courthouse Commons Shopping Center Special Use Permit;" and
- WHEREAS, the property is located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive and can be further identified as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"); and
- WHEREAS, the Planning Commission, following its public hearing on June 2, 2010, voted 4-2 to recommend denial of this application; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0004-2010 as described herein with the following conditions:

1. Master Plan: This Special Use Permit ("SUP") shall be valid for the construction of commercial/office uses located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive, also known as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"). The Property shall be developed generally as shown on the Master Plan drawn by AES Consulting Engineers entitled "Master Plan for Special Use Permit for Courthouse Commons" and date-stamped June 7, 2010 (the "Master Plan"). Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. Community Character Corridor (CCC) Buffer: A CCC right-of-way landscape area of no less than an average of 40 feet in width shall be provided along the Monticello Avenue frontage. In addition, between 40 and 50 feet from the right-of-way lines, any specimen trees, as defined in the Zoning Ordinance, will be identified on any landscape plans for Areas 1, 2 and 5, and shall be incorporated into the site design of the project and preserved to the maximum degree practicable, as determined by the Planning Director. Street trees to be located along the Monticello Avenue frontage, as described in the Design Guidelines, shall be located outside of the right-of-way landscape area required by Section 24-96 of the Zoning Ordinance, as approved by VDOT, and shall

not be used to meet the plant quantity or size and mixture requirements in the Zoning Ordinance for right-of-way landscape areas.

3. Archaeology: A Phase I Archaeological Study for the entire Property, other than previously developed parcels 3840100004, 3840100004A, and 3840100004B, shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading, or construction activities thereon.
4. Stormwater Pre-Treatment: All stormwater run-off shall be filtered through a Hanson Stormceptor pre-treatment device or other comparable manufactured device, provided that it has been certified by Technology Acceptance and Reciprocity Partnership ("TARP") or New Jersey Corporation for Advanced Technology ("NJCAT") prior to its entering any underground infiltration or attenuation feature.
5. Stormwater Component Phasing: Prior to construction of any impervious areas in Areas 1-5 as shown on Master Plan Sheet 3, all proposed and approved stormwater components designed to treat said area(s) shall be in place and operational.
6. Special Stormwater Criteria: The County's Special Stormwater Criteria Policy adopted by the Board of Supervisors on December 14, 2004, shall apply to all areas of the Property, including areas in which stormwater is directed to the Mill Creek watershed.
7. Lighting: Any new exterior site lighting (excluding building lighting, which shall be similar in type and character to that permitted or in use within the New Town development) shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted, pedestrian-scaled light fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light trespass, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

8. Water Conservation: The owner of the Property (“Owner”) shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the “JCSA”) prior to final development plan approval. The standards shall 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-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Waterline Loop: The existing dead-end waterline in New Quarter Drive shall be looped to the waterline in Monticello Avenue. Such waterline loop shall be shown on the development plans for and shall be constructed prior to issuance of a Certificate of Occupancy (CO) for buildings in Master Plan Area 1.
10. Traffic: The following transportation improvements shall be constructed/completed to the Virginia Department of Transportation (VDOT) standards:
 - a. Widening of Old Ironbound Road northbound at Monticello Avenue to provide a northbound left-turn lane and a northbound shared left/through/right-turn lane.
 - b. Connection of primary New Town Six driveway at Monticello Avenue/Settler’s Market signalized intersection with additions/modifications to traffic signal for vehicular traffic.
 - c. Addition of pedestrian signal on Monticello Avenue east of Settler’s Market Boulevard to include crosswalk from curb to curb, modifications to median to provide flush pedestrian crosswalk, median pedestrian pushbutton, and modifications to curbing and/or pavement necessary for design of pedestrian facilities under VDOT design criteria.
 - d. Extension of full-width westbound left-turn lane on Monticello Avenue at New Town Six driveway to 275 feet to provide adequate storage capacity.
 - e. Connection of secondary New Town Six driveway to Old Ironbound Road at Ironbound cul de sac to include a 200-foot right-turn taper on Old Ironbound Road northbound at New Town Six secondary driveway.
 - f. Addition of stop bar and stop sign on New Quarter Road approach to Old Ironbound Road.

These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a final CO for any structure on the Property.

11. Trip Generation Cap: Total trip generation from the Property shall not exceed 730 trips in the PM peak hour and 348 trips in the AM peak hour. PM and AM peak hour information shall be submitted for each proposed use on the Property prior to preliminary site plan approval, including a calculation of the total site peak hour trips based on built or other proposed uses. Trip generation may be based on calculations used in the revised Exhibit 10, the original version of which was in the DRW Consultants, LLC Courthouse Commons traffic study dated May 15, 2010, for the specific uses included in the traffic study. For any other types of uses proposed for this Property, trip generation shall be based on the most recent edition of the Institute of Traffic Engineers Trip Generation manuals, unless otherwise approved by the Director of Planning and VDOT.

12. Signal Optimization: The Owner of the Property shall provide to the Director of Planning and VDOT verification from a professional engineer licensed in the Commonwealth of Virginia and specializing in the area of transportation planning and traffic operations that the signal timing and signal coordination for those traffic signals along the Monticello Avenue corridor from Ironbound Road to News Road is optimized in accordance with VDOT policy and regulation. Such verification shall be provided within 12 months of issuance of a final CO for the commercial building in Area 1 of the Master Plan. Such verification shall be at the expense of the Owner of the Property and shall be based on the defined PM peak period (4-6 p.m.) travel time run (left and right through lanes [or left and center through lanes for three through lane sections] on westbound Monticello Avenue between Ironbound Road and News Road on a Tuesday, Wednesday or Thursday) performed/supervised by the Owner's traffic consultant or such other methods as may be requested by the Owner and approved by the Director of Planning and VDOT. If the travel time run or other methods used reflect that the signal timing and coordination is not optimized, then the Owner shall provide to the Planning Director and VDOT with a proposed signal optimization and coordination timing plan prepared in connection with this SUP. To fulfill the defined requirement, the signal timing plans must be approved and accepted by VDOT for field implementation. In addition, no sooner than 12 months after issuance of a final CO for 50,000 square feet on the Property and no later than July 1, 2016, the Owner shall submit a supplemental document that reflects and evaluates corridor conditions at that time and either re-affirms or amends the signal optimization and coordination timing plan, which shall also be at the expense of the Owner of the Property. Should amendments be indicated by the evaluation, they shall be approved by the Director of Planning and VDOT, and shall be implemented along the corridor. The timing of the signal optimization plan and supplement listed above can be modified with prior approval of the Planning Commission.

13. West Monticello Plan Transportation Improvements:

A. The following transportation improvements shall be constructed/completed to VDOT standards:

- Monticello Avenue: Exclusive right-turn lane westbound at WindsorMeade Way; adjust westbound right-turn radius and remove island at Old News Road; re-stripe for three westbound through lanes between Old News and Monticello Marketplace; pave 10 feet of the existing 12-foot median for a second westbound left-turn lane at News Road.
- Ironbound Connector (News Road south of Monticello): Add an additional northbound through lane and for the southbound segment, realign the median and provide a dual right-turn lane onto Ironbound Road (and any associated improvements that may be necessary in terms of widening along southbound Ironbound Road to accommodate the proposed second right-turn lane).
- News Road (north of Monticello): Add a lane to provide a double southbound left turn.

These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a final CO for any structure on the site.

- B. Alternatively, the Owner shall provide a cash contribution toward completion of the improvements listed in Section A above. Such contribution would constitute 3.4 percent of \$2,425,000, or \$82,450. Such contribution shall be provided to the County prior to the issuance of a final CO for any structure on the Property.
14. Natural Resources Policy: A natural resource inventory of the Property, other than previously developed Parcels Nos. 3840100004, 3840100004A, and 3840100004B of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area, shall be submitted to the Director of Planning for review and approval prior to land disturbance. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Property, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans shall meet the Department of Conservation and Recreation Natural Heritage Program (“DCR-DNH”) standards for preparing such plans and shall be conducted under the supervision of a qualified biologist as determined by the DCR-DNH or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the Property.
15. Shared Maintenance of Site Improvements: Prior to final site plan approval for the initial site plan for the Property, Owner shall submit documentation demonstrating that all shared site improvements (including, but not limited to, utilities, stormwater facilities, landscaping, roads and parking lots, and lighting) are subject to appropriate shared maintenance agreements ensuring that the site improvements will be maintained continuously. Such documents shall be subject to review and approval of the County Attorney or his designee.
16. Design Review:
- A. The Property shall be developed generally in accordance with the design guidelines (the “Design Guidelines”) prepared by AES Consulting Engineers and Hopke and Associates, Inc. entitled “Design Guidelines for Courthouse Commons” date-stamped May 27, 2010, subject to these Guidelines receiving final approval from the Design Review Board (DRB), which shall occur prior to submission of the first site plan for the Property. All architectural elevations, building materials, colors, signage, and other project elements shall be submitted to the Planning Director and the New Town DRB, for the DRB’s review and approval for consistency with the Design Guidelines.
- B. Prior to final approval of a site plan for any development of the Property, a declaration of restrictive covenants shall be (i) submitted to and approved by the County Attorney for consistency with this condition and (ii) recorded among the records of the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (the “Clerk’s Office”) relating to design review. The declaration shall provide that all items listed in “A” above proposed for the Property shall be subject to review and approval by the New Town DRB as comprised and described in the New Town Proffers, dated December 9, 1997, and recorded in the Clerk’s Office as Instrument No. 980001284. At the request of the Owner, decisions of the DRB pursuant to the declaration may be appealed to the

Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion.

17. Limitation of Uses: As requested by the Owner, the following uses shall not be permitted on the Property:
- a) Adult day care centers;
 - b) Automobile sales and service;
 - c) Funeral homes;
 - d) Heavy equipment sales and service;
 - e) Kennels;
 - f) Manufacturing uses listed in County Code Section 24-411;
 - g) Nurseries;
 - h) Welding and machine shops; and
 - i) Vehicle and trailer sales and service.
18. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
19. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

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MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Melissa C. Brown, Zoning Administrator
SUBJECT: Case No. ZO-01-10. Amendments to Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs Way-Finding Signage

Proposal:

Upon receiving a request by Town Management representing the commercial owners association for New Town and after suitable corresponding research, staff is proposing to amend Article II, Special Regulations, Division 3, Exterior Signs of the Zoning Ordinance. The proposed changes are as outlined in the attached draft ordinance.

Background and Analysis:

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 residential densities and a broader spectrum of mixed commercial land uses than one would normally expect to see in a traditional downtown. The Planning Division recognized the need to amend the current sign ordinance to allow for types of signage that would support this development and future, similar Mixed-Use developments like New Town. Currently, permitted signs are geared toward helping motorists, rather than pedestrians, locate a business. 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 (that are shown in their entirety in the attached draft document). The net effects of these various changes are as follows:

- Blade signs currently permitted in Mixed-Use districts will no longer count against the total allowable building face signage for a particular unit. Instead, each unit is permitted one 12-square-foot blade sign and additional signage in accordance with current building face sign limits of one-square-foot of signage per linear foot of store frontage up to 60 square feet;
- Pedestrian-scale directional sign area would be increased from 16 square feet to 24 square feet to better accommodate maps and way-finding information on the sign board;

- Sandwich board signs displaying daily specials will now be permitted in Mixed Use districts and other areas that are included in binding area studies with design guidelines approved by the Board of Supervisors. There are limitations on the size and locations of such signs and all sign material must be removed each day at close of business.
- An exception clause is proposed to provide one additional building face sign per unit when the applicant can prove that due to location, topography, separation of grade, or the location of driveways in relation to the location of businesses and traffic flow patterns, a hardship is imposed on the business. Such businesses must be located within a Mixed-Use district.

Recommendation:

The goal of this proposed amendment is to create an ordinance that permits pedestrian-scale signage that acts as an enhancement to the current sign ordinance by creating a system of way-finding signs that promotes the flow of visitor traffic from adjacent streets into the development and to their final destination. Planning staff believes that the changes to the Zoning Ordinance contained in this proposed amendment will help facilitate and enhance the types of development being sought in New Town and in similar projects within James City County.

The Policy Committee recommended at its May 12, 2010, meeting to forward the proposed amendment to the full Commission for consideration. In addition, on May 20, 2010, the New Town Design Review Board (DRB) reviewed the proposal and granted support as written. The DRB stated that it would draft additional guidelines for approval on locations and styles of such signs as sandwich boards and directional signs. Finally, the Planning Commission unanimously recommended approval of the ordinance at the June 2, 2010, meeting.

Staff recommends that the Board of Supervisors vote to approve the attached Zoning Ordinance amendment.

Melissa C. Brown

CONCUR:



Steven W. Hicks

MCB/gb
ZO-01-10Signage_mem

Attachment

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 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; AND SECTION 24-77, EXCEPTIONS.

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 24-73, Special regulations for certain signs; and Section 24-77, Exceptions.

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

Sec. 24-73. Special regulations for certain signs.

(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 6) 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 7) 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 16-24 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;

(n) Sandwich board signs. Sandwich board signs may be permitted in areas designated for commercial use located 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. Alternatively, such signs may be located in other areas where there exists approved design guidelines adopted by the board of supervisors when such signs comply with said guidelines.

Sandwich board signs must adhere to the following requirements:

1. *One sandwich board sign displaying menu items or daily specials on the premises shall be permitted at each public entrance of a business location.*
2. *Such sign(s) shall not exceed ten square feet in area and five feet in height,*
3. *Sign(s) shall be located on premises or no more than ten feet from the seating area or access door and shall not block the flow of pedestrian traffic. Any such sign shall be removed at close of business each day.*

Sec. 24-77. Exceptions.

(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

(6) One additional building face sign not to exceed the building unit's front façade or 60 square feet, whichever is smaller, when the unit is located in a Mixed-Use district and an area designated for commercial uses on the binding master plan as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved binding master plan of development, all of which shall be approved by the board of supervisors. The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public rights-of-way. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure.

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, distance between driveways, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or
- (3) In addition to the provisions for granting sign limitation waivers under (b)(1) and (2) of this subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with subsection (a)(4) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property; and
- (4) That in subsections (b)(1), (2), and (3) above such waiver is consistent with traffic safety and all other provisions of this article.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

ZO-01-10Signage_ord

UNAPPROVED MINUTES FROM THE JUNE 2, 2010 PLANNING COMMISSION MEETING

ZO-0001-2010 – Zoning Ordinance Amendment – Pedestrian Orientated Signage

Ms. Melissa Brown stated that the staff received a request to consider amendments to the Sign Ordinance to address outstanding issues members of the New Town Commercial Association were experiencing. She stated at a meeting with the group, they indicated customers were having trouble both finding their way around New Town and finding specific businesses. Ordinance amendments would be required for “You Are Here” signs, larger blade signs, and additional building face signage. Staff proposes allowing increases of blade signs in Mixed Use, which do not count against total face signage, pedestrian-scaled directional signage from 16’ to 24’ square feet, 10’ square foot sandwich signs in Mixed Use and other walkable districts, and an exception for an additional face sign when a business proves it faces a signage-related hardship. The New Town Development Review Board (DRB) was supportive of the amendment, and plans review standards for any new signage allowed. Staff recommends approval of the Sign Ordinance amendments.

Mr. Peck opened the public hearing.

Mr. Peck closed the public hearing.

Mr. Poole moved for approval of the sign amendments. He stated there should be latitude for the size and color of blade signs.

Mr. Murphy stated that staff would pass along blade sign concerns to the DRB.

In a unanimous roll call vote, the amendment was approved.

MEMORANDUM

DATE: June 22, 2010

TO: The Board of Supervisors

FROM: Christopher Johnson, Principal Planner

SUBJECT: Case Nos. ZO-0002-2010 and SO-0001-2010. Amendments to Chapter 24, Zoning, Article III, Site Plan, Sections 24-142 through 24-160 and Chapter 19, Subdivisions, Article II, Procedures and Documents to be Filed, Sections 19-19 through 19-31 – Review Criteria and Procedures for Administrative and Commission Review of Conceptual Plans, Site Plans and Subdivisions

On April 7, 2010, the Planning Commission adopted an initiating resolution directing staff to pursue amendments to Chapter 24, Zoning, Article III, Site Plan, Sections 24-142 through 24-160 and Chapter 19, Subdivisions, Article II, Procedures and Documents to be Filed, Sections 19-19 through 19-31 - Review Criteria and Procedures for Administrative and Commission Review of Conceptual Plans, Site Plans and Subdivisions.

Background:

In February 2006, the James City County Economic Development Authority recommended that the Board of Supervisors appoint an interdisciplinary Business Climate Task Force (BCTF) to help identify how the County could be a more value-added partner to the business and industrial community, identify potential business partners, and assess the needs of those potential partners. The BCTF report was presented to the Board of Supervisors in January 2008. The report identified qualities, characteristics, and categories of businesses preferred in James City County, and proposed policies, programs, and ordinance changes that will attract, retain, and expand those businesses.

The report included the following recommendations for development plan review process improvements:

1. “Amend site plan ordinance and site plan review to make the process more predictable. Use internal and external historical review data to set adequate review time for full comments, extending the timeline, if needed.”
2. “Change ordinance to reduce the number and types of projects that require Development Review Committee and Planning Commission consideration.”
3. “Promote site plan pre-application and Development Roundtable meetings to include outside agencies.”

Following Board acceptance of the BCTF report, County Administration charged Development Management staff with organizing a committee to review the County’s development plan review process, identify issues at every level of the process, and make recommendations to fulfill the BCTF action items. The Subdivision/Site

Plan Review Improvement Team (SSPRIT) was comprised of members from all aspects of the development community as well as County staff from several plan reviewing departments. The team established the following goals for its work:

- Increase predictability within the plan review process.
- Establish consistency for all applicants.
- Improve two-way communication between applicants and staff.
- Reduce the number of plan submittals and achieve better quality plans.
- Empower staff to make decisions independent of management, the DRC or Planning Commission.

After much discussion and research, the following recommendations were developed to improve the development plan review process for all involved parties and to fulfill the recommendations of the BCTF;

1. Development Guide
Design and publish a comprehensive “Development Guide” with an overview, step-by-step process, and submittal requirements; for all development services.
2. Development Checklists
Have all plan review agencies review, revise, and publish up-to-date checklists to ensure development plans address ordinance requirements, and help reduce overlapping requirements.
3. Response Letter Guide
Design a “Response Letter” template/guide to improve communication between agencies and applicants throughout the submittal process, ensure all comments are addressed, and promote fewer re-submittals.
4. Roundtable Process Improvements
Develop and implement guidelines promoting roundtable meetings associated with complex subdivision and site plans. The guidelines would encourage two-way communication during all stages of development plan review.
5. Plan Review Timelines
Standardize agency review times to provide predictability for all applicants.
6. Development Review Committee (DRC) Modifications
Examine research and process potential Zoning Ordinance modifications to clarify responsibilities of the DRC and development plan review triggers.
7. Enhanced Conceptual Plan Process
Implement an optional “Enhanced Conceptual Plan” process to allow the development community to obtain input from Planning Commission members at DRC meetings in the early stages of the project design process.

Recommendation Nos. 1-4 can be implemented administratively and staff has already begun work on these three tasks. Recommendation Nos. 5-7 requires amendments to the zoning and subdivision ordinances and approval by the Board of Supervisors.

Analysis:

Recommendation No. 5

The Team examined review times crucial to provide predictability and consistency of all plans. Currently, Section 24-150, Procedures for administrative review of site plans, states, “the Planning division shall transmit County staff comments to the applicant within 30 days of submittal of plans meeting all applicable submittal criteria.” The Team discussed various cases and situations that prevented review agencies from meeting the 30-day deadline. After agency’s input and research, the Team recommends the following change:

Comment Response Deadlines

First Submittal	45 days
Second Submittal	30 days
Third and Subsequent Submittal(s)	21 days (if needed)

The recommended changes will allow agencies additional time to complete the initial plan review thoroughly and reduce oversights that cause additional comments during the second or third submittal stage. This will result in improved predictability for the development community.

Recommendation No. 6

The Team discussed and researched the DRC plan review triggers in detail and found evidence to recommend the following changes:

- Adding a consent item section to the DRC meeting agenda. This will allow an opportunity for quick and efficient consideration of minor and non-controversial items such as parking exceptions, minor master plan amendments, and cul-de-sac exceptions.
- Encourage attorneys and applicants to write proffers that do not send plans to the DRC as the primary means of measuring compliance with adopted master plans.
- Amend the Zoning Ordinance to modify current triggers that require plans be reviewed and approved by the DRC and that may lengthen plan review process for projects.
 - Eliminate “multi-family development of 50 or more units.” In most cases, developments of this nature are part of an approved and binding master plan that has already gone through legislative approval process.
 - Eliminate “two entrances on the same road.” This type of item should be a planning staff/Virginia Department of Transportation review issue.
 - Increase “building or groups of buildings over 30,000 square feet” to buildings over 50,000 square feet.
 - Eliminate all industrial and office buildings in an approved and binding master planned industrial or office park.

Recommendation No. 7

Enhanced Conceptual Review will improve the review process for both the development community as well as James City County citizens through the extension of the DRC. The applicant submitting Enhanced Conceptual Review plans will receive input earlier in the review process that will potentially reduce the number of re-submittals and costly changes in engineered plans, and the DRC will be further enabled to engage in shaping the substantive design and layout components of the development plan early in the process.

A progression in the review process which includes DRC review of an enhanced conceptual plan and moves to more detailed, engineering-related plans for staff review will benefit applicants by creating greater efficiency and aide in the predictability of the process. By creating a two-phased approach to plan reviews, the role of the DRC in guiding development plans will become more strategic as its input is received at a time when the plan is more adaptable. By voluntarily submitting to Enhanced Conceptual Review, once DRC approval is granted, applicants can more comfortably commit to the costly task of generating fully engineered plans for further staff review. The Enhanced Conceptual Review will benefit the citizens of James City County by creating plans that are guided by applicable ordinances and sound planning principles and at the same time improving the review process for the business community. However, should an applicant choose not to utilize this process, the existing ordinance requirements and policies would be followed. Enhanced conceptual plans would be granted preliminary approval subject to conditions recommended by the DRC and administrative review and approval of subsequently submitted engineered site plans and subdivisions.

Staff Recommendation

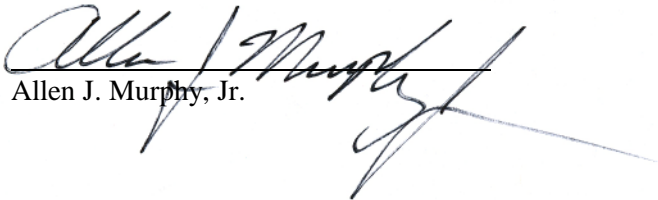
Staff recommends that the Board of Supervisors approve the ordinance amendments as recommended by the Planning Commission.

At its June 2, 2010, meeting the Planning Commission voted 7-0 to recommend approval of the ordinance amendments. The Planning Commission amended the SSPRIT recommendations regarding DRC triggers to retain the threshold for DRC review at 30,000 square feet and delete the recommended language eliminating DRC review of all industrial and office buildings in binding master-planned industrial and office parks.

Should the Board wish to adopt the zoning ordinance provisions as originally recommended by the SSPRIT committee, a separate zoning ordinance has been attached to this report.

Christopher Johnson

CONCUR:



Allen J. Murphy, Jr.

CJ/nb

ZO-02-2010_SO-01-2010_mem

Attachments

1. Zoning Ordinance (PC)
2. Zoning Ordinance (SSPRIT)
3. Subdivision Ordinance
4. Unapproved Minutes from the June 2, 2010, Planning Commission Meeting

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 19-22 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS, TOWNHOUSE OR CONDOMINIUM SUBDIVISIONS; AND SECTION 19-23, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Section 19-22, Procedure for review of minor subdivisions, townhouse or condominium subdivisions; and Section 19-23, Procedure for preliminary plan review for major subdivisions.

Article II. Procedures and Documents to be Filed

Sec. 19-22. Procedure for review of minor subdivisions, townhouse or condominium subdivisions.

(a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor, townhouse or condominium subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within ~~30~~ 45 days. *Eight copies of a revised plan shall be submitted to the agent who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The agent shall review each subsequent submittal of revised plans within 21 days.* The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall

identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

Sec. 19-23. Procedure for preliminary plan review for major subdivisions.

(a) The subdivider shall submit to the agent twelve copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the development review committee (DRC) when it meets to make its recommendation to the commission. *In order for subdivision plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.*

(c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The enhanced conceptual plan and the

agent's composite report shall be reviewed by the DRC when it meets to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legends, north arrows and plan scale labeled;*
- (2) Vicinity and location maps and site address;*
- (3) Site owner and developer information;*
- (4) County tax parcel number, site boundary and parcel size information;*
- (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);*
- (6) Adjacent property information;*
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;*
- (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;*
- (9) Existing and proposed rights-of-ways and easements;*
- (10) Layout of proposed improvements showing design placement, circulation. parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;*

- (11) *Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;*
- (12) *Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;*
- (13) *Location and size of existing water mains and proposed connection point(s);*
- (14) *Proposed location of water meters, waterlines, and fire hydrants;*
- (15) *Proposed building usage and number of floors;*
- (16) *Preliminary water demands based on proposed use and required fire flow;*
- (17) *Fire flow test performed to determine adequate capacity;*
- (18) *Location of all existing or proposed private wells;*
- (19) *Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);*
- (20) *Proposed sanitary sewer, pump or lift stations, and grinder pump(s);*
- (21) *Verification of sewer flow acceptance;*
- (22) *Location of primary and secondary onsite disposal system;*
- (23) *Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;*
- (24) *Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;*
- (25) *Proposed build out year and phasing information;*
- (26) *Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;*
- (27) *Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;*
- (28) *Proposed design features or elements for which waivers will be sought;*
- (29) *Project site area, disturbed area, impervious cover and percent impervious estimates;*
- (30) *Applicable FEMA FIRM panel information and zone designations;*
- (31) *County watershed, subwatershed and catchment;*
- (32) *Identify if the site is subject to the County's Special Stormwater Criteria (SSC);*

- (33) *Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;*
- (34) *Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;*
- (35) *Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;*
- (36) *Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;*
- (37) *Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;*
- (38) *Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;*
- (39) *Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;*
- (40) *Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;*
- (41) *List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.*

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

SO-01-2010_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, SITE PLAN, SECTION 24-147, CRITERIA FOR REVIEW; SECTION 24-148, PROCEDURE FOR COMMISSION REVIEW OF SITE PLANS; SECTION 24-150, PROCEDURES FOR ADMINISTRATIVE REVIEW OF SITE PLANS; AND SECTION 24-153, SUBMITTAL OF REVISED SITE PLAN GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-147, Criteria for review; Section 24-148, Procedure for commission review of site plans; Section 24-150, Procedures for administrative review of site plans; and Section 24-153, Submittal of revised site plan generally.

Article III. Site Plan

Sec. 24-147. Criteria for review.

(a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:

(1) The site plan proposes:

- a. a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet ~~or a multifamily unit development of 50 or more units, whichever is less;~~ or
- ~~b.~~ **b.** ~~two entrances on the same road;~~ or
- ~~c.~~ **b.** a fast food restaurant; or
- ~~d.~~ **c.** a shopping center; or

(2) There are unresolved problems between the applicant, adjacent property owners or any departmental reviewing agency.

(b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the development manager determines, creates or significantly expands a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.

(c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator.

Sec. 24-148. Procedure for commission review of site plans.

(a) The applicant shall submit to the planning director, or his designee, ten copies of the site plan and pay the appropriate application fee. Site plans shall first be reviewed by the DRC who shall forward a recommendation to the commission. In order for site plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such site plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal governments as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review requirements by other agencies. The DRC shall consider the composite report and the site plan and make a recommendation to the commission.

(c) The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the site plan. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(d) *The applicant may, at their discretion, submit an enhanced conceptual plan for review by the planning division, other agencies of the county, state and/or federal government as deemed necessary by the planning director and the DRC in advance of preparation of fully engineered plans. The planning division shall prepare a composite report on the proposed plans which shall include review requirements by other agencies and determine consistency with all applicable zoning ordinance requirements, policies and regulations. The enhanced conceptual plan and the planning division's composite report shall be reviewed by the DRC when it meets to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, such notice shall state the specific reasons for disapproval. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the planning division. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.*

(e) *The enhanced conceptual plan shall at a minimum contain:*

- (1) *Project title, title block, legends, north arrows and plan scale labeled;*
- (2) *Vicinity and location maps and site address;*
- (3) *Site owner and developer information;*
- (4) *County tax parcel number, site boundary and parcel size information;*
- (5) *Setbacks (Building, Landscape) and Buffers (RPA, Community Character);*
- (6) *Adjacent property information;*
- (7) *Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;*
- (8) *Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;*
- (9) *Existing and proposed rights-of-way and easements;*

- (10) *Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;*
- (11) *Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;*
- (12) *Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;*
- (13) *Location and size of existing water mains and proposed connection point(s);*
- (14) *Proposed location of water meters, waterlines, and fire hydrants;*
- (15) *Proposed building usage and number of floors;*
- (16) *Preliminary water demands based on proposed use and required fire flow;*
- (17) *Fire flow test performed to determine adequate capacity;*
- (18) *Location of all existing or proposed private wells;*
- (19) *Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);*
- (20) *Proposed sanitary sewer, pump or lift stations, and grinder pump(s);*
- (21) *Verification of sewer flow acceptance;*
- (22) *Location of primary and secondary onsite disposal system;*
- (23) *Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;*
- (24) *Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;*
- (25) *Proposed build out year and phasing information;*
- (26) *Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;*
- (27) *Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;*
- (28) *Proposed design features or elements for which waivers will be sought;*
- (29) *Project site area, disturbed area, impervious cover and percent impervious estimates;*
- (30) *Applicable FEMA FIRM panel information and zone designations;*
- (31) *County watershed, subwatershed and catchment;*
- (32) *Identify if the site is subject to the county's Special Stormwater Criteria (SSC);*

- (33) *Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;*
- (34) *Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;*
- (35) *Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;*
- (36) *Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;*
- (37) *Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;*
- (38) *Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;*
- (39) *Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;*
- (40) *Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;*
- (41) *List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.*

Sec. 24-150. Procedures for administrative review of site plans.

(a) The applicant shall submit to the planning director, or designee, ten copies of the site plan and pay the appropriate application fee. Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal governments as deemed necessary by the planning director. The planning division shall transmit county staff comments to the applicant within ~~30~~ 45 days of *the initial* submittal of plans meeting all applicable submittal criteria. No plan shall be approved until all staff and other agency comments are satisfied.

(b) The site plan may be granted preliminary approval by the planning division or deferred. It may also be approved or disapproved by the zoning administrator. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of any action taken on the site plan within ten working days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.

Sec. 24-153. Submittal of revised site plan generally.

Ten copies of a revised site plan shall be submitted to the planning director or his designee who shall within ~~60~~ 30 days review the *second submittal of* plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. *The planning director or his designee shall review each subsequent submittal of revised plans within 21 days.* The planning director shall provide a set of all submittals to relevant agencies or departments for their review and written comments. The revised site plan shall be submitted on separate sheets or overlays as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the planning director or his designee. The revised site plan shall at a minimum contain those items set forth in subsection 24-145(a)(1) through (17).

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

ZO_02_2010_ord

UNAPPROVED MINUTES FROM THE JUNE 2, 2010 PLANNING COMMISSION
MEETING

ZO-0002-2010 / SO-0001-2010 – Zoning and Subdivision Ordinance Amendments –
Plan Review Criteria and Procedures

Mr. Chris Johnson stated that the Commission initiated a resolution to consider amendments to the Zoning and Subdivision Ordinance review criteria and procedures for Site Plans, Conceptual Plans, and Subdivision Plats. Based on the findings of the Business Climate Task Force, County Administration organized the Subdivision Site Plan Review Improvement Team (SSPRIT) to identify process improvements during plan review. SSPRIT established five goals: increase predictability in the plan review process, establish consistency for all applicants, improve two-way communication between staff and applicants, reduce the number of submittals and achieve higher quality plans, and to empower staff to make independent decisions. SSPRIT has three recommendations requiring legislative action: amended review times to allow longer agency review to reduce the need to additional submittals; modify or eliminate DRC plan review triggers. The team also recommended Enhanced Conceptual Plan review, to reduce future submittals and allow the DRC an earlier opportunity to shape the proposal. Applicants who have submitted enhanced conceptual plans to the DRC can better decide whether to pursue fully engineering plans. Enhanced conceptual plans would be granted preliminary approval subject to DRC conditions. Staff recommends approval of the zoning and subdivision ordinance changes.

Mr. Fraley stated he would be more comfortable with increasing the DRC threshold to 40,000 square feet, rather than the staff-recommended 50,000 square foot threshold.

Mr. Johnson stated SSPRIT determined that many building exceeding 30,000 before the DRC for review had already seen some legislative review as part of master plans. DRC review in those cases was redundant and time-consuming but staff would support the Commission's recommendations.

Mr. Henderson asked if the language regarding elimination of DRC review for master planned areas would take of the redundancy.

Mr. Johnson stated that not all buildings over 30,000 square feet are located in master-planned parks, so staff separated the two thresholds.

Mr. Poole stated there were large differences between master plans and site plans.

Mr. Krapf asked if language could be inserted further clarifying between buildings included in master plans and those not included. He stated language about regarding those distinctions could simply the development process.

Mr. Fraley stated he could not support elimination of DRC review in cases of a binding master plan. He stated site plans were too different from the binding master plans.

Mr. Johnson stated master plans receive extensive amounts of staff review before Board approval, and that DRC review of related administrative site plans was redundant.

Mr. Peck opened the public hearing.

Mr. Doug Gebhardt, representing the Economic Development Authority, (EDA) stated that SSPRIT's goals were enhanced communication and predictability, which would be directly achieved through its recommendations, which includes Recommendation #6. Recommendation #6 hopes to achieve greater clarity for the DRC process. SSPRIT also recommends a DRC consent agenda for minor DRC thresholds, such as parking exceptions. The EDA found that most DRC cases had already seen master-plan legislative approval. The EDA supports approval of the recommendations.

Mr. Peck closed the public hearing.

Mr. Poole asked if any citizen groups had been included during the formation of SSPRIT recommendations.

Mr. Gebhardt was not aware of any citizen groups involved in SSPRIT. He stated there were public notices for the Business Climate Task Force hearings.

Mr. Poole stated that during the Comprehensive Plan, citizens groups expressed their desires for smart growth. He stated the inclusion of such groups could have lead to beneficial dialogue.

Mr. Henderson stated that businessmen could appreciate both financial and community interests simultaneously.

Mr. Fraley stated the DRC may still have large caseloads due to disagreement between property owners.

Mr. Johnson stated that DRC caseloads have been increasing of late and are likely to continue to do so. He stated that between the proposed consent agenda items and enhanced conceptual reviews, future DRC agendas could remain full.

Mr. Johnson stated the County Attorney's office has asked the Commission to vote on the Zoning Ordinance and Subdivision Ordinance changes separately.

Mr. Fraley stated he was very enthusiastic about enhanced conceptual plans.

Mr. Poole stated he supported the amendments with the exception of increasing the DRC square footage threshold. He stated the DRC makes substantial improvements to proposals. Thirty-thousand square feet was already a significant amount of space. He did not support review elimination of master planned areas, due to major differences between those and site plans. Several mature trees and a cemetery had been saved due to DRC review of Greenmount area proposals.

Mr. Poole moved to approve all recommended amendments to the Zoning Ordinance, with the exception of language at the top of page 36, on the 3rd and 4th bullet points, regarding review of buildings or groups of buildings which contain a total floor area that exceeds 30,000 square feet, and elimination of proposed language to exempt buildings within in industrial or office park subject to a binding master plan.

Mr. Henderson clarified Mr. Poole's motion to reflect that all proposed language be removed and any language proposed to be stricken be retained in Section 24-147 (a)(1)(a).

Mr. Poole added that language proposed to be removed from (a)(1)b regarding two entrances on the same road was acceptable.

Mr. Murphy stated the Board has the authority to amend the SSPRIT recommendations despite the printed advertising. He stated staff will forward the original and amended SSPRIT recommendations to the Board.

Mr. Peck stated the SSPRIT recommendations were reasonable improvements to the process. He stated he was comfortable with a 40,000 floor area DRC trigger, but did not have an opinion on master plan exceptions.

Mr. Murphy stated it was incumbent on the Commission to be comfortable with the amount of detail in master plans. He stated if the master plans proposed were exempt from DRC review, the Commission should ensure new master plans have sufficient detail.

Mr. Fraley stated that applicants have balked at more detailed master plans, and wished to retain more flexibility to react to market conditions.

Mr. Murphy stated there were not many issues with master planned office parks, but there may be DRC cases involving perimeter disputes with adjacent property owners.

Mr. Peck stated that the motion was to amend the language to delete the proposed language in 24-47 (a)(1)(a), and keep existing language for "30,000" square feet and 'strike multi-family unit development of 50 or more units, whichever is less.'

In a roll call vote, the Commission approved the recommendations as amended (6-1; Yes: Fraley, Maddocks, Woods, Krapf, Poole, Peck; No: Henderson).

Mr. Henderson moved for approval of the Subdivision Ordinance amendments as presented.

In a unanimous roll call vote, the Commission approved the recommendations as amended (7-0).

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Contribution to VRS (Virginia Retirement System) Plan 2

Beginning July 1, 2010, there will be two Virginia Retirement System (VRS) Plans. Current members, retirees, and members with service credit in VRS will remain in the present plan, now called VRS Plan 1 while new members or prior members with no service credit will be enrolled in the newly established VRS Plan 2. The Board of Supervisors needs to decide whether James City County will pay for or “pick up” all, part, or none of the employee contribution to the new VRS Plan 2.

Background

The VRS premium is comprised of an employer share, which is actuarially determined, and an employee share, which is five percent. In 1976, employers were first allowed to “pick up” the five-percent employee share and, as part of the James City County adopted budget for Fiscal Year 1980, the County picked up the employee share in lieu of a pay raise.

In 1990, when the State Retirement Act was recodified, an employer’s decision to pick up the employee portion became irrevocable. To comply with IRS guidance, a VRS memorandum in July 2008 requested that localities demonstrate a “formal authorization” of their pick-up plan and a Board resolution adopted at the August 12, 2008, meeting fulfilled that requirement.

Recent Events

The 2010 Virginia General Assembly passed new plan provisions for employees hired on or after July 1, 2010, with no prior VRS service credit. VRS Plan 2 has different provisions that make it less lucrative than Plan 1, such as increasing the minimum age for unreduced retirement and averaging the highest five years instead of three years to compute the benefit amount.

The Code stipulates that under Plan 2, employees will pay their five-percent contribution through pre-tax payroll deduction. However, certain employers, including local governments and school divisions, may elect to pay some or all of the five percent on the employee’s behalf.

Due to the timing of the release of the information and sample resolution from VRS, most Boards and Councils have not yet made the decision whether to pick up the five-percent employee share or not. Some localities have indicated they are planning to recommend picking up the five percent, but have not taken it to their Boards or Councils yet.

The City of Williamsburg, City of Hampton, Gloucester County, and the Southeast Public Service Authority’s (SPSA) Boards voted to pick up the five-percent employee share and the City of Virginia Beach decided not to pick it up.


Recommendation

I recommend that the County pick up the five-percent employee share for the VRS Plan 2 employees for the following reasons:

- It treats new employees and current employees equitably.
- It will help us remain competitive in our ability to recruit and retain core positions.
In calendar year 2009 we hired 12 new General Fund County employees, eight of whom took sworn Police or Fire positions. I fear that we will have difficulty attracting and retaining public-safety employees, which are the most costly to recruit and train, if they can work for a nearby City or County at what would amount to a five-percent pay raise - even if we were offering the same salary. We invest too much in these employees to lose our competitive edge in the market.
- We have been reducing the number of County positions and hiring fewer new employees, which helps control benefits costs.
- The lesser benefits of Plan 2 should help control costs as well.

And, if we encounter an extreme situation in the future, we can revisit this issue, since a decision to pick up the employee share of VRS for Plan 2 employees is revocable.

A draft resolution is attached.



Sanford B. Wanner

SBW/gb
VRSPlan2_mem

Attachment

RESOLUTION

CONTRIBUTION TO VRS (VIRGINIA RETIREMENT SYSTEM) PLAN 2

- WHEREAS, the Virginia General Assembly in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as “Plan 2 Employees”). The legislation stipulates that Plan 2 Employees will pay their five-percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and
- WHEREAS, the legislation allows certain employers, including James City County, to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and
- WHEREAS, the election to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the five-percent member contribution is paid; and
- WHEREAS, employee contributions that are picked up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and
- WHEREAS, the County desires to pick up and pay its Plan 2 Employees’ member contributions to VRS as an additional benefit not paid as salary in an amount equal to five percent of creditable compensation; and
- WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that effective the first day of July 2010, the Board of Supervisors for James City County shall pick up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to five percent of creditable compensation subject to the terms and conditions described above.
- NOW, THEREFORE, BE IT FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by James City County in lieu of member contributions. Nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the County directly instead of having them paid to VRS.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

VRSPlan2_res

MEMORANDUM

DATE: June 22, 2010
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Financial and Management Services
SUBJECT: Referendum Question – November 2010

The Board of Supervisors has indicated an interest in a November 2010 referendum authorizing General Obligation bonds in an amount not to exceed \$30 million for stormwater projects. The Board had planned to discuss the projects and the fiscal impact of a possible referendum with staff and representatives of the County's financial advisors, Davenport & Company, at a works session prior to this meeting.

Assuming that the Board's questions and concerns have been satisfactorily addressed and the Board chooses to authorize a voter referendum, the attached resolution has been prepared by Stephen Johnson of Troutman Saunders, the County's bond counsel.

Your approval of the attached resolution would authorize the question listed in the resolution to be included on the ballot for voters to consider in the general election on November 9, 2010.

John E. McDonald

JEM/gb
RefQuestion_mem

Attachment

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA, TO
INCUR A DEBT IN THE FORM OF GENERAL OBLIGATION BONDS AND TO REQUEST A
PUBLIC REFERENDUM ON THE ISSUANCE OF SUCH BONDS TO FIANANCE

STORMWATER MANAGEMENT PROJECTS

WHEREAS, the Board of Supervisors (the "Board") of James City County, Virginia (the "County") believes that it is necessary and expedient to undertake certain stormwater management projects in the County (collectively, the "Projects"); and

WHEREAS, the Board desires to determine the interest of the County's qualified voters in issuing debt in the form of general obligation bonds to finance a portion of the cost of such Projects; and

WHEREAS, Section 15.2-2640 of the Code of Virginia of 1950, as amended (the "Code"), requires that the purposes for which the bonds are to be issued and the maximum amount of bonds to be issued be set forth in a resolution; and

WHEREAS, Sections 15.2-2610 and 15.2-2638 of the Code require that voter approval be obtained at a referendum before such bonds can be issued, and Section 15.2-2640 requires that the Board by resolution must request the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Circuit Court"), to order an election on the question of contracting the debt and issuing the proposed bonds.

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

1. The Board finds and determines that it is necessary and expedient to undertake the Projects, all of which will promote the public welfare of the County and its inhabitants.
2. The Board determines that it is advisable to determine the interest of the qualified voters of the County on the incurrence of debt by the County in the form of the County's general obligation bonds to finance the cost of the Projects.
3. The Board requests that the Circuit Court, pursuant to Sections 15.2-2610, 15.2-2611 and 24.2-684 of the Code, enter an Order requiring County election officials to conduct a special election for the qualified voters of the County on November 2, 2010, the day of the general election, and that a referendum question be placed on the ballot in substantially the following form:

QUESTION: Shall James City County, Virginia, contract a debt and issue its
general obligation bonds in a principal amount not to exceed

\$30,000,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of stormwater management projects?

() YES

() NO

4. The Clerk of the Board shall certify a copy of this resolution to the Circuit Court.
5. This resolution shall take effect immediately.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

GenObBonds_res

CERTIFICATION

The undersigned Clerk of the Board of Supervisors of James City County, Virginia hereby certifies that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on June 22, 2010, during which a quorum was present and acting throughout, by the vote set forth below, and that such resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
James G. Kennedy, Chair		
Mary K. Jones, Vice Chair		
John J. McGlennon		
James O. Icenhour, Jr.		
Bruce C. Goodson		

WITNESS my signature as Clerk of the Board of Supervisors of James City County, Virginia, this _____ day of June, 2010.

Clerk, Board of Supervisors
James City County, Virginia

(SEAL)

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M E M O R A N D U M


DATE: June 22, 2010
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Request for a Limited-Access Break on Route 199

Ms. Gloria Freye, of McGuire Woods, on behalf of Ntelos, has placed a request with the Virginia Department of Transportation (VDOT) for a limited-access break on Route 199 for a wireless communications facility. VDOT's process for granting a limited-access break requires endorsement from the local governing body. The applicant has provided a resolution for your consideration.

The property is a remnant Ford's Colony parcel located along the eastern side of Route 199 north of New Town Sections 7 & 8, adjacent to Eastern State Hospital property. The parcel can be identified as James City County (JCC) Real Estate Tax Map No. 3820100005.

In order to preserve the continuing functionality of Route 199 as a major limited-access bypass and thoroughfare in the County, staff recommends the Board of Supervisors not endorse an entrance break for this parcel. Allowing a limited-access break for a private development is contrary to the goals of the limited-access corridor and will set a negative precedent for similar requests in the future.

Staff recommends that the Board of Supervisors deny the request for endorsement of the limited-access break on Route 199.



Sanford B. Wanner

SBW/gb
Rte199Aces_mem

Attachments:

1. Resolution
2. Location Map

RESOLUTION

REQUEST FOR A LIMITED-ACCESS BREAK ON ROUTE 199

WHEREAS, NTELOS has obtained an option on Parcel ID No. 3820100005 which is landlocked and would need access from Route 199 for the development and operations of a wireless communications tower; and

WHEREAS, Richmond 20 MHz, LLC, d.b.a. NTELOS, has submitted an application for a Special Use Permit (SUP) for a wireless communications tower (SUP-0024-2009) to be located on the property of Hospice House and Support Care of Williamsburg; and

WHEREAS, said application has been deferred to allow NTELOS to research the feasibility of Parcel ID No. 3820100005 as an alternative site; and

WHEREAS, NTELOS has obtained an option on Parcel ID No. 3820100005 which is landlocked and would need access from Route 199 for the development and operations of a wireless communications tower; and

WHEREAS, the Board of Supervisors wishes to support NTELOS in its efforts to determine if Parcel ID No. 3820100005 would be a viable, alternative site for consideration by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, on this 22nd day of June, 2010, that a change in limited access control be granted that would permit a private entrance, as defined in 24 VAC 30-72-10, in part, as an entrance to civil and communication infrastructure facilities that generate 10 or fewer trips per day such as cell towers, from Route 199 to Parcel ID No. 3820100005 for the sole, exclusive, limited purpose of developing and operating a wireless communications tower, which would permit the Commonwealth Transportation Board to consider such a change of limited access control pursuant to 24 VAC 30-401.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.