

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

January 25, 2011

7:00 P.M.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE** – Alexander Christie, a ninth-grade student at Walsingham Academy
- E. PUBLIC COMMENT**
- F. BOARD REQUESTS AND DIRECTIVES**
- G. CONSENT CALENDAR**
 - 1. Minutes –
 - a. January 3, 2011, Organizational Meeting
 - b. January 11, 2011, Regular Meeting
 - 2. Dedication of Streets in Stonehouse Glen, Sections 1 and 2 and Fieldstone Parkway Extension
 - 3. Appropriation of Grant Award - Kiwanis Club of Williamsburg - \$300
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
 - 4. Appropriation of Grant Award - Virginia Department of Fire Programs – \$4,174
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
 - 5. Contract Award - Chickahominy Riverfront Park (CRP) Recreational Vehicle (RV) Loop Renovations - \$363,000
Supports County's Strategic Pathway 1.a - evaluate service delivery costs
- H. PUBLIC HEARINGS**
 - 1. Case No. SUP-0027-2010. Jamestown High School Auxiliary Gymnasium (continued from January 11, 2011)
 - 2. Case No. SUP-0026-2010. Tractor Supply Company, Norge Center (continued from January 11, 2011)
 - 3. Case No. SUP-0025-2010. Colonial Towne Plaza Flea Market
 - 4. Case No. ZA-0002-2010. Zoning Administrator's Opinion Appeal - Chisel Run
 - 5. Ordinance Amendment, Section 2-11.1, Disclosures of Financial Interest - General Services Manager

-CONTINUED-

I. BOARD CONSIDERATIONS

1. Contract Award – Freedom Park Interpretive Center - \$1,269,500
Supports County's Strategic Pathway 1.a - evaluate service delivery costs
2. Ratification of the Forest Heights Community Development Block Grant Agreement
Supports County's Strategic Pathway 2.a - address the needs of the underserved and protect the vulnerable, 2.c - increase the variety of safe, sanitary and affordable housing, and 4.f - manage stormwater effectively and protect groundwater

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Board of Zoning Appeals
 - b. Regional Issues Committee

N. ADJOURNMENT to 10 a.m. on February 3, 2011

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AT AN ORGANIZATIONAL MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 3RD DAY OF JANUARY 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

B. ORGANIZATIONAL MEETING

Mr. Goodson nominated Ms. Jones to serve as Chairman for 2011.

Mr. McGlennon commented that he had spoken to Ms. Jones about her interest in the Chairmanship and stated that he would abstain from the vote because of fundamental disagreement on the role of the Chairman.

Mr. Icenhour stated that he also would abstain on the same grounds as mentioned by Mr. McGlennon.

Mr. Kennedy asked for clarification from Mr. Rogers on abstention. He asked if a Closed Session to discuss the appointments would be needed.

Mr. Rogers stated that an abstention is a non-vote, usually due to a conflict the Board member may have with a matter at hand. He noted that a Board member cannot be required to vote.

On a roll call vote, the vote was: AYE: Goodson, Jones, Kennedy (3). NAY: (0). ABSTAIN: McGlennon, Icenhour (2).

Ms. Jones nominated Mr. Goodson to serve as Vice Chairman for 2011.

On a roll call vote, the vote was: AYE: Goodson, Jones, Kennedy (3). NAY: (0). ABSTAIN: McGlennon, Icenhour (2).

Ms. Jones asked if a Closed Session was needed to discuss appointments.

Mr. Rogers stated that if the Board wished to do so, it could go into Closed Session to discuss the Board liaison appointments.

Mr. Rogers explained that there was a resolution that set the meeting rules and dates and calendar for 2011 to be adopted as part of the Organizational Meeting.

Mr. McGlennon asked for clarification on the date of the Board's Budget Retreat. He asked if the retreat would be moved to January 29, 2011.

Mr. Goodson indicated he had a conflict with the January 29 date and asked to have the Budget Retreat remain on January 22, 2011.

Mr. McGlennon made a motion to adopt the Organizational Meeting of the Board of Supervisors resolution and the Board of Supervisors' calendar.

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

RESOLUTION

ORGANIZATIONAL MEETING OF THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors of James City County, Virginia, is required by State law to organize at the first meeting in January.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following rules shall apply for the Year 2011:

1. Regular meetings of the Board shall be held as shown on the attached 2011 calendar, in the Board Room of the James City County Government Center. The meeting time shall be 7:00 p.m.

Work session meetings of the Board shall be held at 4:00 p.m., Tuesday before the second regular meeting in the Board Room of the James City County Government Center.
2. The Board of Supervisors agrees to follow Robert's Rules of Order, Newly Revised 10th Edition, October 2000, and more specifically, the provisions which pertain to the "Conduct of Business in Boards," at page 469 et. seq., in particular, the "Procedure in Small Boards" as follows:
 - a. Members are not required to obtain the floor before making motions or speaking, which they can do while seated.
 - b. Motions need not be seconded.
 - c. There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.
 - d. Informal discussion of a subject is permitted while no motion is pending.
 - e. The Chairman can speak in discussion without rising or leaving the chair; and can make motions and votes on all questions.
3. In addition, the Board agrees to the following:
 - a. A motion to rescind shall not be in order in a land use decision involving a rezoning or

a special use permit. A motion to reconsider such a decision must be made at the same meeting the original decision is made by the Board.

- b. Should it be necessary to cancel an advertised Board of Supervisors meeting due to weather or other conditions, the meeting shall be continued forty-eight hours to the same time and place.

Mr. Middaugh explained that appointments should be made to the Board's Commissions and Committees and surveyed the Board members to determine who would fill the seats:

Agricultural and Forestal District (AFD) Advisory Committee – **Mr. James O. Icenhour, Jr., Alternate – Mr. John J. McGlennon**

Community Action Agency Board of Directors –

Mr. James O. Icenhour, Jr.
Mr. John Carnifax, Alternate
Ms. Mary K. Jones
Ms. Nancy Ellis, Alternate
Mr. Bruce C. Goodson
Rev. William Dawson, Alternate
Mr. James G. Kennedy
Mr. John Filichko, Alternate
Mr. John J. McGlennon

Community Services Coalition Board of Directors – **Mr. James O. Icenhour, Jr.**

Economic Development Authority – Liaison – **Mr. James G. Kennedy**

Farmers Advisory Committee – **Mr. James G. Kennedy**

Greater Peninsula Workforce Development Consortium – **Mr. James O. Icenhour, Jr.**

Greater Williamsburg Area Chamber and Tourism Alliance – **Mr. James G. Kennedy**

Hampton Roads Economic Development Authority (HREDA) – **Mr. Bruce C. Goodson**

Hampton Roads Military and Federal Facilities Alliance – **Ms. Mary K. Jones**

Hampton Roads Planning and Development Council (HRPDC) – **Mr. Bruce C. Goodson, Mr. Robert C. Middaugh, CAO**

Hampton Roads Transportation Planning Organization- **Mr. Bruce C. Goodson**

High Growth Coalition – **Mr. John J. McGlennon**

Local Emergency Preparedness – **Ms. Mary K. Jones**

Local Enterprise Zone Association (LEZA) – **Mr. Bruce C. Goodson**

Peninsula Council for Workforce Development – **Mr. James O. Icenhour, Jr.**

Peninsula Public Sports Facility Authority (PPSFA) Board – **Ms. Mary Jones**

Regional Issues Committee (RIC) – **Ms. Mary K. Jones**

School Liaison – **James O. Icenhour, Jr., Ms. Mary K. Jones, Alternate – Mr. John J. McGlennon**

Virginia Peninsula Chamber of Commerce – **Mr. Bruce C. Goodson**

Virginia Peninsula Regional Jail Authority – **Mr. John J. McGlennon**

Williamsburg Area Destination Marketing Committee (WADMC) – **Mr. James G. Kennedy**

Williamsburg Area Medical Assistance Corp. (WAMAC) – **Mr. John J. McGlennon**

Williamsburg Land Conservancy – **Mr. James O. Icenhour, Jr.**

Mr. Goodson asked for clarification that the members of the School Liaison committee would not automatically be selected for the School Contract Negotiation Team. He stated he would like to be involved with the negotiation process.

There was consensus that the School Liaison members would not automatically be selected to serve on the School Contract Negotiation Team.

Mr. Goodson made a motion to appoint the Board members to their respective liaison seats.

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

E. ADJOURNMENT

Mr. McGlennon made a motion to adjourn.

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

At 4:13 p.m., Ms. Jones adjourned the Board until 7:00 p.m. on January 11, 2011.

Robert C. Middaugh
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF JANUARY 2011, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

B. PLEDGE OF ALLEGIANCE – Kaitlin Winfree, an eleventh-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Jack Haldeman, 1597 Founder's Hill North, on behalf of the James City County Citizens Coalition (J4C), expressed concerns about the potential stoplight installation on Jamestown Road near Colony Square Shopping Center. He expressed concern for the danger of traffic backups at the intersection. He stated that the extended left-turn lane on Route 199 was intended to improve the congestion in the area, but subsequent development has exacerbated the problems. He stated that any future studies should take into consideration that this is the thoroughfare to historic sites, the traffic study should be repeated after Fresh Market moves from the shopping center, and alternative designs should be considered. He stated the opposition of the J4Cs to the traffic light on Jamestown Road.

2. Ms. Betty Jo Terrell, 32 James Square, commented on the potential stoplight installation on Jamestown Road near Colony Square Shopping Center. She expressed concern for the impact of the traffic light on businesses and neighborhoods on Jamestown Road.

3. Ms. Shirley Smith Graham, 5148 O'Holloran Way, on behalf of St. Martin's Episcopal Church, stated concern about the potential stoplight installation on Jamestown Road near Colony Square Shopping Center and its impact on St. Martin's Episcopal Church. She stated that the church was not only a place of worship with traffic on Sunday, but also for community resources and activities all throughout the week.

4. Ms. Tab Broyles, 11 James Square, commented on the potential stoplight installation on Jamestown Road near Colony Square Shopping Center. She stated that at most times, there is no traffic issue due to the shopping center. She stated that a study should be completed that evaluated what would benefit all businesses and neighborhoods on Jamestown Road.

5. Mr. Robert Mann, 66 James Square, stated his concern for the potential stoplight installation on Jamestown Road near Colony Square. He stated that he believed the stoplight would cause more problems on Jamestown Road and stated his opposition.

Ms. Jones recognized Planning Commissioner Reese Peck in attendance.

D. BOARD REQUESTS AND DIRECTIVES

1. Jamestown Road Traffic Signal

Mr. McGlennon commented that a number of property owners along Jamestown Road expressed concern about the installation of a traffic signal on Jamestown Road and the entrance of Colony Square Shopping Center. He stated that when the issue was discussed by the Virginia Department of Transportation (VDOT), it was agreed that a study would be completed that involved all impacted parties on Jamestown Road. He asked the Board to consider a resolution that would ask VDOT to suspend plans to install the traffic light at this intersection and request a comprehensive study to examine future uses in the area and ways to moderate traffic in the area. He asked if there was support for a resolution to be drafted for the Board's next meeting.

Mr. Icenhour stated that he would support the resolution.

Mr. Goodson stated that he understood that VDOT would perform a study to warrant the traffic signal.

Mr. McGlennon stated that the study did not conclude that a traffic signal was warranted for safety. He emphasized that safety was not the factor, and his opposition was to a stoplight at one location rather than a comprehensive evaluation of the traffic flow in that area.

Mr. Goodson asked why the study was originally done.

Mr. McGlennon stated that Mr. Brewer, former VDOT Williamsburg Residency Administrator, received a call from a resident of Williamsburg Office Park who was in opposition to the traffic signal.

Mr. Icenhour asked if the study could be done cooperatively with County staff in order to incorporate the sensitivities of the residents and business owners. He stated that he was interested in a broader evaluation of the area.

Mr. Middaugh stated that could be done.

Mr. Goodson stated that the resolution would be to suspend the traffic light installation. He stated that there was more information required to move through this process.

Ms. Jones stated that before moving forward, an engineering analysis needed to be done.

Mr. Goodson stated that he would support a resolution which would request additional studies done in the engineering aspect. He stated that he did not wish to oppose the installation of a stoplight in the event of a future traffic accident that could be prevented with a traffic signal.

Mr. McGlennon stated that there was not a warrant for a light based on the safety record in this case. He stated that if this were an unsafe intersection, this could be a way to address the problem. He stated that the warrants for the stoplight were met due to interruptions in traffic. He stated there was not opposition to

installing a signal for safety reasons, but felt that a comprehensive review of the whole area to determine how to best serve the citizens and businesses.

Mr. Goodson stated there was a limited line of sight on Jamestown Road. He stated that he felt it was a difficult intersection to judge. He stated he could support a resolution for additional studies to ensure that the residents were supported, but he did not wish to have language that requests a suspension of the traffic signal installation.

Mr. McGlennon stated that he felt that would defeat the purpose.

Mr. Goodson stated that it should not be halted.

Mr. McGlennon stated that the study should be done before any work is done.

Mr. Goodson stated that he did not wish to have the funding reassigned.

Mr. McGlennon stated there was no money currently assigned to this project.

Mr. Goodson stated that he would like to work collaboratively on the language for this resolution.

2. Board of Supervisors Expenditures Policy

Mr. Kennedy stated that he reviewed the Board of Supervisors expenditures for the last three years in order to develop a policy on what expenditures should be reimbursed and what amount, including travel, telephone, and internet. He stated that there should be a standardized policy and clear guidelines for incoming board and commission members.

Mr. Middaugh asked if the Board would like a policy to be drafted.

Mr. McGlennon stated that he believed an expense policy currently existed for County staff which would apply to the Board.

Mr. Middaugh stated that the policy could be applied to the Board, but a list could be developed for the information of the Board.

Mr. Kennedy stated that he wished for a clear guideline about what is available to the Board members. He commented on the Jamestown Road traffic signal and noted that the intersection at Jamestown Road and Route 199 is located in the City of Williamsburg. He stated there may be a recommendation or report that resulted from these collaborative measures. He stated that this could be evaluated before working on another study.

Mr. McGlennon stated that he worked on the committee that examined that intersection and that the focus did not include the shopping center area. He stated that this committee resulted in a substantial reduction in the VDOT plans he believed still served very effectively in the area.

Mr. Icenhour stated that he agreed with the idea of developing a policy for Board expenditures. He also thanked staff for police regulation for backups at Monticello Avenue. He asked that the County continue to work with VDOT to keep traffic moving in that area. He stated that he attended a meeting of the State Water Commission and discussed a nutrient trading process pilot program which may be of interest in the future. He stated that about 20 of the 42 regions have submitted Regional Water Plans and these were due at the end of the year. He stated that there were revisions to the policies related to groundwater withdrawal fees

and there would be implementation of fines for those not properly reporting surface water withdrawals. Mr. Icenhour commented on a James City Service Authority (JCSA) project on News Road near Ford's Colony. He asked that JCSA or Communications publicize the project for the benefit of the public. He stated that the lack of parking at Target was due to a construction project at Target.

Mr. Kennedy noted that this weekend was the School Board Budget Retreat and on January 22, 2011, the County would hold its Budget Retreat. He stated that the County televises its Budget Retreat and asked that the School Board do so as well.

Mr. Middaugh stated that he spoke with Dr. Burchbuckler and he indicated that the meeting would be at Rawls Byrd Elementary School and there were no plans to televise the meeting at this time.

Mr. Kennedy stated that he hoped the School Board would reconsider and asked that a staff person attend the meeting and possibly record the meeting for broadcast.

Ms. Jones noted that the County's Budget Retreat would be televised in its entirety on JCCTV.

E. CONSENT CALENDAR

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

Mr. Icenhour stated his appreciation for staff's work on the Old News Road Project. He noted that was a cost-sharing project and half the funds would be reimbursed.

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

1. Minutes –
 - a. December 14, 2010, Work Session Meeting
 - b. December 14, 2010, Regular Meeting
2. Grant Award – Justice Assistance Grant (JAG) – \$13,406

RESOLUTION

GRANT AWARD - JUSTICE ASSISTANCE GRANT (JAG) - \$13,406

WHEREAS, the James City County Police Department has been awarded a Justice Assistance Grant (JAG) in the amount of \$13,406; and

WHEREAS, the funds are to be used to purchase a bike registration module for the Department's Records Management System (RMS) and a rescue cellular response phone console to be used by the Department's Negotiations Team, to retrofit one of the Investigations Unit's sport utility vehicles with a slide-out rear bed, as well as materials and supplies for several of the crime prevention programs sponsored by the Department's Community Services Unit; and

WHEREAS, there is no match required of this grant.

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

Revenue:

JAG - FY 2011 \$13,406

Expenditure:

JAG - FY 2011 \$13,406

- 3. Grant Appropriation – Litter Prevention and Recycling Grant – \$11,842

RESOLUTION

GRANT APPROPRIATION – LITTER PREVENTION AND RECYCLING GRANT – \$11,842

WHEREAS, the Department of Environmental Quality has awarded James City County a Litter Prevention and Recycling Grant in the amount of \$11,842.

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

Revenue:

Litter Control Grant \$11,842

Expenditure:

Litter Control Grant \$11,842

- 4. Budget Appropriation – Old News Road Project – \$674,959

RESOLUTION

BUDGET APPROPRIATION – OLD NEWS ROAD PROJECT – \$674,959

WHEREAS, Old News Road is in need of repair to increase safety and traffic capacity; and

WHEREAS, the Board of Supervisors has previously requested and the Virginia Department of Transportation (VDOT) has approved the use of State revenue sharing funds for the project in the amount of \$674,959; and

WHEREAS, it is necessary to appropriate \$674,959 to a County special project account to allow expenditure for construction to proceed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$674,959 to a special project account.

F. PUBLIC HEARINGS

1. Pre-Budget Public Hearing

Ms. Sue Mellen, Assistant Manager of Financial Management Services, stated that this was the second year of the biennial budget. She highlighted changes from the FY 2012 plan, including planned expenditures such as costs associated with redistricting, the new Law Enforcement Center (LEC) building, Capital maintenance and replacement, and school operations. She stated that there were expected changes to be discussed at the budget retreat including increased real estate revenues due to new construction, increased personal property values, and an increase in the State sales tax for education. She stated that the Board should open the public hearing, and no action was required at this time.

Ms. Jones opened the Public Hearing.

1. Mr. John Horne, on behalf of Housing Partnerships, Inc., thanked the Board for its support over the years. He stated that those funds which go for materials only, are leveraged times over through volunteer labor and other partnerships that benefit very low-income residents of the County. He thanked the Board for continued support.

2. Mr. Jack Haldeman, 1597 Founder's Hill North, asked for consideration of funding for the Stormwater Division for stormwater management projects while preserving the Greenspace and Purchase of Development Rights (PDR) funds, preserving employee and teacher benefit funds, and an increase in connection fees for independent water systems.

3. Mr. Paul Scott, 719 Lafayette Street, Child Development Resources (CDR) Executive Director, thanked the Board for consideration of funding support for CDR. He noted the Comprehensive Health Investment Project (CHIP) of Virginia agency that ensures children and families are properly immunized and receive proper prenatal care. He stated that CHIP of Williamsburg is funded through various providers including James City County, but most of the funding comes from CHIP of Virginia. He stated that the Governor has recommended reduced funding for this agency, which could eliminate service to children in the community due to understaffing. He requested consideration of additional funding in order to preserve this program.

4. Dr. Corydon Butler, 3228 Fowler's Lake Road, commented on the County's business license taxes and noted that professions such as lawyers, accountants, physicians, and others are taxed much higher than retail entities and contractors. He asked for adjustments for business license tax equity.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Kennedy asked staff about the comments related to possible underfunding of the Virginia Retirement System (VRS). He asked if the County underfunded VRS.

Mr. McDonald stated the VRS sets a contribution rate for localities and James City County has met this requirement.

Mr. Kennedy asked if the County has underpaid.

Mr. McDonald stated that it has not.

Mr. Kennedy stated that the schools were not required to pay a VRS payment last year.

Mr. McDonald stated that the schools operate two VRS plans, including one for teachers and one for other staff. He stated that the State eliminated the fourth quarter contribution for teachers. He stated the County had budgeted for this contribution and the school division budgeted this contribution. He stated the school met its obligation and made the payment.

Mr. Kennedy asked if the underfunding of VRS was a statewide issue.

Mr. McDonald stated the Governor has responded that the teacher benefits were underfunded and proposed a budget amendment to increase the teachers' VRS benefit. He stated this was still in discussion at the General Assembly, as well as an option for employees picking up a portion of the VRS payment in exchange for a pay raise and that the rates are expected to go up to recover the additional liability.

Mr. Kennedy asked how James City County compared to other localities.

Mr. McDonald stated that the County's rates are relatively low in relation to other localities. He stated it was a relatively prudent and well-funded plan.

Mr. McGlennon asked for confirmation that there was a separate account for VRS for James City County.

Mr. McDonald stated that there were separate accounts for VRS for James City County, James City Service Authority, and other School Board staff.

Mr. McGlennon stated that these programs were well funded, but by foregoing the contribution to the teachers' plan, over time these employees lose the benefit of the investment. He asked if the full share could have been contributed last year.

Mr. McDonald stated that the County could not without the State match. He stated the County pays what it is required by the State.

Mr. Kennedy asked if there was the option to pay more.

Mr. McDonald stated that the County may have that opportunity.

Mr. Icenhour asked if the County could pay additional money to help catch up the funding.

Mr. McDonald stated that parts of the rate schedules include any unfunded liabilities and that this was a challenge across the country.

Mr. Icenhour stated that this is traditionally in a two-year lag.

Mr. McDonald stated that in this case an amendment could be made.

Mr. Kennedy stated that in this case, the County has always met its obligation.

Mr. McDonald stated that was correct.

Mr. Kennedy asked if the option of paying more has been explored.

Mr. McDonald stated that this has not been explored.

Ms. Jones noted that no action would be taken on this item.

2. Case No. SUP-0026-2010. Tractor Supply Company, Norge Center (Deferral Requested)

Ms. Sarah Propst, Planner, stated that the applicant has requested deferral of the application until the January 25, 2011, regular meeting. She stated that there were numerous questions that have been received and would be answered at the next meeting.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones continued the Public Hearing until January 25, 2011.

Mr. McGlennon stated that he provided a number of questions to staff primarily related to the parking and that he hoped the public could view the response to those questions prior to the next meeting.

Mr. Middaugh stated that the information would be included in the agenda materials.

3. Case No. SUP-0027-2010. Jamestown High School Auxiliary Gymnasium (Deferral Requested)

Ms. Jones stated that there has been a request for a deferral.

Mr. Middaugh stated that a staff presentation was not anticipated due to the deferral.

Ms. Jones opened the Public Hearing.

Mr. Icenhour made a motion to defer the item.

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

As no one wished to speak to this matter, Ms. Jones continued the Public Hearing until January 25, 2011.

4. Case No. AFD-2-86-3-2010. Croaker AFD – 4744 Ware Creek Road Addition

Mr. Jose Ribeiro, Senior Planner, stated that Mr. M. Anderson Bradshaw has applied on behalf of Wenger Farms, LLC, to enroll a 7-acre property located at 4744 Ware Creek Road into the Croaker Agricultural and Forestal District (AFD). He stated that the property is mostly wooded and undeveloped. A portion of the Croaker AFD (three large parcels also owned by Wenger Farms, LLC) is located to the south of the subject parcel. Adjacent properties to the north, east, and west of the subject parcel that are not currently enrolled in the Croaker District are primarily wooded in nature. Several subdivisions are located in close proximity to the subject property including Woodland Farms, Elmwood, Clover Dale, Glenwood Acres, and Ware Creek Manor.

At its meeting on November 15, 2010, the AFD Advisory Committee recommended approval by a vote of 8-0.

At its meeting on December 1, 2010, the Planning Commission recommended approval a vote of 7-0. Staff recommended approval of the ordinance.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Kennedy made a motion to adopt the ordinance.

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

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that members of the public can post comments on the budget on the County's Facebook page. He stated that dog tags are due on January 31, 2011, and can be purchased at the Treasurer's Office.

Mr. McGlennon asked if members of the public needed to be registered Facebook users to leave comments.

Ms. Jones stated that if the citizens did not wish to use Facebook, they could email the Board or contact the members by telephone.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that he was attending the Hampton Roads Transportation Planning Organization (HRTPO) meeting on the third Thursday of the month and that he would collect comments from the public and the Board. He stated the materials for the meeting could be viewed online.

Ms. Jones noted that the Board would adjourn to January 22, 2011, at 8:00 a.m. for its Budget Retreat.

Mr. Kennedy asked if the Planning Commission appointment could be done at this time.

Ms. Jones stated that she would support that recommendation.

Mr. Kennedy made a motion to reappoint Mr. Rich Krapf to the Planning Commission and Mr. Stephen Moreland to the Historic Triangle Bicycle Advisory Committee (HTBAC).

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

Mr. Middaugh noted that the Board should adjourn to 8 a.m. on January 22, 2011, and the next regular meeting.

J. ADJOURNMENT to 8 a.m. on January 22, 2011.

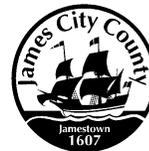
Mr. McGlennon made a motion to adjourn.

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

At 8:17 p.m., Ms. Jones adjourned the Board until 8 a.m. on January 22, 2011.

Robert C. Middaugh
Clerk to the Board

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MEMORANDUM COVER

Subject: Dedication of Streets in Stonehouse Glen Sections 1 and 2 and Fieldstone Parkway Extension

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board adopt the resolution that dedicates the streets and associated right-of-way for Stonehouse Glen Sections 1 and 2 and a portion of Fieldstone Parkway to the Virginia Department of Transportation (VDOT)?

Summary: The submittal contains the necessary documents for the street dedication process. Included are the Board resolution, Board memorandum, County/State agreement for inspection, and maintenance of a County-controlled grade separation structure with exhibit map, a location map of the proposed roads, and the (VDOT) Form AM-4.3.

Staff recommends adoption of the resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

- 1. Memorandum
- 2. Resolution
- 3. Location map
- 4. VDOT AM-4.3
- 5. County-Controlled Grade Separation Structure Agreement
- 6. Fieldstone Grade Exhibit Map

Agenda Item No.: G-2

Date: January 25, 2011

M E M O R A N D U M

DATE: January 25, 2011

TO: The Board of Supervisors

FROM: Scott J. Thomas, Environmental Director

SUBJECT: Dedication of Streets in Stonehouse Glen Sections 1 and 2 and Fieldstone Parkway Extension

Attached is a resolution requesting acceptance of streets within Stonehouse Glen Sections 1 and 2, and the portion of Fieldstone Parkway Route 1220 between Mill Pond Run Route 1221 and Six Mount Zion Road Route 600, into the State Secondary Highway System. These streets have been inspected and approved by the Virginia Department of Transportation (VDOT).

VDOT's Secondary Street Acceptance Requirements (SSAR), effective March 2009, outline processes on how streets are designed, constructed, and officially accepted for maintenance as part of the secondary system of state highways. Upon the satisfactory completion of construction of streets, VDOT advises and coordinates with the local governing body of the street's readiness for acceptance through the use of VDOT's Form AM-4.3. As part of the initial acceptance process, the County Board of Supervisors must request, by resolution, that VDOT accept the street for maintenance as part of the secondary system of state highways. Administrative procedures outlined in the SSAR/24VAC30-92-70 list criteria for street acceptance and what information is required on the local resolution. Once the resolution is approved, the signed Form AM-4.3 with the resolution are then returned to VDOT. VDOT then officially notifies the locality of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as start of VDOT maintenance responsibility. As part of the process, the County will hold an appropriate amount of subdivision or public improvement surety for the roadway, as required by local ordinances, until the acceptance process is complete. Also, within 30 days of the local governing body's request (resolution), VDOT requires a maintenance surety to be posted by the developer to guarantee performance of the street for one year from the date of acceptance.

The Board may notice some minor differences for this particular street dedication compared to past resolutions. This resolution is different in that VDOT has specifically requested that the resolution reference a previously executed agreement for Inspection/Maintenance of County Controlled Grade Separation Structure at Stonehouse. This was for a golf cart tunnel under the new portion of Fieldstone Parkway Extension. This particular item was previously approved by resolution of the Board of Supervisor on May 25, 2010 under Consent Calendar Item F-4. The final executed agreement is attached as part of this street dedication request.

Staff recommends adoption of the attached resolution.



Scott J. Thomas

CONCUR:



Steven W. Hicks

SJT/gb
StonehouseSts_mem

Attachment

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE GLEN SECTIONS 1 AND 2

AND FIELDSTONE PARKWAY EXTENSION

WHEREAS, the streets described on the attached AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

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

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

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 15, 2010, for inspection and maintenance of a County controlled grade separation structure which applies to this request for addition.

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

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

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

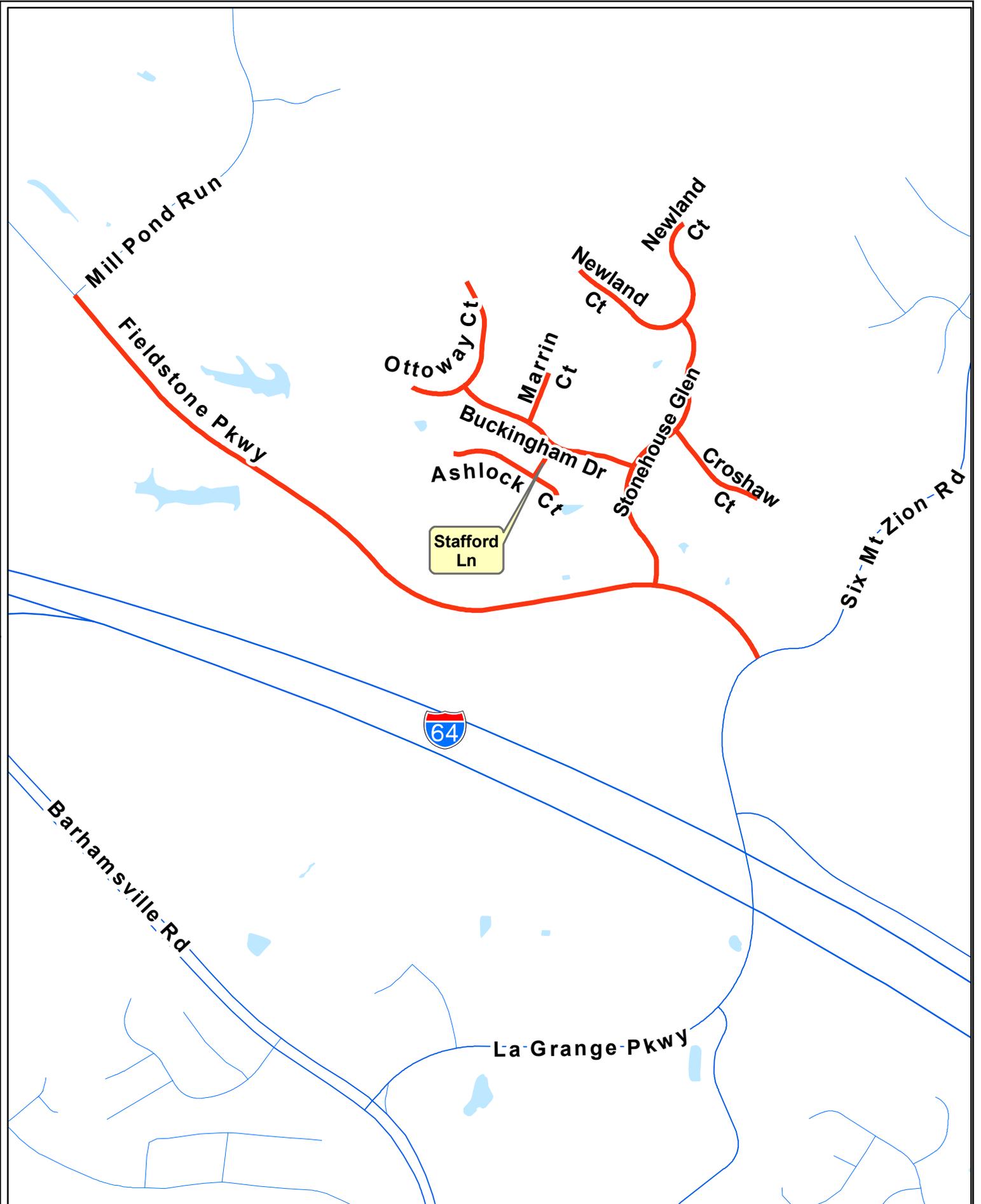
Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

StonehouseSts_res



Stafford Ln



**DEDICATION OF STREETS IN
STONEHOUSE GLEN SECTIONS 1 & 2 AND
FIELDSTONE PARKWAY EXTENSION**

 Streets Being Dedicated

1 inch = 900 feet



In the County of James City

By resolution of the governing body adopted January 25, 2011

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision Stonehouse Glen, Sections 1 & 2, and Fieldstone Pwy.

Type Change to the Secondary System of State Highways: Addition

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

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.1-229

Street Name and/or Route Number

◆ Stonehouse Glen, State Route Number 1279

Old Route Number: 0

● From: Route 1280, Buckingham Drive

To: Route 1285, Croshaw Court, a distance of: 0.08 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

◆ Stafford Lane, State Route Number 1281

Old Route Number: 0

● From: Route 1280, Buckingham Court

To: Route 1282, Ashlock Court, a distance of: 0.05 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

◆ Newland Court, State Route Number 1286

Old Route Number: 0

● From: Route 1279, Stonehouse Glen

To: End of cul de sac, a distance of: 0.17 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

◆ Fieldstone Parkway, State Route Number 1220

Old Route Number: 0

-
- From: Route 1221, Mill Pond Run

To: .17 mi. SW of Route 1221, a distance of: 0.17 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 80-120ft.

Street Name and/or Route Number

◆ Fieldstone Parkway, State Route Number 1220

Old Route Number: 0

-
- From: .17 mi. SW of Route 1221

To: Route 1279, Stonehouse Glen, a distance of: 0.82 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 80-175ft.

Street Name and/or Route Number

◆ Fieldstone Parkway, State Route Number 1220

Old Route Number: 0

-
- From: Route 1279, Stonehouse Glen

To: Route 600, Six Mount Zion Road, a distance of: 0.18 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 80ft.

Street Name and/or Route Number

◆ Buckingham Drive, State Route Number 1280

Old Route Number: 0

-
- From: Route 1279, Stonehouse Glen

To: Route 1281, Stafford Lane, a distance of: 0.12 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

◆ Buckingham Drive, State Route Number 1280

Old Route Number: 0

-
- From: Route 1281, Stafford Lane

To: Route 1283, Marrin Court, a distance of: 0.05 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

◆ Buckingham Drive, State Route Number 1280

Old Route Number: 0

-
- From: Route 1283, Marrin Court

To: Route 1284, Ottoway Court, a distance of: 0.11 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Ashlock Court, State Route Number 1282

Old Route Number: 0

- From: Route 1281, Stafford Lane

To: End of cul de sac, a distance of: 0.04 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Ashlock Court, State Route Number 1282

Old Route Number: 0

- From: Route 1281, Stafford Lane

To: End of cul de sac, a distance of: 0.12 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Newland Court, State Route Number 1286

Old Route Number: 0

- From: Route 1279, Stonehouse Glen

To: End of cul de sac, a distance of: 0.15 miles.

Recordation Reference: Document #060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Ottoway Court, State Route Number 1284

Old Route Number: 0

- From: Route 1280 Buckingham Drive

To: End of cul de sac, a distance of: 0.16 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Ottoway Court, State Route Number 1284

Old Route Number: 0

- From: Route 1280 Buckingham Drive

To: End of cul de sac, a distance of: 0.08 miles.

Recordation Reference: Document #060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Stonehouse Glen, State Route Number 1279

Old Route Number: 0

- From: Route 1220, Fieldstone Parkway

To: Route 1280, Buckingham Drive, a distance of: 0.18 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50-60 feet

Street Name and/or Route Number

- ◆ Marrin Court, State Route Number 1283

Old Route Number: 0

- From: Route 1280, Buckingham Drive

To: End of cul de sac, a distance of: 0.08 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Croshaw Court, State Route Number 1285

Old Route Number: 0

- From: Route 1279, Stonehouse Glen

To: End of cul de sac, a distance of: 0.15 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

Street Name and/or Route Number

- ◆ Stonehouse Glen, State Route Number 1279

Old Route Number: 0

- From: Route 1285, Croshaw Court

To: Route 1286, Newland Court, a distance of: 0.17 miles.

Recordation Reference: Document # 060016179

Right of Way width (feet) = 50 feet

**COUNTY/STATE AGREEMENT
FOR
INSPECTION AND MAINTENANCE
OF COUNTY CONTROLLED GRADE SEPARATION STRUCTURE**

THIS AGREEMENT FOR INSPECTION AND MAINTENANCE of a County controlled grade separation structure, made as of the date last signed below by and between (hereinafter "County"); and the Commonwealth of Virginia, Department of Transportation (hereinafter "Department");

WHEREAS, the Department considers structures that are crossed by public roads but are not required for the purposes of those using said road to be a County controlled grade separation structure, except as otherwise defined in 24 VAC 30-91-110.J, and to be ineligible for maintenance by the Department; and

WHEREAS, the County approved plans for a subdivision shown on a plat entitled "SUBDIVISION PLAT SHOWING STONEHOUSE GLEN, SECTIONS 1 & 2, AND RIGHT OF WAY OF FIELDSTONE PARKWAY, BEING A SUBDIVISION OF THE PROPERTY OF FIELDSTONE INVESTMENT, LLC AND STONEHOUSE GLEN, LLC, STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA that is recorded in the Clerk's Office of the Circuit Court in Instrument Number 060016179 a copy of which is incorporated herein as Exhibit A; and

WHEREAS, in accordance with the Code of Virginia, §15.2-2265, recording the described plat transferred title, in fee simple, to all portions set apart for streets, alley and areas for public use to the County; and

WHEREAS, said plat shows areas dedicated to the public, including a road named Fieldstone Parkway that passes over a structure that the Department deems to be a County controlled grade separation structure and is located in the area shown on the described plat as "EXISTING CART AND IRRIGATION EASEMENT (GOLF CLUB) PB 66, PG 80-88."

WHEREAS, the county, pursuant to authorities established in Title 15.2 and §33.1-229. Code of Virginia, consented to the grade separation and construction of the structure and, upon acceptance of the roadway for maintenance by the Department as a part of the secondary system of state highways, desires the Department to maintain the structure as though it did qualify for maintenance as an integral part of the roadway; and

WHEREAS, uniquely qualified personnel are required to perform periodic safety inspections of roadway structures to assure their structural integrity and the safety of those using the structure; and

Agreement of a County Controlled Grade Separation Structure
Name of County: James City County
Name of Street: Fieldstone Parkway, Golf Cart Tunnel

WHEREAS, the Department routinely inspects structures of the secondary system of state highways with appropriately qualified personnel in accordance with the National Bridge Safety Inspection Act; and

WHEREAS, the County desires the Department to assume the responsibilities for the inspection and maintenance of the structural integrity of the structure as though it otherwise qualified for maintenance as part of the secondary system of state highways maintained by the Department;

NOW, THEREFORE, THIS AGREEMENT FOR INSPECTION AND MAINTENANCE

In consideration of the covenants contained herein and the County's request that the roadway and structure be maintained by the Department as part of the secondary system of state highways under its operational jurisdiction; and

In consideration of the Department's acceptance of responsibility to maintain the roadway and the structure crossing;

- I. The County agrees:
 - A. To bear all liability for any and all maintenance of the structure.
 - B. To bear all liability for any and all inspections and maintenance of any public safety security systems, including lighting that it may require for those using the structure other than those using the roadway, unless otherwise agreed to by the parties to this Agreement. Nothing herein shall preclude the County from obtaining contracts or indemnification from other persons or persons with respect to the performance of or liability for the maintenance of the structure.
 - C. To provide the Department with permanent copies of the 'as built' structure plans, specifications, and construction inspection records certified to the County by a competent, licensed professional engineer attesting to the proper construction of the facility.
 - D. That the Department, in its sole discretion, may inspect the structure at any time and perform any maintenance it deems necessary for the safety of the public.
 - E. To bear all reasonable costs associated with the periodic inspection of the structure and any and all subsequent maintenance, including that of any public safety security systems, such as lighting, and necessary reconstruction the structure, reimbursing the Department within thirty (30) days of being billed for the service performed by or for the Department.

Agreement of a County Controlled Grade Separation Structure

Name of County: James City County

Name of Street: Fieldstone Parkway, Golf Cart Tunnel

F. With respect to the maintenance and operation responsibilities borne by the County as described in Paragraphs A and B above, the County further agrees:

1. That the Department has no maintenance, upkeep and/or repair responsibility or liability for the structure except as provided by the Code of Virginia in cases of physical damage resulting from road maintenance projects or road construction projects administered by the Department.
2. The County will not seek indemnification or contribution from the Department with respect to any claims or damages arising from improper maintenance of those items for which the County is responsible.

II. The parties hereto further acknowledge that:

- A. To perform periodic inspections of the structure with appropriately qualified inspection personnel and to maintain the structural integrity of the facility as though it were a necessary part of the secondary system of state highways maintained by the Department, all in keeping with normal practices.
- B. To endeavor to provide the County notice of maintenance activity that it anticipates will exceed \$10,000 (ten thousand dollars) in cost before performing maintenance of a non-emergency nature.
- C. To bear the liabilities and responsibilities normally associated with the preservation of the structural safety of the facility, effective with the date the roadway is accepted as part of the secondary system of state highways maintained by the Department.

III. The parties hereto further acknowledge that:

- A. The Department in its sole discretion may close the road or the structure as it deems necessary for the safety of the public or for proper completion of work, and shall close the structure permanently upon the County's request accompanied by:
 1. A resolution guaranteeing that the County shall reimburse the Department for all reasonable costs incurred in the closing of the structure, and

Agreement of a County Controlled Grade Separation Structure

Name of County: James City County

Name of Street: Fieldstone Parkway, Golf Cart Tunnel

2. Documentation providing evidence that the County has the authority to close or require closure of the structure without obtaining consents from any other party.

B. This Agreement does not relieve the parties hereto of liability due to negligence or of their rights and obligations pursuant to any applicable federal or state laws or regulations.

Witness the following signature and seals:

APPROVED AS TO FORM

Stankusman
County Legal Officer

By: Sanford B. Wanner
(Name and Title) Sanford B. Wanner
County Administrator

Commonwealth of Virginia, Department of Transportation

Std Approved by OAG 7/28/2005 By: R.E. Prezioso
for Commonwealth Transportation Commissioner

COMMONWEALTH OF VIRGINIA, CITY/COUNTY OF James City, to wit:

(Name) Sanford B. Wanner, County Administrator, acknowledged the foregoing instrument before me this 15th day of July, 2010.

Beth Klapper
Notary Public No.: 7182762

Commonwealth of Virginia

My Commission Expires:

December 31, 2012

Beth Klapper
NOTARY PUBLIC

My commission expires: December 31, 2012

COMMONWEALTH OF VIRGINIA, CITY/COUNTY OF Richmond, to wit:

(Name) Robert E. Prezioso, "Commonwealth Transportation Commissioner", party of the second part, acknowledged the foregoing instrument before me this 5th day of August, 2010.

Madeline R Collins
NOTARY PUBLIC
My commission expires: 11/30/2012



EXHIBIT A

FIELDSTONE INVESTMENT, LLC.
TAX PARCEL 0440100025
INST. NO. 040010273
OLD AREA=84.482 AC.
NEW AREA=65.937 AC.

EXISTING CART PATH
AND IRRIGATION
EASEMENT (GOLF CLUB)
PB 66, PG 80-88

FIELDSTONE PARKWAY
DOC. NO. 060016179

FIELDSTONE
PARKWAY
S.R. 1220

MILL POND RUN
STATE ROUTE 1221

PORTION OF EASEMENT
TO BE ABANDONED BY DEED OF
QUITCLAIM TO BE RECORDED
SIMULTANEOUSLY WITH THIS EXHIBIT.

BMP #6
DOC. NO.
060016179

PARCEL R-5
DOC. NO. 060016179

THE TRADITION GOLF CLUB
AT STONEHOUSE
TAX PARCEL 0530100004
INST. NO. 010010551

EXHIBIT SHOWING
A PORTION OF EASEMENT
TO BE QUITCLAIMED
BY THE TRADITION GOLF CLUB AT
STONEHOUSE

FIELDSTONE PARKWAY
JAMES CITY COUNTY, VIRGINIA
SCALE: 1" = 100' DATE: 09/18/06

LANDMARK
DESIGN GROUP

Engineers • Planners • Surveyors
Landscape Architects • Environmental Consultants

4029 Ironbound Road
Suite 100
Williamsburg, VA 23188
Tel. (757) 253-2975
Fax (757) 229-0049
Email: lmdg@landmarkdg.com

EXHIBIT A

FIELDSTONE INVESTMENT, LLC.
TAX PARCEL 0440100025
INST. NO. 040010273
OLD AREA=84.482 AC.
NEW AREA=65.937 AC.

EXISTING CART PATH
AND IRRIGATION
EASEMENT (GOLF CLUB)
PB 66, PG 80-88

FIELDSTONE PARKWAY
DOC. NO. 060016179

FIELDSTONE
PARKWAY
S.R. 1220

MILL POND RUN
STATE ROUTE 1221

PORTION OF EASEMENT
TO BE ABANDONED BY DEED OF
QUITCLAIM TO BE RECORDED
SIMULTANEOUSLY WITH THIS EXHIBIT.

BMP #6
DOC. NO.
060016179

PARCEL R-5
DOC. NO. 060016179

THE TRADITION GOLF CLUB
AT STONEHOUSE
TAX PARCEL 0530100004
INST. NO. 010010551

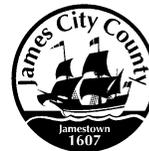
EXHIBIT SHOWING
A PORTION OF EASEMENT
TO BE QUITCLAIMED
BY THE TRADITION GOLF CLUB AT
STONEHOUSE

FIELDSTONE PARKWAY
JAMES CITY COUNTY, VIRGINIA
SCALE: 1" = 100' DATE: 09/19/06

**LANDMARK
DESIGN GROUP**

Engineers • Planners • Surveyors
Landscape Architects • Environmental Consultants

4029 Ironbound Road
Suite 100
Williamsburg, VA 23188
Tel. (757) 253-2975
Fax (757) 229-0049
Email: lmdg@landmarkdg.com



MEMORANDUM COVER

Subject: Appropriation of Grant Award - Kiwanis Club of Williamsburg - \$300

Strategic Management Plan Pathway: 1.d - develop and promote revenue alternatives to property taxes

Action Requested: Shall the Board approve the resolution that appropriates grant funds awarded from the Kiwanis Club of Williamsburg?

Summary: The James City County Fire Department has been awarded a grant for \$300 from the Kiwanis Club of Williamsburg. These funds are to be used for the purchase of File of Life document holders which may be placed on refrigerators or in purses or vehicles to make important medical information accessible in an emergency. Distribution of the File of Life is coordinated by our Public Educator.

Staff recommends adoption of the attached resolution to appropriate funds.

Fiscal Impact: The grant requires no match.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution
3. Letter from Kiwanis Club

Agenda Item No.: G-3

Date: January 25, 2011

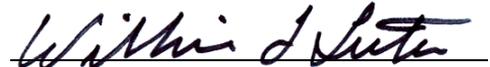
MEMORANDUM

DATE: January 25, 2011
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Grant Award - Kiwanis Club of Williamsburg - \$300

The James City County Fire Department has been awarded a grant for \$300 from the Kiwanis Club of Williamsburg. The funds are to be used for the purchase of File of Life document holders which may be placed on refrigerators or in purses or vehicles to make important medical information accessible in an emergency. Distribution of the File of Life is coordinated by our Public Educator.

The grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.


William T. Luton,

CONCUR:

Robert C. Middaugh

WTL/tlc
GA_KiwnsClb_mem

Attachments

RESOLUTION

GRANT AWARD - KIWANIS CLUB OF WILLIAMSBURG - \$300

WHEREAS, the James City County Fire Department has been awarded a grant for \$300 from the Kiwanis Club of Williamsburg; and

WHEREAS, the funds are to be used for the purchase of File of Life document holders which may be placed on refrigerators or in purses or vehicles to make important medical information accessible in an emergency; and

WHEREAS, the grant requires no match.

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

Revenue:

Kiwanis FY11-Fire-File of Life	<u>\$300</u>
--------------------------------	--------------

Expenditure:

Kiwanis FY11-Fire-File of Life	<u>\$300</u>
--------------------------------	--------------

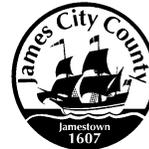
Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

GA_KiwnsClb_res



MEMORANDUM COVER

Subject: Appropriation of Grant Award - Virginia Department of Fire Programs - \$4,174

Strategic Management Plan Pathway: 1.d - develop and promote revenue alternatives to property taxes

Action Requested: Shall the Board approve the resolution that appropriates grant funds awarded from the Virginia Department of Fire Programs?

Summary: The James City County Fire Department has been awarded a grant for \$4,174 (\$3,339 grant, \$835 local match) from the Virginia Department of Fire Programs (VD FP) under the Virginia Fire Services Board (VFSB) Training Mini Grant program. These funds are to be used to upgrade the Department's Fire Studio training simulation software program and purchase a dedicated laptop to allow for in-station training. This software produces quality fire simulation scenarios that reinforce and improve technical skills for firefighters.

Staff recommends adoption of the resolution to appropriate funds.

Fiscal Impact: This grant includes local match of \$835 from the Fire Department's General Fund budget.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution

Agenda Item No.: G-4

Date: January 25, 2011

MEMORANDUM

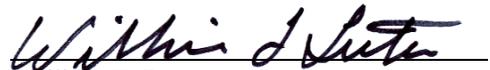
DATE: January 25, 2011
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Grant Award - Virginia Department of Fire Programs - \$4,174

The James City County Fire Department has been awarded a grant for \$4,174 (\$3,339 grant, \$835 local match) from the Virginia Department of Fire Programs (VD FP) under the Virginia Fire Services Board (VFSB) Training Mini Grant program. These funds are to be used to upgrade the Department's Fire Studio training simulation software program and purchase a dedicated laptop to allow for in-station training.

This software produces quality fire simulation scenarios that reinforce and improve technical skills for firefighters using pictorial modeling. This method allows the user to take photographs of all sides of a building. Super imposing visual fire situations on the photos while displayed, the student demonstrates use of proper strategy and tactics to correctly mitigate the situation. Should the student chose incorrectly, the scene can be immediately modified to show a worsening situation by the model operator or if the student is correct, the fire goes out.

The grant includes a local match of \$835, which is available in the Fire Department's General Fund budget.

Staff recommends adoption of the attached resolution to appropriate funds.


William T. Luton,

CONCUR:

Robert C. Middaugh

WTL/tlc
GA_VDFP_mem

Attachment

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF FIRE PROGRAMS - \$4,174

WHEREAS, the James City County Fire Department has been awarded a grant for \$4,174 (\$3,339 grant, \$835 local match) from the Virginia Department of Fire Programs (VDFP) under the Virginia Fire Services Board (VFSB) Training Mini Grant program; and

WHEREAS, the funds are to be used to upgrade the Department's Fire Studio training simulation software program and purchase a dedicated laptop to allow for in-station training; and

WHEREAS, the grant includes a local match of \$835, which is available in the Fire Department's General Fund budget.

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 to the Special Projects/Grants fund:

Revenues:

VDFP FY11-Fire-Training Mini Grant	\$3,339
Transfer from General Fund	<u>835</u>
Total	<u>\$4,174</u>

Expenditure:

VDFP FY11-Fire-Training Mini Grant	<u>\$4,174</u>
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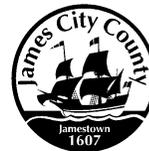
Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

GA_VDFP_res



MEMORANDUM COVER

Subject: Contract Award – Chickahominy Riverfront Park, Recreational Vehicle (RV) Loop Renovations – \$363,000

Strategic Management Plan Pathway: 1.a - evaluate service delivery costs

Action Requested: Shall the Board approve the contract to Henry S. Branscome LLC in the amount of \$363,000 for RV Loop Renovations on Chickahominy Riverfront Park?

Summary: In 2005 a bond referendum was approved by voters to fund various Parks and Recreation improvement projects. Included among the projects were improvements for Chickahominy Riverfront Park. Full hookup Recreational Vehicle (RV) sites are the most requested facility by the public, and were shown for future improvements on the park master plan. This facility was located and designed consistent with the previously approved master plan for the park. An invitation for bids was issued for the construction and ten firms submitted bids and were considered for award. The bids were a lump sum price with Henry S. Branscome, LLC submitting the low bid of \$363,000.

Staff recommends approval of the resolution.

Fiscal Impact: Funded from Parks and Recreation Bond Referendum Funds.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution

Agenda Item No.: G-5
Date: January 25, 2011

MEMORANDUM

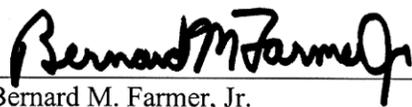
DATE: January 25, 2011
TO: The Board of Supervisors
FROM: Bernard M. Farmer, Jr., Capital Projects Coordinator
SUBJECT: Contract Award – Chickahominy Riverfront Park, Recreational Vehicle (RV) Loop Renovations – \$363,000

As part of the approved James City County Parks and Recreation Bond Referendum, improvements were planned and designed for the RV Loop at Chickahominy Riverfront Park. These improvements were outlined in the “Shaping Our Shores” park master plan and will provide for facilities, which are intended to generate revenue for operations. This project will provide 32 sites for recreational vehicles, seven sites for car camping, full water, electrical and sewer for all sites, and a paved loop road around the area. Also included in the project is rehabilitation of the septic systems to accommodate the hookups. Full RV hookup sites are the most requested facility at the park. Construction is expected to take around four months. Design was completed and an Invitation for Bids for the Chickahominy Riverfront Park, RV Loop Renovations was publicly advertised in May 2010, but only three bids were received and the project was rebid due to timing. A new Invitation for Bids was advertised this month with the intent of completing work by Memorial Day. The following ten firms submitted bids and were considered for award:

<u>Firm</u>	<u>Amount</u>
Henry S. Branscome, LLC	\$363,000
Jamestown Contracting, LLC	387,445
Walter C. Via Enterprises, Inc.	409,000
J. Sanders Construction Company	415,780
Jireh Construction Company, Inc.	425,000
W. L. Padden Construction Company	457,777
Toano Contractors, Inc.	485,000
Hudgins Contracting Corp.	487,373
C. A. Barrs Contractor, Inc.	549,000
Basic Construction Company, LLC	565,560

Henry S. Branscome, LLC has satisfactorily completed other similar projects for James City County and has been determined to be the lowest responsive and responsible bidder. The bid amount of \$363,000 is slightly less than the engineering estimate for the project and consistent with current market pricing. Funds are available in the remaining bond referendum accounts for this award.

Attached is a resolution authorizing the contract award to Henry S. Branscome, LLC for the Chickahominy Riverfront Park RV Loop Renovation. Staff recommends approval of the attached resolution.


Bernard M. Farmer, Jr.

BMF/nb
CA_ChickRvrPk_mem

Attachment

RESOLUTION

CONTRACT AWARD – CHICKAHOMINY RIVERFRONT PARK, RECREATIONAL VEHICLE

(RV) LOOP RENOVATIONS – \$363,000

WHEREAS, improvements have been planned for the recreational vehicle loop renovations at Chickahominy Riverfront Park as part of the “Shaping Our Shores” master plan; and

WHEREAS, the funds are available from the Parks and Recreation Bond Referendum accounts; and

WHEREAS, ten bids were considered for award and Henry S. Branscome, LLC was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$363,000 for the Chickahominy Riverfront Park, RV Loop Renovations to Henry S. Branscome LLC.

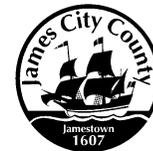
Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

CA_ChickRvrPk_res



MEMORANDUM COVER

Subject: Case No. SUP-0027-2010. Jamestown High School Auxiliary Gym

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve a Special Use Permit (SUP) for an auxiliary gym at Jamestown High School with the conditions listed in the attached resolution?

Summary: Mr. Alan Robertson, Williamsburg-James City County Schools (WJCC) has applied for an SUP to allow for the construction of an approximately 6,500 square-foot auxiliary gymnasium at Jamestown High School. The school did not require an SUP when it was originally constructed; however, the school site was rezoned to the Public Land in 2007, where schools are a specially permitted use. Though the school is a legally nonconforming use, an SUP is required for any expansion. This SUP would bring the entire school into conformance with the Zoning Ordinance and permit the construction of the proposed gymnasium.

Staff recommends approval of the application with the conditions listed in the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No
N/A

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Resolution
 - 2. Location Maps
 - 3. Gymnasium Exhibit
 - 4. Elevations
 - 5. Diagram of High School
 - 6. Existing Proffers
 - 7. Unapproved Planning Commission Minutes

Agenda Item No.: H-1

Date: January 25, 2011

**SPECIAL USE PERMIT - 0027-2010. Jamestown High School Auxiliary Gym
Staff Report for the January 25, 2011, 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

December 1, 2010, 7:00 p.m.
January 11, 2011, 7:00 p.m.(Deferred)
January 25, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant: Alan Robertson, Williamsburg-James City County Schools (WJCC)
Land Owner: WJCC Public Schools
Proposal: Addition of a 6,500-square-foot auxiliary gymnasium and to bring the existing school into conformance with the Zoning Ordinance
Location: 3751 John Tyler Highway
Tax Map/Parcel No.: 4610100002d
Parcel Size: 77 acres
Zoning: PL, Public Land, with proffers
Comprehensive Plan: Federal, State, and County Land
Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with surrounding land uses and with the Comprehensive Plan Land Use Map designation. Staff recommends the Board approve the application in accordance with the attached resolution.

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

PLANNING COMMISSION RECOMMENDATION

At its December 1, 2010, meeting, the Planning Commission unanimously recommended approval of the application.

Proposed Changes Made Since Planning Commission Meeting

During the Planning Commission meeting, James City Service Authority (JCSA) staff stated that should the proposed gymnasium be approved, a JCSA sewer line easement would need to be vacated by the JCSA Board of Directors (BOD) as the easement would be too close to the gymnasium expansion. Since the Commission meeting, JCSA has determined that the easement was never recorded; thus, no action by the BOD would be

necessary. Should the gymnasium be approved, the new structure would be roughly eight feet from an existing sewer line. JCSA requires a 10-foot minimum setback for a line to be accepted into the JCSA network for maintenance.

The rationale for the 10 foot minimum is to ensure that if the pipe was ever in need of repair, removal of the pipe would not jeopardize the building foundation. The applicant has indicated that it is too costly to relocate the sewer line and understands JCSA will not be responsible for maintenance. JCSA has indicated that private ownership of sewer lines is relatively common and there are techniques that can be used to successfully perform maintenance on a sewer line that is in close proximity to a foundation.

PROJECT DESCRIPTION

Mr. Alan Robertson of WJCC Public Schools has applied for a Special Use Permit (SUP) to allow for the construction of an approximately 6,500-square-foot auxiliary gymnasium at Jamestown High School. The school did not require an SUP when it was originally constructed; however, the school site was rezoned to the Public Land in 2007, where schools are a specially permitted use. Though the school is a legally nonconforming use, an SUP is required for any expansion. This SUP would bring the entire school into conformance with the Zoning Ordinance and permit the construction of the proposed gymnasium.

The current school site and many of the adjacent properties were subject to a rezoning in 1986 to R-1, Limited Residential, with proffers. In 1991, the proffers were amended to permit the construction of a school as the original proffers were tailored to residential uses. These proffers are attached for reference but do not affect the issuance of an SUP for the proposed gym.

The proposed gym was in the original design for the school but was cut due to funding. The gym has been in and out of the schools Capital Improvement Program (CIP) and the County's CIP since the early 1990s. Since the need has been established, the gym is now in the County's CIP and the school is ready to begin construction.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek

Staff Comments: The Environmental Division has reviewed the proposed gymnasium exhibit and has determined that the proposal is subject to Special Stormwater Criteria which can be addressed during the site plan.

Public Utilities

Staff Comments: Public water and sewer are available to this property and will serve the addition.

Transportation

Staff Comments: The proposed expansion would not result in an increase of traffic. No Traffic Impact Analysis is necessary and no traffic improvements are required.

Comprehensive Plan

Land Use Map

Designation	<p>State, Federal, and County Land (Page 150): Publicly owned lands included in this category are Eastern State Hospital, military installations, County offices and facilities, and larger utility sites such as the Hampton Roads Sanitation District treatment plant.</p> <p>Staff Comment: The proposed expansion is consistent with the designation.</p>
Development Standards	<p><i>Standard #4a-Page 141:</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, vibrations, light and traffic.</p> <p><i>General Standard #6-Page 141:</i> Use open space design and resource protection measures for new developments by: maintaining open fields or farm lands, preserving scenic vistas, retaining natural vegetative buffers around water bodies or wetlands, ensuring that common land adjoins protected open space on adjacent parcels, maintain existing trees and vegetation and preserving the character of the developments natural setting. Emphasize the use of natural screening/buffering over artificial or planted screening/buffering.</p> <p>Staff Comment: At 77 acres, the school site is large enough that the existing building and the proposed expansion are located over 500 feet from the closest residential neighborhood. The proposed expansion would have a negligible impact on the total amount of open space, and the existing mature tree buffering around the perimeter of the property would not be affected.</p>
Goals, Strategies and Actions	<p><i>Strategy #1-Page 153:</i> Promote the use of land in a manner harmonious with other land uses and the environment.</p> <p>Staff Comment: The proposed addition would not be out of proportion with the existing school facilities.</p>

Public Facilities

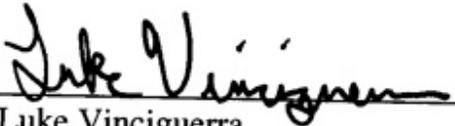
Goals, strategies, and actions	<p><i>Action #1.2 -Page 104:</i> Acquire land for, efficiently design, and construct new public facilities in a manner that facilitates future expansion and promotes that maximum utility of resources to meet future capacity needs.</p> <p><i>Action #3.1-Page 105:</i> Development should occur concurrently with the adequacy and accessibility of existing facilities and phased in accordance with the provision of new facilities and services.</p> <p>Staff Comment: As it was the WJCC schools original intent to build an auxiliary gym, the school has been designed to accommodate this addition. As the demand for space has increased, WJCC schools finds the expansion necessary and compatible with best practices for public schools.</p>
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Comprehensive Plan Staff Comments

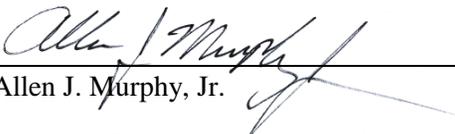
Given the existing buffer between the school and John Tyler Highway and surrounding residential neighborhoods, the addition would not be visible from the adjacent street or surrounding development. Staff finds the proposal to be consistent with the State, Federal, and County land designation and with the adjacent residential neighborhoods.

RECOMMENDATION:

Staff finds the proposal to be consistent with surrounding land uses and with the Comprehensive Plan Land Use Map designation. At its December 1, 2010, meeting, the Planning Commission unanimously recommended approval of the application. Staff recommends the Board approve the application with the conditions listed in the attached resolution.



Luke Vinciguerra



Allen J. Murphy, Jr.

LV/gb
Sup0027-10JT-Gym.doc

ATTACHMENTS:

1. Resolution
2. Location map
3. Gymnasium Exhibit
4. Elevations
5. Diagram of High School
6. Existing Proffers
7. Unapproved Planning Commission minutes

RESOLUTION

CASE NO. SUP-0027-2010. JAMESTOWN HIGH SCHOOL AUXILIARY GYM

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, the applicant has requested an SUP to allow an auxiliary gymnasium at Jamestown High School, located at 3751 John Tyler Highway, and further identified as James City County Real Estate Tax Map No. 4610100002d; and

WHEREAS, the Board of Supervisors, following a public hearing is of the opinion that an SUP to allow for the addition of an auxiliary gymnasium at Jamestown High school and to bring the existing school into conformance with the Zoning Ordinance should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 0027-2010 as described herein with the following conditions:

1. Gymnasium: This SUP shall be valid for the existing public school, associated fields, trails, parking areas, accessory uses, and the construction of an auxiliary gym located at 3751 John Tyler Highway and further identified as James City County Real Estate Tax Map No. 4610100002d. The auxiliary gymnasium shall be developed generally as shown on the exhibit drawn by MSA, PC entitled "Exhibit of Auxiliary Gymnasium Addition at Jamestown High School" and dated October 20, 2010, with only minor changes and/or additions that do not change the basic concept or character of the development as determined by the Planning Director.
2. Architecture: The auxiliary gymnasium and future additions/exterior renovations shall be consistent with the current façade color, building materials, and architectural style as determined by the Planning Director. Architectural deviations may be approved by the Planning Director. Appeals of the Planning Director's decisions regarding architectural consistency shall be heard by the Development Review Committee (DRC).
3. Water Conservation: The Williamsburg-James City County School Board 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 site 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.

4. Commencement of Construction: If construction has not commenced on this project within thirty-six (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.
5. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

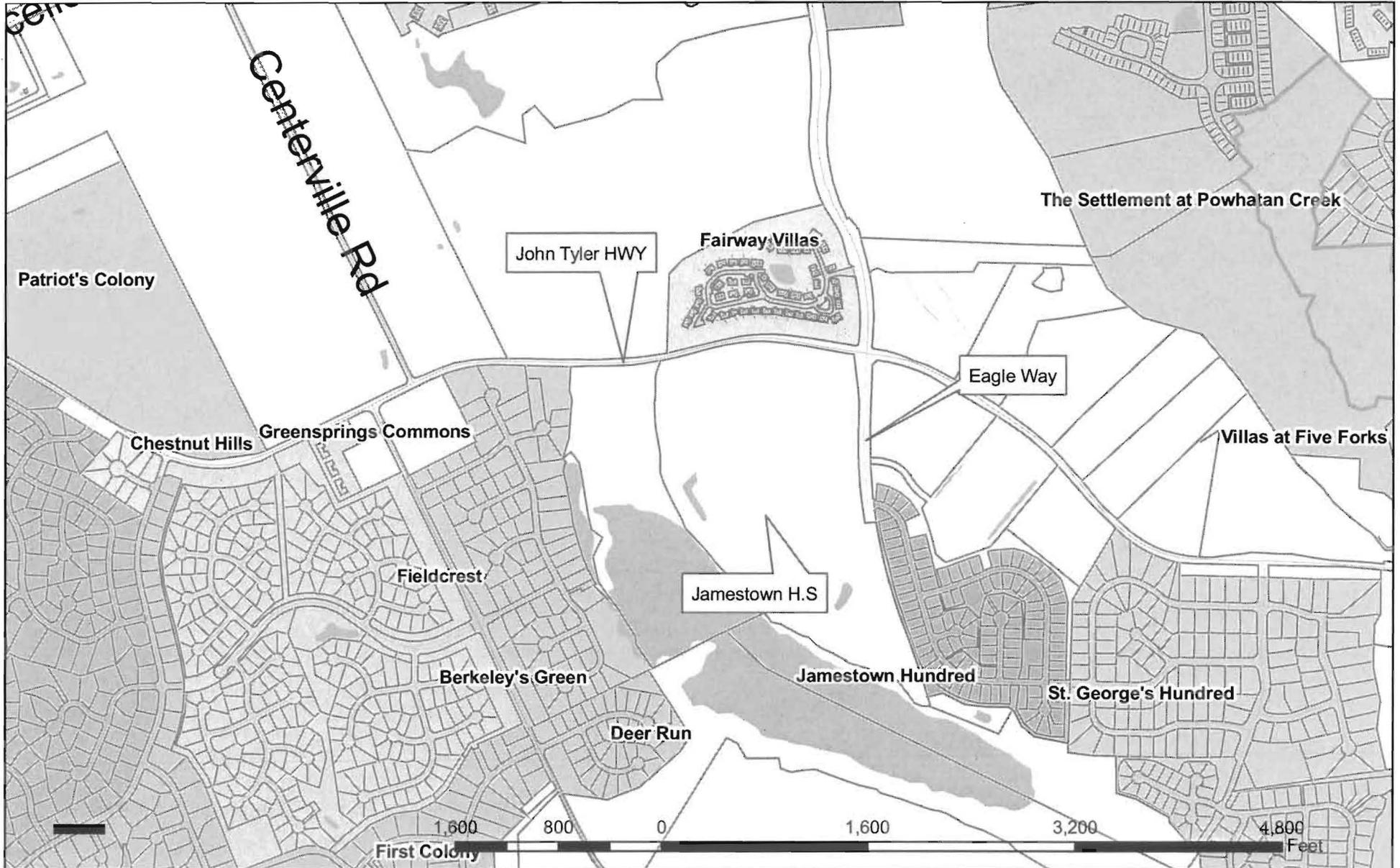
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

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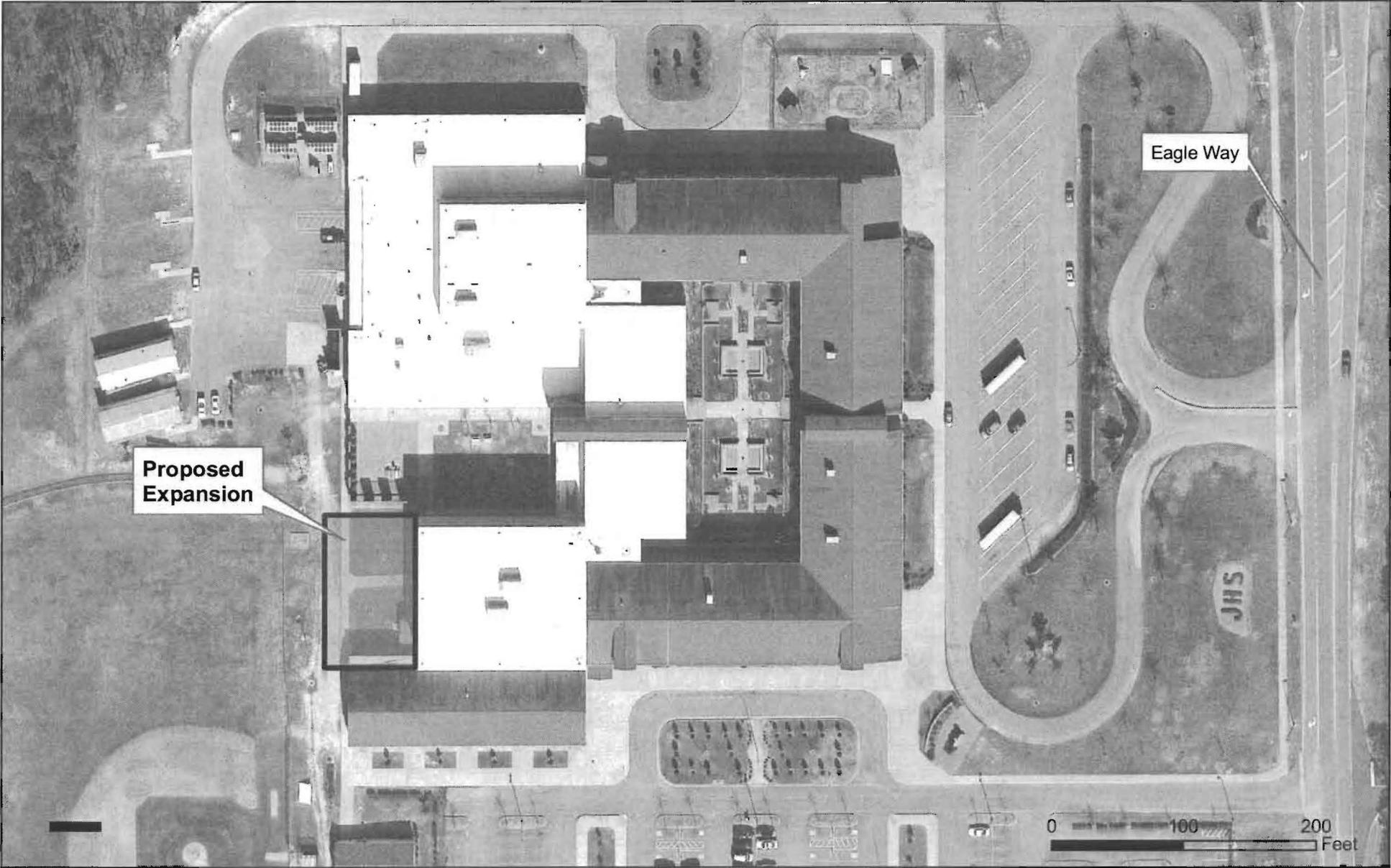
SUP-0027-2010

Jamestown H.S. Aux Gym



SUP-0027-2010

Jamestown H.S. Aux Gym



AGREEMENT

111

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

All that certain lot, piece or parcel of land situate in James City County, Virginia, more fully shown and described as Parcel (1) 80.01 acres \pm , on a plat entitled "PLAT OF SUBDIVISION BEING THE PROPERTY OWNED BY DAVID M. MURRAY" dated January 9, 1991, made by G. T. Wilson of AES, Consulting Engineers, said plat being attached hereto and made a part hereof.

WHEREAS, pursuant to Section 15.1-496.6 of the Code of Virginia, 1950, as amended, the owner has applied for an amendment, nunc pro tunc, of the conditions created pursuant to Case No. Z-21-86 which amendment would remove the Property from the application of said conditions; and

WHEREAS, the County of James City may be unwilling to amend said conditions because said conditions may be deemed necessary for the orderly development of the Property, because competing and incompatible uses may conflict; and

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

WHEREAS, the owner is desirous of offering certain conditions in lieu of the conditions created pursuant to Case No. Z-21-86 for the protection of the community, which other conditions are not applicable to land similarly zoned in addition to the regulations provided for in the Limited Residential District, R-1.

NOW, THEREFORE, this agreement witnesseth:

That for and in consideration of James City County, Virginia, amending the conditions created pursuant to Case No. Z-21-86 by removing the Property from the application of said conditions, nunc pro tunc, and pursuant to Section 15.1-491.1 et seq of the Code of Virginia, 1950, as amended, and Section 20-15 et seq of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Limited Residential District, R-1, but subject to the other current limitations set forth in the aforesaid Codes, he will meet and comply with all of the following conditions for the development of the Property.

CONDITIONS

1. The property shall be developed in accordance with the then applicable provisions of the Regulations Governing Utility Service adopted by the James City Service Authority. In no event shall any development of the property be approved unless public water and sewer is available with adequate capacity to serve that development.
2. The owner shall, upon a request by the James City County Board of Supervisors, dedicate any and all property deemed necessary for the improvement of Route 5 to a four-lane facility. All site improvements and structures, except for future improvements to Route 5 deemed necessary by the County or as otherwise noted within this agreement shall be setback a minimum of 210 feet from the center line of the existing right of way of Route 5. Existing trees, shrubbery and vegetation within this setback area shall remain as is with the exception of the Route 5 improvements noted above or any entrance roads, entrance improvements, entrance related clearing, drainage structures, stormwater management facilities, utilities, and entrance signs approved by the Development Review Committee of the James City County Planning Commission.
3. A single entrance shall be permitted on Route 5. Provisions shall be made to allow joint access through this entrance for the adjacent property owner.

Thomas K. Norment, Jr.
 Thomas K. Norment, Jr.
 Chairman, Board of Supervisors

STATE OF VIRGINIA
 CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 9th day of September, 1991.

Mari Len Smith
 Notary Public

My commission expires: Feb. 8, 1993.

UNAPPROVED MINUTES - DECEMBER 1, 2010 PLANNING COMMISSION MEETING

SUP-0027-2010. Jamestown High School Auxiliary Gymnasium

Mr. Luke Vinciguerra stated that Mr. Alan Robertson, representing Williamsburg-James City County (WJCC) Schools, has applied for a special use permit to construct an auxiliary gym at Jamestown High School. He further stated that staff recommends approval of the application with attached conditions which would permit the addition of the gym and put the school as a whole into conformance with the Zoning Ordinance.

Mr. Peck opened the public hearing.

Mr. Peck closed the public hearing.

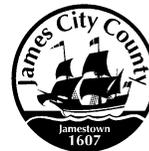
Mr. Fraley moved to recommend approval.

Mr. Al Woods asked about potential damage to the foundation from the sewer pipe.

Mr. Vinciguerra stated the proposed expansion would come within 8 feet of an existing sewer line. He stated that the James City Service Authority (JCSA) regulations require a 10 foot setback. The sewer line would be placed over a JCSA easement, which would cause the easement to be abandoned. WJCC would assume responsibility for any maintenance and repair of the sewer line. JCSA is unwilling to assume responsibility of encroaching into the setback.

Mr. Alan Robertson stated that based on his discussions with JCSA, he did not believe the issues caused by the sewer line's proximity to be insurmountable. He stated that based on current techniques, no problems were expected.

In a unanimous roll call vote, the Commission recommended approval (7-0).



MEMORANDUM COVER

Subject: Case No. SUP-0026-2010. Tractor Supply Company, Norge Center

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the resolution that allows the construction of a farm supply store with vehicle and trailer sales on the property located at 7508 Richmond Road?

Summary: Mr. Kenneth Beuley of TKC CL, LLC has applied for a Special Use Permit (SUP) to allow the construction of a 19,000-square-foot farm supply store with approximately 21,200 square feet of outdoor sales and display areas. An SUP is required in accordance with Section 24-11 of the Zoning Ordinance to allow a commercial building over 10,000 square feet and also per Section 24-391 to allow vehicle and trailer sales.

Staff finds the proposed farm supply store to be consistent with surrounding land uses. The attached conditions will mitigate any impacts created by the development. On December 1, 2010, the Planning Commission approved the parking waiver request and recommended approval of this SUP request by a vote of 7-0.

Staff recommends approval of SUP-0026-2010 with the conditions listed in the resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No
N/A

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Staff Report
2. Resolution
3. Location Map
4. Unapproved Planning Commission Minutes
5 Community Impact Statement (CIS) includes the Off-Street Parking Waiver Request Letter, Architectural Elevations, and the Binding Master Plan (previously submitted)

Agenda Item No.: H-2

Date: January 25, 2011

**SPECIAL USE PERMIT-0026-2010. Tractor Supply Company, Norge Center
Staff Report for the January 25, 2011, 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

December 1, 2010, 7:00 p.m.
January 11, 2011, 7:00 p.m. (applicant deferral)
January 25, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant: Kenneth Beuley of TKC CL, LLC

Land Owner: Norge Center Incorporated

Proposal: To construct a retail farm supply store of approximately 19,000 square feet with approximately 21,200 square feet of outdoor sales and display and to allow vehicle and trailer sales on the site.

Location: 7508 Richmond Road

Tax Map/Parcel No.: 2320100071

Parcel Size: 25.35 acres. The parcel will be subdivided to accommodate the proposed farm supply store on an area approximately 3.41 acres in size.

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

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds that the proposed farm supply store is consistent with surrounding land uses. The attached conditions will mitigate any impacts created by the development. Staff recommends that the Board of Supervisors approve SUP-0026-2010 with the conditions listed in the attached resolution.

Staff will respond to board questions received on this case in a separately distributed document.

PLANNING COMMISSION RECOMMENDATION

On December 1, 2010, the Planning Commission approved the parking waiver request and recommended approval of this Special Use Permit (SUP) request by a vote of 7-0.

Staff Contact: Sarah Propst, Planner Phone: 253-6685

Proposed Changes Made Since the Planning Commission Meeting

At the request of the applicant Condition No. 1 was changed. "Farm Use" was replaced with "Agricultural or Landscape Use" and the description of "utility trailers" includes "landscape, open, or enclosed utility trailers."

Condition No. 1 reads:

Master Plan: This SUP shall permit: (1) the construction of an approximately 19,000-square-foot, 1-story retail store building (the "Store") on the property located at 7508 Richmond Road and also identified as James City County Real Estate Tax Map Parcel No. 2320100071 (the "Property") along with a fenced outdoor sales area to the east of the Store equal to or less than 15,000 square feet, an outdoor equipment display area immediately in front of the Store equal to or less than 3,200 square feet, and a 3,000-square-foot permanent trailer and equipment display area as shown on the plan; and (2) the sales of vehicles and trailers on the Property. For the purposes of this SUP: (1) "vehicles" shall be limited to those typically associated with ~~farm~~ *agricultural or landscape* use (e.g., all terrain vehicles (ATVs), bobcats, tractors, etc.) and shall specifically exclude cars, trucks, or recreational vehicles (RVs); and (2) "trailers" shall be limited to those typically associated with ~~farm~~ *agricultural or landscape* use (e.g., *landscape, open or enclosed utility trailers*) and shall specifically exclude manufactured homes, office trailers, or tractor/trailer rigs. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Tractor Supply Company 19,000 S.F. Retail Norge Center," prepared by AES Consulting Engineers date stamped September 20, 2010 (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

At the request of the Planning Commission Condition No. 6 was changed.

Condition No. 6 reads:

Fencing: The fencing used to enclose the "Fenced Outdoor Sales Area" shall be vinyl-coated and shall be dark green or black in color *and all fencing facing Route 60 shall be dark green or black in color and shall be constructed of aluminum or a similar material.* All fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.

Staff concurs with both of the above condition changes and they have been included in the attached resolution.

PROJECT DESCRIPTION

Mr. Kenneth Beuley of The Keith Corporation has applied for a special use permit to allow the construction of a 19,000-square-foot farm supply store with approximately 21,200 square feet of outdoor sales and display areas. An SUP is required in accordance with Section 24-11 of the Zoning Ordinance to allow a commercial building over 10,000 square feet and also per Section 24-391 to allow vehicle and trailer sales.

The proposed farm supply store will be part of the Norge Center Shopping Center and the store's parking lot will connect with the existing Farm Fresh parking lot. The proposed development will provide fewer parking spaces than is required by the Ordinance. The applicant submitted a waiver request to the off-street parking requirement which the Planning Commission approved subject to the approval of the SUP. The proposed store will be accessed via two private roads, one from Norge Lane and one from Richmond Road. Shared access easements are required (Condition No. 3).

Site Properties:

The proposed development would be built on a 3.41-acre site of the existing 25.35-acre parcel. The applicant intends to subdivide the property for the development. If the subdivided parcel does not contain the required access to a public right-of-way, a Subdivision Ordinance exception will be required prior to approval of the subdivision plat. The property is located at 7508 Richmond Road and is zoned B-1, General Business, with proffers. It is designated Community Commercial by the 2009 Comprehensive Plan. Properties to the south and west are also zoned B-1, with proffers. The Station at Norge apartments located to the west across Croaker Road are zoned R-5, Multifamily Residential, and properties to the north, across the CSX rail line, are zoned PL, Public Lands and A1, General Agricultural. This development is located within the Norge Community Character Area.

During the Planning Commission meeting, there was some public comment in opposition to the proposed Tractor Supply Company store. Please see the attached meeting minutes for additional information regarding these comments.

Topography and Soils:

The topography slopes gently to the north and west of the site. Elevations on the property average approximately 115 feet above mean sea level. The predominant soil types in the area of the proposed development are described as fairly-well to moderately-well drained soils.

PUBLIC IMPACTS

Archaeology

The subject property has historically been in agricultural use and is not located within an area identified as a highly sensitive area in the “Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia” document.

Planning Division Comment: Staff finds that given the size and nature of the site, an archaeological study is not necessary.

Environmental

Watershed: The York River watershed, Skimino Creek subwatershed.

Special Stormwater Criteria requirements will not apply unless it is determined during site plan review by the Environmental Director that the engineered drainage pattern will direct stormwater to the Yarmouth Creek watershed.

Planning Division Comment: Staff notes that Condition No. 4 has been designed to encourage the infiltration of water on the proposed development site utilizing Low Impact Development (LID) techniques and require Special Stormwater Criteria if storm water drainage is directed toward the Yarmouth Creek watershed.

Public Utilities

Staff Comment: The site is located within the Primary Service Area (PSA) and will be served by public water and sewer. James City Service Authority (JCSA) staff has provided the applicant with preliminary comments to consider during the site plan review process and guidelines for developing the water conservation standards. Water Conservation standards are part of the SUP conditions for this proposal (Condition No. 2).

Transportation

- **2007 Traffic Counts:** On Richmond Road (Route 60) from Croaker Road (Route 607) to Norge Elementary, 21,892 average daily trips.
- **2035 Volume Projected:** On Richmond Road (Route 60) from Croaker Road (Route 607) to Norge Elementary, projected 39,110 average daily trips - “Watch” category in the 2009 Comprehensive Plan.
- **Access:** The property lies within the Norge Center Shopping Center which is primarily accessed through the signalized intersection of Richmond Road and Norge Lane. An off-site right-in and right-out shared entrance from Richmond Road will be the other access point. Both of the access roads are private drives and a shared access easement will need to be obtained (Condition No. 3).

VDOT Comments: The Virginia Department of Transportation (VDOT) does not have data on the proposed use but concurs with the traffic analysis conclusions that no traffic improvements are warranted. Trip generation associated with the proposed development introduces approximately 16 new AM peak hour vehicle trips per hour and 30 PM peak hour vehicle trips per hour. Daily trips were not calculated; however based on peak hour trips, daily trips for the proposed use are below the threshold required to warrant a full traffic impact study.

Planning Division Comments: Staff concurs with VDOT’s comments. No road improvements are warranted as part of this proposal.

Parking: The ordinance requires one parking space per every 200 square feet of retail space and one parking space per 500 feet of outdoor retail sales and display areas. Given the size of the proposed retail building and outdoor storage area, this would require 137 parking spaces. The applicant has requested to decrease the amount of parking provided, based on parking needs at other similar stores, to 70 parking spaces. The applicant has submitted a waiver request to the off-street parking requirement, in accordance with Section 24-59 (g)(2) of the Zoning Ordinance. A copy of the waiver request is included in the bound materials.

Minimum Off-Street Parking Waiver: Section 24-59 (g)(2) of the Zoning Ordinance states that “A property owner may be granted a waiver by the planning commission from the minimum off-street parking requirements if it can be shown that due to unique circumstances a particular activity would not reasonably be expected to generate parking demand sufficient to justify the parking requirement. Any waiver granted by the planning commission shall apply only to the number of spaces required and shall not allow a greater building area than would have been possible had the original parking requirement been enforced. The planning commission may place conditions upon granting of a waiver and may require that the parking area not required upon the granting of the waiver be landscaped in addition to the minimum landscaping requirements.”

Based on ordinance requirements, the proposed building generates the need for a total of 95 parking spaces and the 21,200-square-foot outdoor display area requires an additional 42 parking spaces. The applicant proposes that 70 parking spaces will accommodate the parking needs for this proposal, based on the parking needs of other Tractor Supply Company stores of a similar size. Staff recommended approval of this parking waiver and the Planning Commission approved the parking waiver request subject to approval of the SUP.

COMPREHENSIVE PLAN

Land Use Map

General	<i>Community Commercial 143:</i> Community commercial areas are located within the PSA and contain general business which has a moderate impact on nearby development. Community commercial areas are at or near arterial streets, preferably at intersections with collector and arterial streets. Community commercial developments include community-scale commercial, professional and office uses, general retail, grocery stores, and shopping centers.
	Staff Comment: Staff finds the proposed commercial development to be in keeping with the intent and land use recommendations for community commercial areas as indicated by the Land Use Section of the 2009 Comprehensive Plan.

Economic Development

Goals, Strategies, and Actions	<i>Action No. 5.2-Page 25:</i> Encourage new development and redevelopment of non-residential uses to occur mainly in areas where public utilities are either available or accessible within the PSA and infrastructure is supportive. <i>Action No. 5.5.1-Page 25:</i> Emphasize the attraction, retention, and expansion of businesses that are less water dependent.
	Staff Comment: The location of the proposed Tractor Supply Company is within the PSA and adequate facilities exist. SUP Condition No. 2 ensure water conservation standards for this proposal.

Environment

York River Watershed	This site drains to the York River. The York River does not have an adopted watershed management plan.
	Staff Comment: This project is located within the York River watershed. Special Stormwater Criteria requirements do not apply unless it is determined that the stormwater drainage pattern is altered by the development to drain to the Yarmouth Creek watershed.

Goals, Strategies, and Actions	<i>Action No. 1.2-Page 61:</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs).
	Staff Comment: The site is located within the York River watershed. If the Environmental Director determines at the site plan review level that a portion of the site drains to the Yarmouth Creek watershed Special Stormwater Criteria requirements will apply. The applicant has agreed to Condition No. 4 to utilize LID practices and achieve a minimum of two unit measures as defined by <i>Special Stormwater Criteria in James City County</i> (adopted December 14, 2004).

Transportation:

Richmond Road	<i>Description-Page 116:</i> Although future volumes indicate the potential need for widening Richmond Road between Centerville Road and Croaker Road, it is recommended that Richmond Road remain four lanes. Widening in these sections, which includes Norge, should be avoided or limited due to the physical limitations and the negative impacts on existing uses and the character of this historic community.
	Future commercial and residential development proposals along Richmond Road should concentrate in planned areas and will require careful analysis to determine the impacts such development would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination is crucial.
	Staff Comment: According to the applicant’s analysis, the traffic generated by this proposal will not negatively affect the current Level of Service for this segment of Richmond Road. VDOT concurs that this proposal will not require additional signals or entrances onto Richmond Road.

Community Character Area:

Norge	<i>Description-Page 69:</i> Norge has been significantly impacted by recent commercial development along Richmond Road. While Norge continues to have a unique, very identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts, the early 20th century “village” character of its business and residential areas along Richmond Road has been significantly impacted by infill automobile-oriented development.
	Staff Comment: The applicant has provided architectural elevations (found in the bound CIS) for the proposed building. The applicant has agreed to match the colors used on the Farm Fresh to develop the appearance of a cohesive shopping center. Staff has drafted a condition ensuring the final architecture of the building to be similar to the architectural elevations presented with this application (Condition No. 5).

Staff Comment

Staff finds that this proposal is consistent with Comprehensive Plan recommendations for this area. Staff also finds that the proposed development promotes a balance between two important elements concerning land development in Norge, the economic benefits for the area (i.e. generation of employment and revenues, expansion of services and amenities, etc.) and the desire to preserve the character of Norge.

The Comprehensive Plan (page 69) outlines design standards intended to guide future development and redevelopment in the Norge area. Staff finds that the applicant has addressed some of the Norge design standards primarily by providing measures such as: (i) the scale and color of this building will be consistent with the existing shopping center; (ii) shared access (Condition No. 3); and (iii) no additional automobile oriented signage will be created for this development.

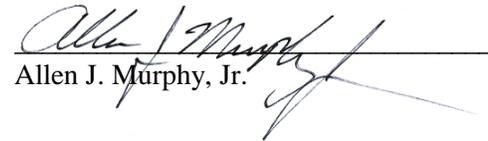
RECOMMENDATION

On December 1, 2010, the Planning Commission recommended approval of this application by a vote of 7-0. Staff finds that the proposed farm supply store is consistent with surrounding land uses. The attached conditions will mitigate any impacts created by the development. Staff recommends that the Board of Supervisors approve SUP-0026-2010 with the conditions listed in the attached resolution.



Sarah Propst

CONCUR:



Allen J. Murphy, Jr.

SP/gb
SUP26-10Tractor.doc

ATTACHMENTS:

1. Resolution
2. Location Map
3. Unapproved Minutes from the December 1, 2010, Planning Commission Meeting
4. Community Impact Statement (CIS) includes the Off-Street Parking Waiver Request Letter, Architectural Elevations, and the Binding Master Plan (previously submitted)

RESOLUTION

CASE NO. SUP-0026-2010. TRACTOR SUPPLY COMPANY, NORGE CENTER

- 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, Kenneth Beuley has applied on behalf of TKC CL, LLC for an SUP to allow for the construction of a retail farm supply store with vehicle and trailer sales on approximately 3.41 acres zoned B-1, General Business, with proffers; and
- WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers, dated September 20, 2010, (the "Master Plan") and entitled "Tractor Supply Company 19,000 S.F. Retail Norge Center"; and
- WHEREAS, the property is located at 7508 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2320100071 (the "Property"); and
- WHEREAS, the Planning Commission, following its public hearing on December 1, 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 Property.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0026-2010 as described herein with the following conditions:

1. Master Plan: This SUP shall permit: (1) the construction of an approximately 19,000-square-foot, one-story retail store building (the "Store") on the property located at 7508 Richmond Road and also identified as James City County Real Estate Tax Map Parcel No. 2320100071 (the "Property") along with a fenced outdoor sales area to the east of the Store equal to or less than 15,000 square feet, an outdoor equipment display area immediately in front of the Store equal to or less than 3,200 square feet, and a 3,000-square-foot permanent trailer and equipment display area as shown on the plan; and (2) the sales of vehicles and trailers on the Property. For the purposes of this SUP: (1) "vehicles" shall be limited to those typically associated with agricultural or landscape use (e.g., all terrain vehicles (ATVs), bobcats, tractors, etc.) and shall specifically exclude cars, trucks, or recreational vehicles (RVs); and (2) "trailers" shall be limited to those typically associated with agricultural or landscape use (e.g., landscape, open or enclosed utility trailers) and shall specifically exclude manufactured homes, office trailers, or tractor/trailer rigs. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Tractor Supply Company 19,000 S.F. Retail Norge Center," prepared by AES Consulting Engineers date stamped September 20, 2010 (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

2. Water Conservation: The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
3. Shared Access Easement(s): Prior to final site plan approval for the Store, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easement(s) have been obtained and recorded, as applicable, allowing vehicular access to the Property via the private roadways shown on the plan as the Shared Access Drive from Norge Lane and the Shared Entrance from Richmond Road.
4. Low Impact Development: If the site completely drains to the York River, Special Stormwater Criteria requirements will not apply. If it is determined by the Environmental Director that stormwater is draining to the Yarmouth Creek because of the engineered drainage pattern, Special Stormwater Criteria will apply to the area which drains into the Yarmouth Creek. Low Impact Development (“LID”) techniques shall be used such that the total extent of the LID on the Property shall achieve a minimum of two unit measures as defined by *Special Stormwater Criteria in James City County* (adopted December 14, 2004). The proposed LID techniques to be implemented shall be approved by the Environmental Director prior to site plan approval. All approved LID techniques shall be constructed on the Property prior to the release of the posted erosion and sediment control surety.
5. Architectural Review: Prior to final site plan approval, the Director of Planning, or his designee, shall review and approve the final building elevations, architectural design, colors, and materials for the Store, each of which shall be consistent, as determined by the Director of Planning or his designee, with the architectural elevations titled “James City County Elevations” and dated November 18, 2010, submitted with this SUP application and prepared by Oxford Architecture.
6. Fencing: The fencing used to enclose the “Fenced Outdoor Sales Area” shall be vinyl-coated and shall be dark green or black in color and all fencing facing Route 60 shall be dark green or black in color and shall be constructed of aluminum or a similar material. All fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
7. Dumpsters: All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened with landscaping and/or fencing approved by the Director of Planning or his designee prior to final site plan approval.
8. Outdoor Display Areas: Vehicles, equipment, or garden materials for sale on the Property shall only be displayed in those areas specifically indicated on the Master Plan as “Permanent Trailer and Equipment Display Areas,” “Permanent Sidewalk Display Area,” or “Fenced Outdoor Sales Area.”

9. 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.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

SUP26-10Tractor_res

SUP-0026-2010, Tractor Supply Company, Norge Center



Existing 25.35 acre parcel

Proposed 3.41 acre development site

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section. Aerial Imagery Copyright 2005 James City County.

1 inch = 452 feet
0 0.05 0.1 Miles

UNAPPROVED MINUTES - DECEMBER 1, 2010 PLANNING COMMISSION MEETING

SUP-0026-2010. Tractor Supply Company at Norge Center

Ms. Propst stated that Keith Beuley, of the Keith Corporation, has applied for a special use permit to construct a 19,000 square foot farm supply store with vehicle and trailer sales at 7508 Richmond Road. The property is zoned B-1, General Business. The applicant has also applied for a parking waiver. Staff recommends approval of the SUP with conditions as well as the parking waiver. Staff also recommends amending Condition #1 language from 'farm' to 'agricultural or landscape' and 'utility trailers' to 'landscape, open, or enclosed utility trailers.'

Mr. Peck opened the public hearing.

Mr. Fraley asked if the applicant would be willing to consider decorative fencing along Richmond Road.

Ms. Beth Livingston, representing the Keith Corporation, stated the fencing along the road would be black or dark green.

Mr. Fraley stated there had been recent stormwater systems failing despite professional design and County review. He stated that the Commission's only opportunity to review the stormwater system was at the master plan level. There are no pre-treatment facilities for the basin on the master plan. He asked if the stormwater engineer had considered using the area under the parking lot.

Mr. Marc Bennett, AES Consulting Engineers, stated that infiltration and storage under the parking lot were both considered for the site. He stated storage under the pavement is more expensive than the proposed surface-mounted features.

Mr. Fraley asked if the design was cheaper and more efficient.

Mr. Bennett stated that was correct.

Mr. Fraley asked how the design would ensure the use of pre-treatment techniques and handle outflows.

Mr. Bennett stated the design received feedback from the County's Environmental Division. He stated staff recommended fewer pipes and inlets. Pre-treatment is desirable. Due to the highly permeable soils onsite, most stormwater will be totally infiltrated. A grass swale is planned to remove heavier sediments and trash accumulated on the pavement before it can dump into the pond. On the eastern edge of the property, slope will lead to a French drain network which will keep trash out of the basin. A forebay serves the northeast section of the property. The facilities will have a long life-span. An oversize riser structure will handle large storm events.

Mr. Fraley stated he had concerns with the piping being able to accommodate a special storm event.

Mr. Bennett stated the soils were unusually permeable. He stated the system's key is maintaining soil profiles. There is a greater risk of a maintenance failure than a blow-out.

Mr. Fraley asked who was responsible for the stormwater system maintenance.

Mr. Bennett stated the property owner was responsible.

Mr. Fraley asked if Environmental staff was concerned with the system's capacity to handle a major storm event.

Mr. Bill Cain stated he was not concerned. He stated Mr. Bennett was experienced in designing stormwater systems.

Mr. Peck opened the public hearing.

Mr. John Fleet, co-owner of James River Fleet Brothers at 7761 Richmond Road, stated he was concerned with the Tractor Supply Company's store's effect on three local farming and agricultural supply businesses. He stated he was concerned with competition, job losses, loss of community character, aesthetics, and inconsistent regulations for his SUP and Tractor Supply Company's. He asked the Commission to delay their vote until he can determine local impacts.

Mr. Fraley stated the Tractor Supply Company would be 550 feet from Richmond Road and therefore not subject to Community Character Corridor requirements.

Mr. Fraley moved to recommend approval of the SUP with amendments to Condition #1 language and Condition #4 fencing and approval of the parking waiver.

Mr. Kinsman stated the amended Condition #4 would read '...the fencing used to enclose the 'fenced' outdoor sales area shall be vinyl coated and shall be dark green or black in color and all fencing facing Rt. 60 shall be constructed of aluminum or similar material. All fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.'

Mr. Poole stated the fencing should all be single color.

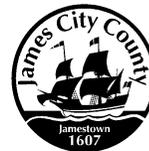
Mr. Kinsman stated the condition language would now read 'all fencing facing Rt. 60 shall be dark green or black in color and shall be constructed of aluminum...'

Mr. Rich Krapf stated that that Commission's role is to make land use recommendations. He stated it was not within the Commission's purview to examine business decisions.

Mr. Poole stated he supported the application due to its distance from the Community Character Corridor, the neighboring large retailer, its zoning, and its designation. He stated it was not within the Commission's purview to keep out a national retailer. He appreciated the applicant working to improve several design features to better fit the Norge area.

Mr. Mike Maddocks stated the Commission's role was to review land use and not competition. He stated he was prepared to recommend approval.

In a unanimous voice vote, the Commission recommended approval (7-0).



MEMORANDUM COVER

Subject: Special Use Permit-0025-2010. Colonial Towne Plaza Flea Market

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the resolution that allows the operation of a flea market on Saturdays and Sundays on a portion of the property located at 6925 Richmond Road?

Summary: Mr. Tim Trant has applied for a Special Use Permit (SUP) to allow for the operation of a flea market at 6925 Richmond Road. The flea market intends to operate in the parking lot and side yard of the Colonial Towne Plaza Antique Mall. The flea market would be allowed to have up to 35 vendors and would operate between the hours of 7 a.m. and 6 p.m. on Saturdays and Sundays.

This proposed use is complementary to surrounding land uses. On December 1, 2010, the Planning Commission recommended approval of this SUP request by a vote of 7-0.

Staff recommends approval of this application with the conditions listed in the resolution.

Fiscal Impact: N/A.

FMS Approval, if Applicable: Yes No
N/A

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Staff Report
2. Resolution
3. Location Map
4. Master Plan
5. Photos of the Flea Market
6. Approved Planning Commission Minutes

Agenda Item No.: H-3
Date: January 25, 2011

**SPECIAL USE PERMIT-0025-2010. Colonial Towne Plaza Flea Market
Staff Report for the January 25, 2011, 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

December 1, 2010, 7:00 p.m.
January 25, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Timothy O. Trant, II of Kaufman and Canoles, P.C.

Land Owner: David W. Ware Marital Trust

Proposal: The applicant has applied for a Special Use Permit (SUP) to allow the operation of a flea market on Saturdays and Sundays on a portion of the Colonial Towne Plaza Shopping Center

Location: 6925 Richmond Road

Tax Map/Parcel No.: 2430100003

Parcel Size: 25 acres. The flea market will utilize approximately an acre of the parcel

Zoning: B-1, General Business

Comprehensive Plan: Community Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

This proposed use is complementary to surrounding land uses. Staff recommends that the Board of Supervisors approve this application with the conditions listed in the resolution.

Staff Contact: Sarah Propst, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On December 1, 2010, the Planning Commission recommended approval of this SUP request by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

At the request of the Planning Commission and the concurrence of Planning staff, the word “customer” has been added to Condition No. 2. It now reads:

Parking: No *customer* parking shall be allowed on any unpaved surface. All unpaved areas shall be flagged and labeled with “No Parking” on the weekend.

PROJECT DESCRIPTION

Mr. Tim Trant has applied for an SUP to allow for the operation of a flea market at 6925 Richmond Road. Flea markets are a specially permitted use in B-1, General Business, zoning district. The flea market intends to operate in the parking lot and side yard of the Colonial Towne Plaza Antique Mall. The flea market would be allowed to have up to 35 vendors and would operate between the hours of 7 a.m. and 6 p.m. on Saturdays and Sundays (Condition No. 1).

The property fronts on Richmond Road, which is designated as a Community Character Corridor in the 2009 Comprehensive Plan. This property is zoned B-1, General Business, and is designated Community Commercial in the 2009 Comprehensive Plan. While this use is not consistent with the uses listed in the Comprehensive Plan, this development is a complementary use which utilizes existing infrastructure and parking and will not require any construction for the operation. A flea market received an SUP, at this same location, in 1998 (SUP-0020-1998) but failed to receive site plan approval before the SUP expired on December 8, 2002.

PUBLIC IMPACTS

Archaeology

Planning Division Comment: Given the nature of the proposed use, staff finds that no archaeological study is necessary.

Environmental

Watershed: Yarmouth Creek

Environmental Staff Comments: Environmental Staff has reviewed the application and has no comments at this time.

Planning Division Comments: There will be no increase in impervious cover or land disturbance.

Public Utilities

JCSA Staff Comment: The site is located within the Primary Service Area (PSA). The flea market will utilize the public restrooms provided by the Antique Mall. The James City Service Authority (JCSA) staff had no comments.

Planning Division Comments: Staff notes that a condition was added to ensure that restrooms are available during operating hours in the Antique Mall (Condition No. 6).

Transportation

2007 Traffic Counts: From Norge Elementary to Centerville Road, approximately 26,018 average daily trips.

2035 Volume Projected: From Norge Elementary to Centerville Road, projected 39,110 vehicles per day on a four-lane divided road - "Recommended for Improvement" category in the 2009 Comprehensive Plan.

Road Improvements: There have been no road improvements proposed.

During the review of the previous SUP, the Virginia Department of Transportation (VDOT) found site access to be acceptable. A traffic study is not required because the proposed use will not generate enough additional vehicle trips to warrant a traffic study.

Planning Division Comments: The flea market is not expected to generate traffic above what is presently observed on the subject property. This SUP is requesting approximately half the number of vendors as the previous SUP (SUP-0020-1998).

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>Community Commercial-Page 143:</i> Community commercial areas are located within the PSA and contain general business which has a moderate impact on nearby development. Community commercial areas are at or near arterial streets, preferably at intersections with collector and arterial streets. Community commercial developments include community-scale commercial, professional and office uses, general retail, grocery stores, and shopping centers.</p> <p>Staff Comment: Staff finds the flea market use is not the primary use of the property and that it complements the existing commercial development which meets the intent of the community commercial land use designation of the 2009 Comprehensive Plan.</p>
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Economic Development

Goals, Strategies and Actions	<p><i>Action No. 1.1-Page 24:</i> Maintain an active and effective Economic Development strategy, which includes existing business retention and expansion, the formation of and assistance to new business, and new core business recruitment.</p> <p><i>Action No. 1.2-Page 24:</i> Encourage the creation of new and retention of existing small business...</p> <p>Staff Comment: The retention of the successful, small-scale businesses found at the flea market is in keeping with the intent of the Economic Development section of the Comprehensive Plan.</p>
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Environmental

Goals, Strategies, and Actions	<p><i>Strategy No. 1.1-Page 61:</i> Promote development and land use decisions that protect and improve the function of wetlands and the quality of water bodies.</p> <p><i>Action No. 1.2-Page 61:</i> Promote the use of Better Site Design, Low Impact Development, and effective Best Management Practices (BMPs).</p> <p>Staff Comment: The operation of the flea market will not require any land disturbance or create any additional impervious cover.</p>
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Transportation

General	<p><i>Richmond Road-Page 116:</i> Future commercial and residential development proposals along Richmond Road should concentrate in planned areas and will require careful analysis to determine the impacts such development would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination is crucial.</p> <p>Staff Comment: This use will have a minimal impact on this section of Richmond Road and will utilize existing entrances.</p>
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Community Character Area

Goals, Strategies, and Actions	<p>Action No. 1.1.10-Page 98: Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County by preserving buffers and minimizing the need for road improvements, among other techniques.</p>
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	Staff Comment: The use of this property as a flea market on the weekends will not negatively impact the small town character of the area. Condition No. 3 requires that a landscaping plan be submitted during the site plan review process. Landscaping the property includes replacing any missing plants in the hedgerow along Richmond Road with plants of a similar size and variety. Lastly, given that this use will not cause an increase in trip generation, staff finds that this use will not have an adverse impact on the traffic on Route 60.
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Staff Comments:

Staff finds that the proposed use, with the attached conditions, is appropriate as a complimentary use to the antique mall on the property. The flea market will utilize existing infrastructure and utilities and will not create additional impervious cover. A site plan, with a landscaping plan, must be approved within one year of the SUP approval (Condition No. 4). In order to assure that this use is in character with future developments on the property, the SUP will have a term of validity of eight years from site plan approval and must receive an SUP renewal prior to its expiration (Condition No. 7).

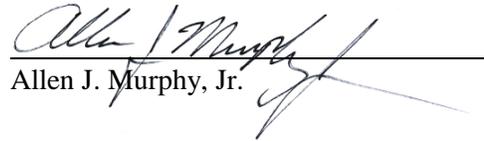
RECOMMENDATION

On December 1, 2010, the Planning Commission recommended approval of this application by a vote of 7-0. This proposed use is complementary to surrounding land uses. Staff recommends the Board of Supervisors approve SUP-0025-2010 with the conditions listed in the attached resolution.



Sarah Propst

CONCUR:



Allen J. Murphy, Jr.

SP/gb
Sup2510FleaMkt.doc

ATTACHMENTS:

1. Resolution
2. Location Map
3. Master Plan
4. Photos of the Flea Market
5. Approved Planning Commission Minutes from December 1, 2010

RESOLUTION

CASE NO. SUP-0025-2010. COLONIAL TOWNE PLAZA FLEA MARKET

- 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. Timothy O. Trant, II has applied on behalf of Kaufman and Canoles, P.C. for an SUP to allow for the operation of a flea market on a portion of a 25-acre parcel of land zoned B-1, General Business; and
- WHEREAS, the proposed development is shown on a plan prepared by Kaufman and Canoles, P.C. dated September 24, 2010, (the "Master Plan") and entitled "SUP-0025-2010, Colonial Towne Plaza Flea Market"; and
- WHEREAS, the property is located at 6925 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2430100003 (the "Property"); and
- WHEREAS, the Planning Commission, following its public hearing on December 1, 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 Property.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0025-2010 as described herein with the following conditions:

1. Master Plan and Use: This SUP shall be valid for a year-round flea market and accessory uses thereto, operating between the hours of 7 a.m. and 6 p.m. on Saturdays and Sundays only, on that portion of the Colonial Towne Plaza site designated as the "Special Use Permit Area" on the aerial picture prepared by "Kaufman and Canoles, P.C.," dated "September 24, 2010" and entitled "SUP-0025-2010 Colonial Towne Plaza Flea Market 6925 Richmond Road, Williamsburg, Virginia," for a copy of which is in the SUP file. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development and do not exceed 35 vendors.
2. Parking: No customer parking shall be allowed on any unpaved surface. All unpaved areas shall be flagged and labeled with "No Parking" on the weekend.
3. Landscaping: A landscape plan (the "Landscape Plan") shall be submitted to the Planning Director or his designee for review and approval prior to site plan approval. The Landscape Plan shall show the existing hedgerow along the property frontage on Richmond Road and shall identify all plants and/or shrubs necessary to fill in portions of the hedge that are presently missing on the portion of the property north of Ware Lane. The replacement plants and/or shrubs shall be of the same species and size as

the existing hedgerow. The landscaping shall be installed within six months of site plan approval.

4. Site Plan Approval: A site plan for the Flea Market shall be approved within one year of the date of issuance of the SUP or the SUP shall become void.
5. Fire Extinguishers: At least two fire extinguishers shall be provided on the site of the Flea Market during all hours of operation of the Flea Market.
6. Public Restrooms: The Lightfoot Antique Mall must be open to provide public restrooms during the hours of operation of the Flea Market.
7. Term of Validity: This SUP shall be valid for a period of 96 months from site plan approval.
8. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

Sup2510FleaMkt_res

SUP-0025-2010, Colonial Towne Plaza Flea Market
6925 Richmond Road, Williamsburg, Virginia
September 24, 2010
Mater Plan



Prepared by:
Kaufman & Canoles, P.C.

LEGEND

- Special Use Permit Area
- Property Line



ANTIQUE
MALL
→





Approved Minutes from the December 1, 2010 Planning Commission Meeting

SUP-0025-2010. Colonial Towne Plaza Shopping Center Flea Market

Ms. Sarah Propst stated Mr. Timothy Trant has applied for a special use permit to allow the operation of a weekend flea market at 6925 Richmond Road. The property is zoned B-1, General Business. The permit will not require any construction. Condition #3 requires the applicant to replace any missing shrubs from the existing hedgerow along Richmond Road. Staff recommends approval of the flea market with attached conditions.

Mr. Tim O'Connor asked if the Condition #2 language could be amended to allow vendors to continue parking on the grass.

Ms. Propst stated that staff can change the condition to meet the current use.

Mr. Poole asked about the differences between the application and the previously submitted Colonial Towne Plaza flea market application.

Ms. Propst stated the current application requests fewer vendor spaces.

Mr. Peck opened the public hearing.

Mr. Timothy Trant, representing the Jones family, the flea market operators, stated the flea market has been ongoing for years, although the previous SUP expired. The operator has been unable to attract the 75 vendors proposed by the previous application so the current proposal has a more realistic growth estimate. The flea market represents a good, rural, community use for the Community Commercial designated property until a more intense development occurs. The applicant wants an eight-year sunset clause and to continue allowing vendor parking on the grass.

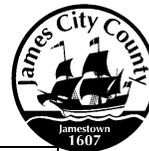
Mr. Fraley asked about the lengthy sunset clause.

Mr. Trant stated he felt the staff recommended four-year sunset clause was too short and would mean additional costly SUP renewals.

Ms. Propst stated there is no standard term for a SUP. She stated staff felt a four-year clause was appropriate to periodically evaluate the best use for the property.

Mr. Fraley asked what would happen if a higher use for the property presented itself during the SUP term.

Mr. Allen Murphy stated the market would stimulate the property owner to change the property's use. He stated he did think there was an SUP with a similar term. The SUP term was crafted to reflect the proposed use and applicant wishes.



MEMORANDUM COVER

Subject: Case No. ZA-0002-2010. Zoning Administrator's Opinion Appeal - Chisel Run

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board uphold the proffer interpretation as outlined in the memorandum and the determination letter dated August 10, 2010?

Summary: On behalf of Bush Companies, Inc., Mr. Vernon Geddy has appealed the Zoning Administrator's determination regarding the number of units remaining to be constructed in the Chisel Run neighborhood. The Zoning Administrator has determined that there are two available units, while the appellant believes that there are fourteen units remaining.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Letter dated March 26, 2010
 - 2. Adopted Board of Supervisors Resolution
 - 3. Board of Supervisors Memorandum
 - 4. Board of Supervisors Minutes
 - 5. Planning Commission Minutes
 - 6. Plat
 - 7. Letter dated September 9, 2010
 - 8. Letter dated August 10, 2010

Agenda Item No.: H-4

Date: January 25, 2011

MEMORANDUM

DATE: January 25, 2011

TO: The Board of Supervisors

FROM: Melissa C. Brown, Zoning Administrator

SUBJECT: Case No. ZA-0002-2010. Zoning Administrator's Opinion Appeal - Chisel Run

BACKGROUND

On March 26, 2010, Mr. Mark G. Rinaldi, on behalf of the Bush Companies, Inc., submitted a written request for a formal zoning interpretation regarding the Chisel Run neighborhood. Specifically, Mr. Rinaldi sought an official opinion regarding the number of residential units which remained to be built in the neighborhood and offered his opinion that the answer should be fourteen. In response, I issued a written determination on August 10, 2010 (the "Determination"), in which I determined that there were two units remaining to be built in Chisel Run.

On September 9, 2010, Mr. Vernon Geddy, on behalf of the Bush Companies, Inc., submitted two appeals to the Determination – one to the Board of Supervisors and one to the Board of Zoning Appeals (the "BZA"). The appeal to the Board of Supervisors was deferred until the conclusion of the BZA appeal. In the BZA appeal, Mr. Geddy asserted that the Determination was an interpretation of the *zoning ordinance* which is appealed to the BZA, rather than an interpretation of a *proffer*, which is appealed to the Board of Supervisors. The BZA heard the case at its November 4, 2010 meeting and voted unanimously in finding that the Determination was an interpretation of a proffer and that it had no jurisdiction to consider the appeal.

Accordingly, this proffer appeal must now be considered by the Board of Supervisors. As outlined in the Determination, I believe that there are two remaining units to be constructed in the Chisel Run development. The appellant believes that there are fourteen. Finally, the appellant has attempted to make the appeal more palatable by specifically noting that Bush Companies, Inc. intends to donate the property to Habitat for Humanity ("Habitat"). Members from Habitat were also present at the BZA meeting and I anticipate that they will also be present at the Board of Supervisors meeting. When interpreting a proffer, I cannot consider how my finding may be a benefit or detriment to any particular person, neighborhood, or business; rather, I must look at all the facts and evidence available to me and render my decision accordingly. Thus, while Habitat may be an excellent organization, this appeal is *not* about Habitat. It is about the proper interpretation of a proffer.

HISTORY/FINDINGS

Rezoning Case Z-10-83 was approved by resolution of the Board of Supervisors on November 16, 1983. The resolution accepted the voluntary proffers associated with the rezoning application. Importantly, the resolution also specifically referred to the Board Memorandum dated November 7, 1983 (the "Memorandum"), in reference to the interpretation of the proffers. References to staff memoranda as being determinative in the interpretation of a proffer is not commonplace; however, the applicant was represented by counsel Samuel T. Powell, III and there is no notation in the minutes that such reference was either objectionable or disputed. It is, therefore, reasonable to believe that the applicant concurred with the proffer interpretations set forth in the Memorandum. The resolution did not state that the Memorandum was to be limited to interpret a specific

proffer; accordingly, I believe that it is proper to consider the Memorandum when interpreting all of these proffers, including the proffer related to the total unit cap.

The signed proffers dated November 16, 1983 clearly cap the number of developable units to 239 for development on the subject property (Parcel B). The proffer also states that Section 1 of Old Town Farms, whole not included in the Rezoning application, should be included in the computation for the purpose of establishing density on the rezoned property. The site layout depicting existing conditions as "Parcel A" and "Parcel B" is inclusive of all sections of Old Town Farms, including what is currently Section 2. Section 2 was not submitted for review as such until after the rezoning application had received final approval.

In addition, the memorandum cites the maximum density of 4 units per acre as a consideration for consistency with both the proposed zoning district and the Comprehensive Plan designation. This consistency would have been necessary to achieve a positive recommendation from Planning Staff. In fact, exclusion of the units and acreage of Section 2 would equate to an overall density in excess of the density outlined in the Board Memorandum and discussed in the minutes.

UNIT COUNTS

The name of the development at the time of rezoning was Old Town Farms. Proffer No. 2 addresses unit counts and states as follows:

[t]he total number of living units that may be constructed on the subject property shall not exceed 239 units. This includes all the units in Section 1 of Old Town Farms presently before the JCC Site Plan Review Committee and which is an area not under consideration for rezoning but that the said number of units shall be considered as part of the total 239 units to be constructed on the subject property.

There are two important terms in this proffer: "subject property" and "section 1." Neither term is specifically defined in the proffers or the Memorandum, so I must first determine what each means before applying them to the unit count.

a. "Subject property"

"Subject property" is referred to in the "whereas" clause as the property under consideration for rezoning from R-3 to R-5. This property includes 45 acres and is shown on the attached plan and labeled as "Parcel B." Therefore, it is my determination that "subject property" is all property contained in Parcel B which is all of Chisel Run except Section 1 and Section 2. These sections are included in "Parcel A."

b. "Parcel A"

"Parcel A" is referenced on the plat and is inclusive of both Section 1 and Section 2 of Old Town Farms. The proffers specifically reference the units in Section 1 of Old Town Farms to be included in the total of 239. There is no specific reference to Section 2 and I note that Section 2 was not submitted for review until after the approval of case Z-10-83. The fact that the submission was not made until after the approval of the rezoning is likely the reason that there is no reference to this section in the proffer document. That area was unsubdivided property at that time. The area that is currently developed as Section 2 is included in the area referenced on the plan as "Parcel A". Therefore, Section 1 and Section 2 are included in "Parcel A" as presented to the Board and therefore must be included in the total unit counts.

The Board approved the rezoning and proffers by resolution dated November 16, 1983. The resolution references both the signed proffer document and the staff memorandum submitted at the public hearing. The staff memorandum references a total development density equal to four units per acre and explains that, "[t]he second proffer provides a total development density which is equal to that which could be obtained in the R-3 district and provides an overall density of 4 units an acre which is the upper limit of low density residential." The following are the unit counts for all sections per County records to date:

Section 1	-	25 single-family dwellings
Section 2	-	12 Units (7 Lots = 5 duplexes and 2 SFDs)
Section 3A	-	18 townhouses
Section 3B	-	60 townhouses
Section 4	-	122 townhouses
Total	-	237 Units
Remaining	-	2 Units

Therefore, it is my opinion that there are two units remaining to be built in the Chisel Run development.

RECOMMENDATION

After reviewing all pertinent information related to the proffers and rezoning of Old Town Farms, it was and continues to be my determination that two units remain in the Chisel Run development. My determination is consistent with the facts and documents contained in the case file. I believe that altering my determination to achieve a desired result in this or any other case would set a dangerous and unwanted precedent. I recommend that you uphold my proffer interpretation and deny Mr. Geddy's appeal.



Melissa C. Brown

MCB/gb

za-2-10ChiselRun_mem

Attachments:

1. Letter dated March 26, 2010
2. Adopted Board of Supervisors Resolution
3. Board of Supervisors Memorandum
4. Board of Supervisors Minutes
5. Planning Commission Minutes
6. Plat
7. Letter dated September 9, 2010
8. Letter dated August 10, 2010

March 26, 2010

Ms. Melissa Brown
Zoning Administrator
James City County
101-A Mounts Bay Road
Williamsburg, VA 23185



RE: Request for Zoning Verification Letter – Chisel Run (Z-10-83)

Dear Ms. Brown:

As you know, the Board of Supervisors approved rezoning case Z-10-83, through adoption of a Resolution of Approval on November 16, 1983. The rezoning allowed for the continued development of Chisel Run (formerly known as Old Town Farms), beyond Sections 1 and 2 which were permitted as a matter of right.

Rezoning Case Z-10-83 included proffers which indicated that the total allowed number of units in the rezoned property would not exceed 239 units, and that the 239 maximum on the rezoned property would include all units *"...to be constructed in Section 1 of Old Town Farms presently before the James City County Site Plan Review Committee and which is an area not under consideration for rezoning but that the said number of units shall be considered as part of the total 239 units to be constructed on the subject property."*

The Z-10-83 proffers specifically made reference to Section 1 of Old Town Farms (25 lots) being included in the total allowable yield of 239 for the rezoned R-5 property. Combined, Section 3A (18 units), Section 3B (60 units) and Section 4 (122 units) total 200 units. Altogether, the existing units at Chisel Run, calculated per the approved Proffers, total 225 units. Therefore, it is our understanding that fourteen (14) available residential dwelling units remain to be constructed within the confines of the proffered R-5 lands of the Chisel Run property.

We respectfully request your confirmation, through a Zoning Verification Letter, that the number of remaining residential dwelling units permitted under proffered rezoning Z-10-83 totals fourteen (14).

Thank you in advance for your timely consideration of our request.

Sincerely,
THE BUSH COMPANIES

A handwritten signature in black ink, appearing to read "Mark Rinaldi", written over the printed name.

Mark G. Rinaldi
Vice President – Development

RESOLUTION

RESOLUTION OF APPROVAL - ZONING CASE NO. Z-10-83
OLD TOWN FARMS, INC.

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on November 16, 1983, for Zoning Case No. Z-10-83 for rezoning 45 acres from R-3, General Residential to R-5, Multi-family Residential with proffered conditions, and

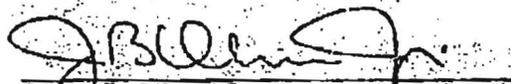
WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on August 23, 1983, on September 27, 1983 unanimously recommended approval of Zoning Case No. Z-10-83 with proffered conditions, and

WHEREAS, Zoning Case No. Z-10-83 with proffered conditions is in accord with the adopted Comprehensive Plan of James City County,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve Zoning Case No. Z-10-83 as described herein and as detailed in the attached memorandum and accepts the voluntary proffer signed by the property owner, (Mr. John Horan).


Perry M. DePue, Chairman
Board of Supervisors

ATTEST:


James B. Oliver, Jr.
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DePUE	AYE
FRINK	AYE
EDWARDS	AYE
MAHONE	AYE
TAYLOR	AYE

Adopted by the Board of Supervisors of James City County, Virginia this 16th day of November, 1983.

OAR/bkh
BD1/Y1

AGENDA ITEM # C-8

MEMORANDUM

DATE: November 7, 1983
TO: The Honorable Chairman and Members
of the Board of Supervisors
FROM: Orlando A. Riutort, Director of Planning
SUBJECT: Case No. Z-10-83. Old Town Farms Incorporated

Mr. Samuel Powell has applied on behalf of Old Town Farms Incorporated to rezone 45 acres of a 59.6 acre parcel, from R-3, General Residential to R-5 Multi-family Residential. The property is located adjacent to the Hamlet Subdivision on the south side of Olde Towne Road (Rt. 858). The frontage of the property and the area immediately adjacent to the Hamlet Subdivision will remain R-3, and a Subdivision Application has been received and granted preliminary approval by the Planning Commission for a single family home development on this 14.6 acres of the property. The tax map designation of the property is (33-3)(1-4).

COMMENTS:

* Proffers:

The staff has received the attached voluntarily proffered conditions and limitations to be placed on the property. There are two proffers. The first proffer limits the use of the property to single family dwellings, duplexes, triplexes and townhouses for sale and related and associated recreational uses. The second proffer limits the total number of dwelling units to be constructed on the property to 239. This total includes the single family section of the property which will remain in the R-3 zoning district. The staff has reviewed the proffers and finds that the limitation of the use of the property to specific types of residential structures with the stipulation that the uses be for sale provides a better definition of the project. The second proffer provides a total development density which is equal to that which could be obtained in the R-3 district and provides an overall density of 4 units an acre which is the upper limit of low density residential as designated by the Comprehensive Plan.

Availability of Public Utilities:

Both public water and public sewer capacities are available to serve this site. The sewer service will be to the Chisel Run sewer line where prepaid connections restrict availability (physical capacity is available). It is the staff's understanding that the applicant owns or has an option to purchase up to 250 of the prepaid connections. Public water is available from a 12 inch diameter line running along Olde Towne Road.

Topography and Physical Features:

The property is heavily wooded except for a 200 ft. wide Veeco right-of-way which runs across the site dividing off the rear 1/3. The eastern and southern boundaries of the property are formed by a stream and are low and wet. Relatively steep

The Honorable Chairman and Members
of the Board of Supervisors
November 7, 1983
Page 2

slopes run along these property lines falling away towards the low wet areas. The slopes are up to 20%, less than the 25% which are designated undevelopable in the R-5 District. The area of the site which is undevelopable because of wetness is approximately 10% of the total area. Soils on the site vary. In general, the area to remain R-3 has soils suitable for residential development. Some areas of soils rated as severe for residential development because of slope and wetness are in the 45 acres to be rezoned. By careful design and layout the problems of the slopes may be able to be overcome. In addition, an area of low strength soils exists in the central portion of the area to be rezoned. These soils are rated severe for road construction and care will have to be taken in the design and construction of roads on these soils. A soils map is attached. The physical features of the property are suitable for low density residential development with actual development clustered away from the low areas and steep slopes.

Road Capacity and Access:

The developer has produced a traffic study for this project which was prepared by Mr. Bryant Goodloe of Langley and McDonald. The major findings of the study were:

1. Rt. 658 between Rt. 60 and the Hamlet is currently below VDH&T standards for pavement width.
2. Assuming historical traffic growth will continue, Rt. 658 between Rt. 60 and the Hamlet will need to be improved with or without the proposed development.
3. Although Rt. 658 is currently below VDH&T construction standards, Rt. 658 has adequate capacity to accommodate the traffic from this development.
4. A second access point for Old Town Farms to Rt. 60 would be desirable; however, right-of-way for such access is not currently available to the developer.

In response to these findings the report made the following recommendations:

1. A left turn lane to be constructed by the developer is recommended on Rt. 658.
2. The developer improve Rt. 658 on the frontage of his property by installing curbs and gutter and paving the road to a 40' width curb face to curb face.
3. The study recommends that a 50' right-of-way be reserved within the development to the intersection of its property line with future extension of Stratford Road. Since the developer does not have access to adjacent property to Stratford Road the actual construction of the road is not part of the recommendation.
4. The study found that the project will not adversely affect traffic service on any other road in the area including Rt. 658 west of the proposed development or the Rt. 60 intersection and does not recommend any improvements to other roads.

The Honorable Chairman and Members
of the Board of Supervisors
November 7, 1983
Page 3

The staff has reviewed the traffic study and accepts both its findings and recommendations. In addition, the staff would recommend that the Old Town Farms development reserve an additional 10' of right-of-way along the frontage of Rt. 658 as part of the road improvements. The staff feels that Section 17-31 of the Subdivision Ordinance provides the authority to require the reservation of right-of-way of the future extension of Stratford Road. In addition, during the review of the specific development proposal within this property the staff feels the same section provides it with the authority to also require reservation of right-of-way with a future extension at the road between the Days Inn and the Old American Road Museum Building if this proves to be a more feasible solution to the eventual development of a secondary access point to Rt. 80.

Comprehensive Plan:

* The area proposed for rezoning is designated "Low Density Residential" by the adopted Comprehensive Plan. In general, low density residential areas are suitable for residential developments of up to four dwelling units per acre with uses such as single family dwellings, duplexes, and cluster suggested.

The parcel is located in the primary service area. The Comprehensive Plan states that "new development in the County will be encouraged to locate with the primary service area where utilities and services are already in place or are programmed for the near future."

The proffered conditions provide a total development density which is equal to that which could be obtained in the R-3 District and provides an overall density of four units an acre. This is within the upper limit of Low Density Residential and is therefore judged to be in general conformance with the Comprehensive Plan.

Surrounding Development and Zoning:

The site is bounded on its Rt. 60 side by property zoned B-1, General Business. This area is developed with various tourist related businesses, Stratford Hall Apartments and several non-conforming single family dwellings. To the west of the property for about one-half its depth is the Hamlet, a subdivision of single family homes zoned R-3.

The rear of the property is bounded by undeveloped acreage zoned R-2, Limited Residential and R-3, General Residential. The development of this property with a mixture of single family homes, cluster homes and townhouses under the R-5 District would be compatible with nearby developments.

RECOMMENDATION:

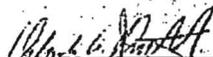
The Planning Department recommends approval.

On September 27, 1983, the James City County Planning Commission unanimously recommended approval of Case No. Z-10-83, Old Town Farms, Inc., with the acceptance of the proffered conditions and the implementation of the recommendations of the traffic study presented by the developer.

The Honorable Chairman and Members
of the Board of Supervisors
November 7, 1983
Page 4

OAR/bkh
WP4/A7

Attachment


Orlando A. Riutort

CASE NO. Z-10-83.
OLD TOWN FARMS, INC.



R-2

See (32-2)(1-106)

B-1

R-3

R-2

R-3

B-1

B-1

See (33-3)(1-30)

See (33-5)(1-35)

34
AMERICAN
ROAD

MOORE LOUPE No. 17

STRATFORD HALL APARTMENTS

WELL TOWN
PLACES

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Zoning Poolman
Code in map

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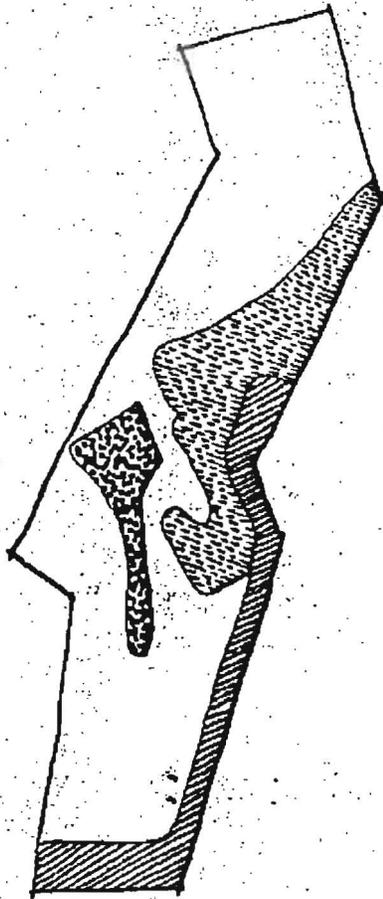
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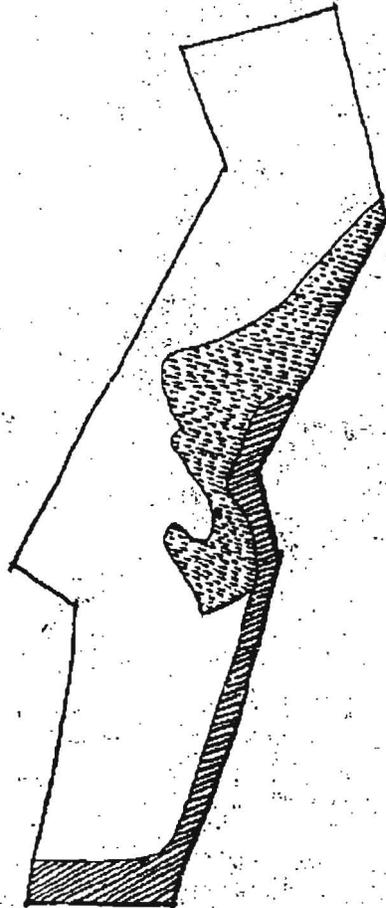
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SEVERE SOILS



FOR ROADS

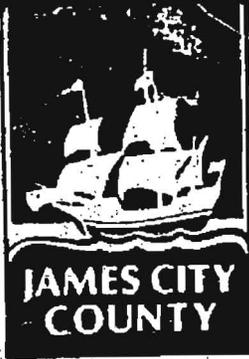
-  WET
-  SLOPE
-  LOW STRENGTH



FOR DWELLINGS

-  WET
-  SLOPE

Mailing Address:
P.O. Box JC
Williamsburg, Va.
23187
Tel. 220-1122



OFFICE OF PLANNING AND DEVELOPMENT
COUNTY GOVERNMENT CENTER, 101 MOUNTS BAY ROAD

November 22, 1983

Mr. Samuel T. Powell
161A John Jefferson Road
Williamsburg, Virginia 23185

Re: Case No. Z-10-83. Old Town Farms

Dear Mr. Powell:

This is to confirm that on November 16, 1983, the James City County Board of Supervisors approved the rezoning of 45 acres within parcel (1-4) on James City County Real Estate Tax Map No. (33-3) from R-3, General Residential to R-5, Multi-family Residential. The Board of Supervisors has accepted the voluntary parcel signed by Mr. Robert Harrard. If there are further questions, please contact me.

Sincerely,

Orlando A. Riutort
Director of Planning

OAR/AJM/pdl
WP2/A3

2-10-83

Applicant: Mr. & Mrs. Woodrow C. Hockaday
 Real Estate Tax Map ID: (10-1)
 Parcel No. (1-25)
 District: Stonehouse
 Zoning: A-1, General Agricultural
 Permit Term: This permit is valid only for the mobile home applied for. If the mobile home is removed, then this permit becomes void. Any replacement will require a new permit from the Board of Supervisors. If the permit is not exercised it shall become void one year from the date of approval.

Further Conditions: The mobile home must be skirted, and meet the requirements of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations.

8. Case No. Z-10-83. Old Town Farms, Incorporated

Mr. Riutort presented this matter to the Board stating that the Planning Commission unanimously recommended approval of this rezoning request and staff also recommends approval.

Mr. Edwards questioned whether the traffic study recommendations were included in the Resolution.

Mr. Riutort stated that the Resolution incorporates recommendations made in the staff report.

Mr. DePue opened the public hearing.

Mr. Samuel T. Powell spoke on behalf of his client in support of the rezoning request. He stated that they will comply with the recommendations made in the staff report relating to the traffic study.

Mr. DePue closed the public hearing.

Mr. Edwards made the motion to approve the Resolution.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Mahone, Taylor (5). NAY: (0).

RESOLUTION

RESOLUTION OF APPROVAL - ZONING CASE NO. Z-10-83
OLD TOWN FARMS, INC.

WHEREAS, in accord with Section 15.1-431 of the Code of Virginia, and Section 20-14 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled and conducted on November 16, 1983, for Zoning Case No. Z-10-83 for rezoning 45 acres from R-3, General Residential to R-5, Multi-family Residential with proffered conditions, and

WHEREAS, in accord with the Planning Department's recommendation, the Planning Commission following its public hearing on August 23, 1983, on September 27, 1983 unanimously recommended approval of Zoning Case No. Z-10-83 with proffered conditions, and

WHEREAS, Zoning Case No. Z-10-83 with proffered conditions is in accord with the adopted Comprehensive Plan of James City County,

→ NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County does hereby approve Zoning Case No. Z-10-83 as

AAJ113

described herein and as detailed in the attached memorandum and accepts the voluntary proffer signed by the property owner, (Mr. John Horan).

9. Case No. Z-12-83. Amendment to Zoning Ordinance, Section 20-12(B)(6)

Mr. Riutort presented this matter to the Board recommending approval of the amendment to the ordinance to permit 20 foot aisles in large parking lots when parking is long-term and loading is controlled.

Mr. DePue opened, then closed the public hearing as there was no one wishing to speak.

Mr. Taylor made the motion to approve the amendment to the Ordinance.

On a roll call, the vote was AYE: DePue, Frink, Edwards, Mahone, Taylor (5). NAY: (0).

ORDINANCE NO. 31A-80

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-12, MINIMUM OFF-STREET PARKING, (B) (6) DESIGN, MINIMUM OFF-STREET PARKING .

BE IT ORDAINED by the Board of Supervisors of the County of James City, that Chapter 20, Article I, In General, Section 20-12, Minimum Off-Street Parking, (B) (6) Design, Minimum Off-Street Parking Area Dimensions, is hereby amended and reordained.

CHAPTER 20

ZONING

Article I. In General

Section 20-12. Minimum off-street parking.

B. Design

6. The design of the parking lot shall meet the minimum geometric standards presented in the following table:

MINIMUM OFF-STREET PARKING AREA DIMENSIONS

Angle of Parking (degrees)	Direction of Traffic	Dimension of Stall (feet)	Width of Aisle (feet)*
Parallel	One-way	8 x 22	12
45	One-way	9 x 18	12
60	One-way	9 x 18	18
90	Two-way	9 x 18	24

* Minimum width of traffic aisles in parking lots for two-way traffic shall be twenty-four (24) feet.

The minimum aisle dimension of any parking lot designed to accommodate at least 500 vehicles and intended for long-term parking may be reduced by four feet provided: the lot is designed and marked for one-way traffic; the parking spaces form an angle of eighty degrees to ninety degrees with the aisle; each vehicle is individually guided to a parking space by an attendant; and the safety and effective operation of the lot has been clearly demonstrated.

For the purpose of this section the phrase "long-term parking" shall mean parking the duration of which is on the average six hours or more.

9-27-83

10-25-83
2

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, IN THE COUNTY GOVERNMENT CENTER, 101C MOUNTS BAY ROAD, BOARDROOM, AT 7:30 P.M. ON THE TWENTY-SEVENTH DAY OF SEPTEMBER, NINETEEN HUNDRED AND EIGHTY-THREE.

1. ROLL CALL

Mr. Fred Belden, Chairman
Mr. A. G. Bradshaw
Mr. John E. Donaldson
Mr. Martin Garrett
Mr. Thomas D. Mahone
Mr. John F. Moneymaker
Mr. W. J. Scruggs
Ms. Sandra Stein
Mr. Harry B. Wright

OTHERS PRESENT

Mr. Orlando A. Riutort
Mr. Henry H. Stephens
Ms. Victoria Gussman
Mr. Allen J. Murphy, Jr.
Mr. Frank M. Morton, III
Mr. Wayland Bass

2. MINUTES

Upon a motion by Mr. Scruggs, seconded by Mr. Garrett, the minutes of the August 23, 1983 meeting were approved as presented.

3. SITE PLAN REVIEW COMMITTEE REPORT

Upon a motion by Ms. Stein, seconded by Mr. Scruggs, the Site Plan Review Committee Report was approved as presented.

4. SUBDIVISION REVIEW COMMITTEE REPORT

Upon a motion by Mr. Garrett, seconded by Mr. Scruggs, the Subdivision Review Committee Report was approved as presented.

Included in this action was preliminary approval of the Randolph's Greene Subdivision (Case No. S-50-83) and a waiver of Section 20-80.2(f) to permit a forty foot right-of-way.

5. CASE NO. SUP-18-83. JAMES CITY COUNTY LANDFILL

Mr. Allen J. Murphy, Jr. presented the staff report which is appended hereto.

Mr. Wayland Bass made a presentation on the landfill which covered items in the staff report in greater detail. He discussed the need for a resource recovery facility and additional landfill area.

Mr. Belden opened the public hearing.

There being no speakers the public hearing was closed.

There was a brief discussion of the need for a berm and the type of landscaping needed to screen the area from Route 611.

Mr. Donaldson made a motion, seconded by Ms. Stein, to accept the staff report. The motion carried.

REQUEST FROM THE BOARD OF SUPERVISORS FOR A JOINT PUBLIC HEARING ON THE PROPOSED RESERVOIR PROTECTION OVERLAY DISTRICT

Mr. Riutort explained the reason for the public hearing on October 17, 1983.

Mr. Edwards provided the Planning Commission with information on the work of the Water Task Force and the need to protect the watershed area for a potential reservoir site. He noted that while this was not an emergency measure, there was a need to act quickly.

The Members discussed whether or not a decision on the overlay district would have to be made the night of the public hearing. This included whether a worksession should be held before or after the public hearing.

Mr. DePue advised the Members that they would not be required to make a decision on the night of the public hearing; however, he would invite them to do so. On the other hand, the Board respected their right to deliberate further on the issue.

Mr. Wright made a motion, seconded by Mr. Bradshaw, to hold on joint public hearing with the Board of Supervisors on October 17, 1983. The motion carried.

Mr. Wright made a motion that a worksession be held after the public hearing. Motion failed for lack of a second.

It was agreed that a worksession should be held on October 11, 1983 at 8:00 p.m. after the Site Plan Review Committee meeting which would be moved to 7:00 p.m.

6. CASE NO. Z-12-83. AMENDMENT TO THE ZONING ORDINANCE
Section 20-12(B)(6). A public hearing to review the minimum traffic aisle width for long term, controlled parking situations from 24 ft. to 20 ft.

Ms. Victoria Gussman presented the staff report which is appended hereto. The public hearing was opened and closed without discussion.

Upon a motion by Mr. Wright, seconded by Mr. Scruggs, the Commission recommended approval of the ordinance amendment to the Board of Supervisors.

The motion carried.

7. CASE NO. Z-8-83. LEONARD AND BEATRICE LEGUM

Mr. Allen J. Murphy, Jr. reviewed the staff report which is appended hereto. This case had been deferred at the previous meeting. Mr. Murphy also reviewed the conditions proffered.

Mr. Moneymaker noted that this area was unsuited for single family development.

Mr. Scruggs requested that due to a possible conflict of interests the minutes show that he had taken no part in the discussion and did not vote on the case.

Mr. Riutort briefly discussed the question of the right-of-way and the alignment of Rt. 199.

Mr. Belden asked if the problems with this project could be addressed as part of the Site Plan Review procedure. Mr. Riutort stated the density question could not be handled then.

Mr. Anderson noted that this property was best suited for this type of development particularly in view of the cost of the property.

Mr. Bradshaw made a motion, seconded by Mr. Moneymaker, to recommend approval to the Board of Supervisors.

The roll call vote was as follows:

Mr. Bradshaw	Aye	Ms. Stein	No
Mr. Donaldson	No	Mr. Wright	No
Mr. Garrett	No	Mr. Belden	No
Mr. Mahone	No		
Mr. Moneymaker	Aye		
Mr. Scruggs	Abstained		

8. CASE NO. Z-10-83. OLD TOWN FARMS, INC.

Mr. Stephens stated this case had been deferred from the last meeting to allow time for a traffic study and for proffers to be made. He reviewed the findings of the traffic study and the proffers. He concluded that the staff was recommending approval with the inclusion of the proffers and the implementation of the recommendations in the traffic study.

There was a brief discussion of the extent of improvements to Rt. 658 for which the developer should be held responsible.

Mr. Riutort said improvements should be made along the frontage and noted that the improvements were not included in the Secondary Road Improvement Program.

Mr. Bradshaw stated his feeling that the developer should not be required to make improvements to a public road other than the addition of a left turn lane.

Mr. Stephens commented that the townhouses would be for sale; however, there was no way to restrict their being bought and then used as rental property.

Mr. Powell reviewed the developer's plans for making improvements along the road. He stated the access road had been indicated on the site plan in the event that the developer could secure a right-of-way to Route 60.

A motion was made and seconded to recommend approval to the Board of Supervisors.

The motion carried.

9. PARKING REQUIREMENTS - "THE COLONY AT KINGSMILL"

Mr. Stephens presented the staff report which is appended hereto.

Mr. Donaldson made a motion, seconded by Mr. Garrett, to accept the staff recommendation.

The motion carried.

10. STREETLIGHT POLICY

Mr. Stephens reviewed the status of the Streetlight Policy and suggested that it was primarily concerned with subdivisions and should, therefore, be reviewed by the Subdivision Review Committee.

Mr. Belden accepted Mr. Garrett's recommendation that the policy be reviewed by the Subdivision Review Committee.

11. PRESENTATION OF DRAFT REVISED ZONING ORDINANCE

Mr. Riutort introduced Mr. Jack Stodghill who made a presentation on his work through January 1983 on the draft revised zoning ordinance.

Ms. Gussman reviewed the staff work on the Zoning Ordinance revisions.

Lists of subcommittees were distributed and times when they would meet were discussed after the meeting adjourned.

12. BOARD OF ZONING APPEALS REPORT

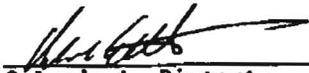
Mr. Murphy presented the report which is appended hereto.

13. MATTERS OF SPECIAL PRIVILEGE

There were no matters of special privilege. Mr. Mahone reviewed some of the actions of the Board of Supervisors at their last meeting.

14. ADJOURNMENT

There being no further business, the Planning Commission adjourned at approximately 9:45 p.m.



Orlando A. Riutort
Secretary



Fred Belden
Chairman

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

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

VERNON M. GEDDY, JR. (1925-2005)
STEPHEN D. HARRIS
SHELDON M. FRANCK
VERNON M. GEDDY, III
SUSANNA B. HICKMAN
RICHARD H. RIZK
ANDREW M. FRANCK

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

vgeddy@ghfhlaw.com

September 9, 2010

Secretary of the Board of Supervisors
James City County Board of Supervisors
101-C Mounts Bay Road
Williamsburg, Virginia 23185

Re: Appeal of Decision of Zoning Administrator dated August 10, 2010

Ladies and Gentlemen:

I am writing on behalf of our client, Bush Development Corporation, to note an appeal of the decision of the Zoning Administrator set forth in the letter dated August 10, 2010 from the Zoning Administrator to Mark G. Rinaldi. We have also this date filed an appeal of the decision with the Board of Zoning Appeals, who we believe properly has jurisdiction over this appeal. We request any action on this appeal to the Board of Supervisors be deferred pending the outcome of the BZA appeal.

The facts in this appeal are not in dispute and are summarized as follows: On November 16, 1983, The Board of Supervisors approved Zoning Case Z-10-83, Old Town Farms, Inc., which rezoned 45 acres of 60 acres owned by the applicant, from R-3, General Residential, to R-5, Multi-family Residential, with proffered conditions. Copies of the Board resolution approving the rezoning and the proffered conditions are attached. At the time of the rezoning, Section 1 of Old Town Farms was under review by the County's Site Plan Review Committee. The area of Section 1 was not included in the 45 acres subject to the rezoning. Proffer 2 specifies that the total number of living units that may be constructed on the subject property (i.e., the 45 acres being rezoned) shall not exceed 239, including within the 239 cap the units to be constructed in Section 1.

The substantive issue being appealed is the Zoning Administrator's determination of the number of approved units remaining unbuilt in Chisel Run (formerly named Old Town Farms). The Zoning Administrator has concluded that units constructed in Section 2 of the development (which is not included in the 45 acres subject to the rezoning) count against the 239 unit cap despite the clear and unambiguous language of the proffer that states the units constructed in Section 1 count against the cap but makes no mention of units constructed on the balance of the property owned by applicant not subject to the rezoning. The applicant clearly knew how to state development of other property counted against the cap, it explicitly did so for Section 1. It did not for any other property and we do not believe the Board or Staff would have accepted a proffer on an issue as basic as the number of units permitted that did not mean exactly what it states.

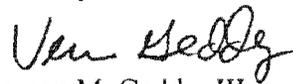
The Zoning Administrator bases her determination on the language in the Board resolution approving the zoning. That resolution states in pertinent part “that the Board of Supervisors of James City County does hereby approve Zoning Case No. Z-10-83 as described herein and as detailed in the attached memorandum and accepts the voluntary proffers signed by the property owner, (Mr. John Horan).” Her conclusion is based on the discussion of density relative to the Comprehensive Plan in the Staff memorandum. The Board resolution unequivocally accepts the voluntary proffers. That language referring to the staff memorandum does not change or modify the acceptance of the proffers. If so, it would have stated that the Board accept the proffers as modified by the staff memorandum.

While no one knows with certainty why the Board resolution contained such unusual language, we submit a more likely reason for the reference to the staff memorandum is a subject not addressed at all by the proffers – traffic improvements. The applicant submitted a traffic study for the rezoning containing a list of recommendations as detailed in the section of the staff report entitled “Road Capacity and Access.” Staff and the applicant apparently agreed upon these recommendations but none of the recommendations were contained in the proffers. The conclusion of the reference to the Staff memorandum is the only way the traffic improvement recommendations would have been included in the rezoning approval.

In summary, we submit that the 12 units constructed in Section 2 of Chisel Run do not count against the 239 unit cap pursuant to Proffer 2 and therefore there are 14 approved but unbuilt units at Chisel Run, not 2 as determined by the Zoning Administrator.

Finally, while not a part of the technical appeal, the landowner has asked us to inform the Board that it has no intention of developing the property in question itself. Rather the landowner intends to donate the property to Habitat for Humanity for construction of no more than seven dwelling units.

Sincerely,



Vernon M. Geddy, III

Cc: Mr. Mark G. Rinaldi
Adam Kinsman, Esq.
Ms. Melissa A. Brown

PROFFER OF CONDITIONS FOR
APPLICATION OF REZONING
OLD TOWN FARMS, INC.

Whereas, Old Town Farms, Inc. is the owner of approximately 60 acres of land located in the County of James City, Virginia, and has made application for a change in zoning of the subject property from R-3 to R-5 as a part of its application, voluntarily proffers the following reasonable conditions which shall be in addition to the regulations provided for in the zoning district R-5. These conditions are proffered as part of the requested rezoning and it is proffered and agreed that the following limitations:

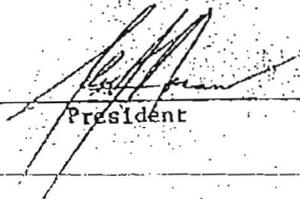
1. Are required or give rise to the need for these additional restrictions because of the nature of the property and the rezoning sought.
2. That the proffers have a reasonable relation to the rezoning requested.

The proffers are as follows:

1. That in the event the subject property is rezoned to R-5, that the only use the property may be used for is the construction of single family dwellings, duplexes, triplexes and townhouses for sale and related and associated recreational uses.
2. That the total number of living units that may be constructed on the subject property shall not exceed Two Hundred Thirty-Nine (239) units. This includes all living units to be constructed in Section One (1) of Old Town Farms presently before the James City County Site Plan Review Committee and which is an area not under consideration for rezoning but that the said number of units shall be considered as part of a total 239 units to be constructed on the subject property.

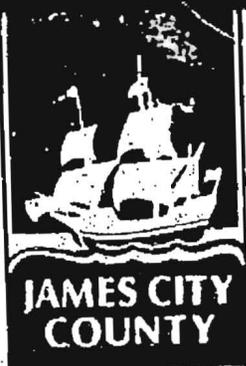
OLD TOWN FARMS, INC. - Property Owner

BY



President

Mailing Address:
P.O. Box JC
Williamsburg, Va.
23187
Tel. 220-1122



OFFICE OF PLANNING AND DEVELOPMENT
COUNTY GOVERNMENT CENTER, 101 MOUNTS BAY ROAD

November 22, 1983

Mr. Samuel T. Powell
161A John Jefferson Road
Williamsburg, Virginia 23185

Re: Case No. Z-10-83. Old Town Farms

Dear Mr. Powell:

This is to confirm that on November 16, 1983, the James City County Board of Supervisors approved the rezoning of 45 acres within parcel (1-4) on James City County Real Estate Tax Map No. (33-3) from R-3, General Residential to R-5, Multi-family Residential. The Board of Supervisors has accepted the voluntary parcel signed by Mr. Robert Harrant. If there are further questions, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Orlando A. Riutort", written over a horizontal line.

Orlando A. Riutort
Director of Planning

OAR/AJM/pdl
WP2/A3

**Development
Management**

101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
P: 757-253-6671
F: 757-253-6822
devman@james-city.va.us



Code Compliance

(757) 253-6620
codecomp@james-city.va.us

Environmental Division

(757) 253-6670
environ@james-city.va.us

Planning and Zoning

(757) 253-6685
planning@james-city.va.us

August 10, 2010

Mr. Mark G. Rinaldi
The Bush Companies
4029 Ironbound Road, Suite 300
Williamsburg, VA 23188

Re: Chisel Run Proffers

Dear Mr. Rinaldi:

I am writing in reference to your letter dated March 26, 2010 for zoning verification of the number of remaining units in the Chisel Run development as they are referenced in Rezoning Case Z-10-83. Exhibit 1. In summary, it is my opinion that there are 2 units remaining in the Chisel Run Development.

Background:

Rezoning Case Z-10-83 was approved by resolution of the Board of Supervisors on November 16, 1983. Exhibit 2. The resolution accepted the voluntary proffers associated with the rezoning application. Importantly, the resolution also specifically referred to the Board Memorandum dated November 7, 1983 (the "Memorandum") in reference to the interpretation of the proffers. Exhibit 3. References to staff memoranda as being determinative in the interpretation of a proffer is not commonplace; however, the applicant was represented by counsel, Samuel T. Powell, III, and there is no notation in the minutes that such reference was either objectionable or disputed. It is, therefore, reasonable to believe that the applicant concurred with the proffer interpretations set forth in the Memorandum. The resolution did not state that the Memorandum was to be limited to interpret a specific proffer; accordingly, I believe that it is proper to consider the Memorandum when interpreting all of these proffers, including the proffer related to the total unit cap.

August 10, 2010
Page 1

The signed proffers dated November 16, 1983 clearly cap the number of developable units to 239 for development on the subject property (Parcel B, Exhibit 6). The proffer also states that Section 1 of Old Town Farms should be included in the computation. The site layout depicting existing conditions as "Parcel A" and "Parcel B" is inclusive of all sections of Old Town Farms including what is currently Section 2. (Exhibit 6)

In addition, the memorandum cites the maximum density of 4 units per acre as a consideration for consistency with both the proposed zoning district and the Comprehensive Plan designation. This consistency would have been necessary to achieve a positive recommendation from Planning Staff. In fact, exclusion of the units and acreage of Section 2 would equate to an overall density in excess of the density outlined in the Board Memorandum and discussed in the minutes.

Unit Counts:

The name of the development at the time of rezoning was Old Town Farms. Proffer number 2 addresses unit counts and states as follows:

[t]he total number of living units that may be constructed on the subject property shall not exceed 239 units. This includes all the units in Section 1 of Old Town Farms presently before the JCC Site Plan Review Committee and which is an area not under consideration for rezoning but that the said number of units shall be considered as part of the total 239 units to be constructed on the subject property.

There are two important terms in this proffer: "subject property" and "section 1." Neither term is specifically defined in the proffers or the Memorandum, so I must first determine what each means before applying them to the unit count.

a. "Subject property"

"Subject property" is referred to in the "whereas" clause as the property under consideration for rezoning from R-3 to R-5. This property includes 45 acres and is shown on the attached Exhibit 6 and labeled as "Parcel B." Therefore, it is my determination that "subject property" is all property contained in Parcel B which is all of Chisel Run except Section 1 and Section 2. These sections are included in "Parcel A."

b. "Parcel A"

"Parcel A" is referenced on the plat attached as Exhibit 5 and is inclusive of both Section 1 and Section 2 of Old Town Farms. The proffers specifically reference the units in Section 1 of Old Town Farms to be included in the total of 239. There is no specific reference to Section 2 and I note that Section 2 was not submitted for review until after the approval of case Z-10-83.

The fact that the submission was not made until after the approval of the rezoning is likely the reason that there is no reference to this section in the proffer document. That area was unsubdivided property at that time. The area that is currently developed as Section 2 was included in the area referenced on Exhibit 6 as "Parcel A". Therefore, Section 1 and Section 2 are included in "Parcel A" and, therefore must be included in the total unit counts.

The Board approved the rezoning and proffers by resolution dated November 16, 1983. The resolution references both the signed proffer document and the staff memorandum submitted at the public hearing. The staff memorandum references a total development density equal to four units per acre and explains that, "[t]he second proffer provides a total development density which is equal to that which could be obtained in the R-3 district and provides an overall density of 4 units an acre which is the upper limit of low density residential."

The following are the unit counts for all sections per County records to date:

Section 1	-	25 single family dwellings
Section 2	-	12 Units (7Lots = 5 duplexes and 2 SFDs)
Section 3A	-	18 townhouses
Section 3B	-	60 townhouses
Section 4	-	122 townhouses
Total	-	237 Units
Remaining	-	2 Units

Any appeal to this determination must be filed within 30 days to the Secretary of the Board of Supervisors and copied to the Planning Director at which time this determination will become final and unappealable. Feel free to contact me at 757.253.6882 if I can be of further assistance or if you require additional information.

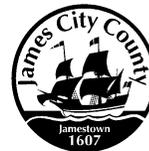
Sincerely,



Melissa C. Brown, CZA
Zoning Administrator

Attachments: Exhibit 1 – Letter dated March 26, 2010
Exhibit 2 – Adopted BOS Resolution
Exhibit 3 – BOS Memorandum
Exhibit 4 – BOS Minutes
Exhibit 5 – Planning Commission Minutes
Exhibit 6 - Plat

**Cc: Christy H. Parrish, Proffer Administrator
Steven Hicks, Development Manager
Adam Kinsman, Deputy County Attorney
Allen Murphy, Planning Director**



MEMORANDUM COVER

Subject: Ordinance Amendment, Section 2-11.1, Disclosures of Financial Interest

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve an ordinance to add the Manager of General Services to the list of staff required to file a disclosure statement of personal interests annually?

Summary: County Code Section 2-11.1, Disclosures of Financial Interest, requires certain staff to file a disclosure statement of personal interests and such other information as required on the form or forms specified in Section 2.2-3117 of the *Code of Virginia*, 1950, as amended. Currently, the position of Manager of General Services is not included in the list and it is recommended that the position be added.

Staff recommends adoption of the ordinance.

Fiscal Impact: _____

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Ordinance

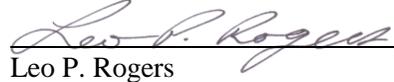
Agenda Item No.: H-5
Date: January 25, 2011

MEMORANDUM

DATE: January 25, 2011
TO: The Board of Supervisors
FROM: Leo P. Rogers, County Attorney
SUBJECT: Ordinance Amendment, Section 2-11.1, Disclosures of Financial Interest

Virginia Code Section 2.2-3115 authorizes the Board to designate by ordinance positions of trust that need to file disclosure statements of their personal interests, (aka Statement of Economic Interests). In 2007, the County Charter was amended to add a General Services Department. The Manager of General Service oversees construction and maintenance contracts. The former and current Manager of General Services have filed disclosure forms. The attached ordinance formally adds that position to the list of employees required to file a disclosure form.

Staff recommends adoption of the attached ordinance.



Leo P. Rogers

LPR/nb
Chp2Admin_mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, SECTION 2-11.1, DISCLOSURES OF FINANCIAL INTEREST.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-11.1, Disclosures of financial interest.

Chapter 2. Administration
Article IV. Officers and Employees
Division 1. Generally

Section 2-11.1. Disclosures of financial interest.

Annually by January 15 of each year or otherwise within 21 days of formal notification of appointment or employment, the members of the board of supervisors and of the school board, and the county administrator, the assistant county administrator, the county attorney, the manager of financial and management services, the manager of development management, *the manager of general services*, the director of planning, the director of code compliance, the zoning administrator, the capital projects administrator, the director of the environmental division, the general manager of the James City Service Authority, and the human resources manager shall file, as a condition to assuming or holding office or employment, a disclosure statement of personal interests and such other information as required on the form or forms specified in section 2.2-3117 of the Code of Virginia, as amended.

For purposes of this section, formal notification of appointment for appointees to the boards is deemed to be the date that the clerk mails notice of appointment and blank disclosure forms to the appointee. Formal notification of employment for employees is deemed to be the date the financial disclosure form is distributed to the employee by his or her appointing authority.

State law reference - Code of Va. § 2.2-3115 - Disclosure by local government officers and employees.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
January, 2011.

Chp2Admin_ord



MEMORANDUM COVER

Subject: Contract Award – Freedom Park Interpretive Center - \$1,269,500

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the Contract Award Resolution for David A. Nice Builders in the amount of \$1,269,500 for Freedom Park interpretive Center projected costs?

Summary: In 2005 a bond referendum was approved by voters to fund various Parks and Recreation improvement projects. Included among the projects planned for expenditures as part of the referendum was a building for historical interpretation and programming purposes at Freedom Park. This facility was located and designed consistent with the previously approved master plan for the park. An Invitation for Bids was issued for the construction and seven firms submitted bids and were considered for award. The bids were a lump sum price with David A. Nice Builders submitting the apparent low bid of \$1,269,500.

Fiscal Impact: Funded from Parks and Recreation Bond Referendum Funds

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell 

County Administrator

Robert C. Middaugh 

Attachments:
1. Memorandum
2. Resolution

Agenda Item No.: I-1
Date: January 25, 2011

MEMORANDUM

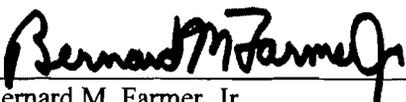
DATE: January 25, 2011
TO: The Board of Supervisors
FROM: Bernard M. Farmer, Jr., Capital Projects Coordinator
SUBJECT: Contract Award – Freedom Park Interpretive Center - \$1,269,500

As part of the approved James City County Parks and Recreation Bond Referendum, one of the improvements was an interpretive center in Freedom Park. This facility is intended to provide space for interpretation of the history of the property, meeting space for gatherings and programming use, and rest room facilities for park patrons. Also included in the project are expansions to the parking area and improved stormwater facilities. Construction is expected to take seven months. Design was completed and an Invitation for Bids for the Freedom Park Interpretive Center was publicly advertised. Seven firms submitted bids and were considered for award.

<u>Firm</u>	<u>Amount</u>
David A Nice Builders	\$1,269,500
Hoy Construction	1,475,000
Spacemakers, Inc.	1,499,000
George Nice and Sons	1,511,990
Homeland Contracting	1,550,000
Courthouse Construction	1,550,699
Henry S. Branscome	1,572,362

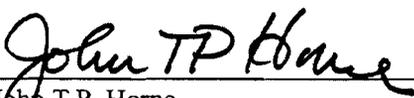
David A. Nice Builders has satisfactorily completed other similar projects for the James City County and has been determined to be the lowest responsive and responsible bidder. The bid amount of \$1,269,500 is slightly higher than earlier project estimates but consistent with current market pricing. Funds are available in the remaining bond referendum accounts for this award.

Attached is a resolution authorizing the contract award to David A. Nice Builders for the Freedom Park Interpretive Center. Staff recommends approval of the attached resolution.



Bernard M. Farmer, Jr.

CONCUR:



John T.P. Horne

BMF/tlc
CA_FPInterp_mem

Attachment

RESOLUTION

CONTRACT AWARD – FREEDOM PARK INTERPRETIVE CENTER - \$1,269,500

WHEREAS, an interpretive center has been planned as part of the Master Plan for Freedom Park; and

WHEREAS, funds are available from the Parks and Recreation Bond Referendum accounts; and

WHEREAS, seven bids were considered for award and David A. Nice Builders, Inc. was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$1,269,500 for the Freedom Park Interpretive Center to David A. Nice Builders, Inc.

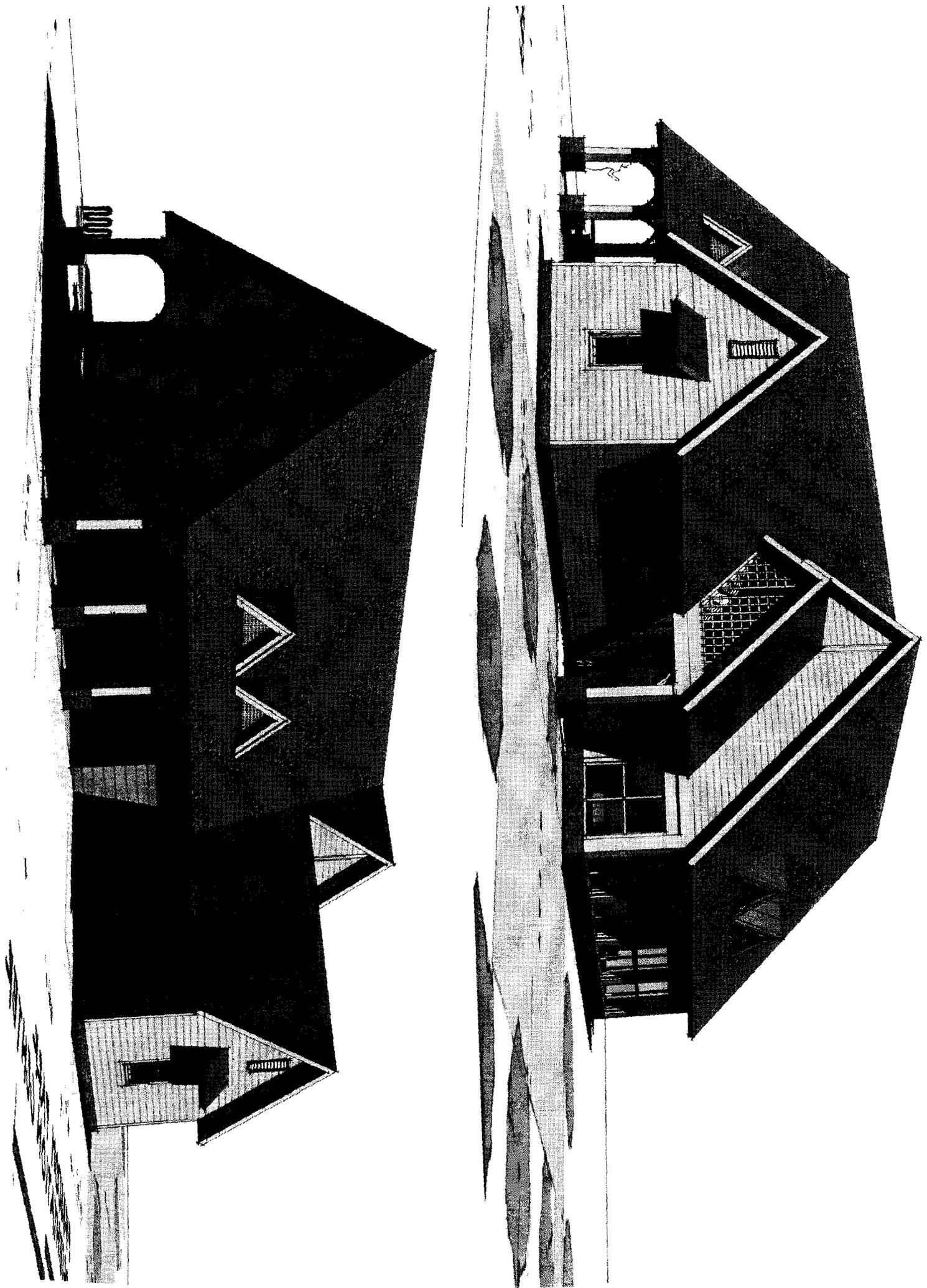
Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of January, 2011.

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6-5 WEST ELEVATION
A2.1

SCALE 1/4"=1'-0"



A-3 NORTH ELEVATION
A2.1

SCALE 1/4"=1'-0"

NOT FOR CONSTRUCTION
 PROGRESS SET 10.14.10

No.	Revisions	Date
FREEDOM PARK INTERPRETIVE CENTER 5537 CENTERVILLE RD JAMES CITY COUNTY, VA		
BUILDING ELEVATIONS		
HOPKE & ASSOCIATES INC. ARCHITECTURE/PLANNING/ENGINEERS 1156 Jamestown Road, Suite C Williamsburg, VA 23185 Phone (757)229-1100 Fax (757)229-0898		
Scale	Project Number	25063
	File	25063 A2.1 Sheet
	Date	10/14/10
	Drawn	BLF
	Reviewed	JAH
A2.1		4 OF 14

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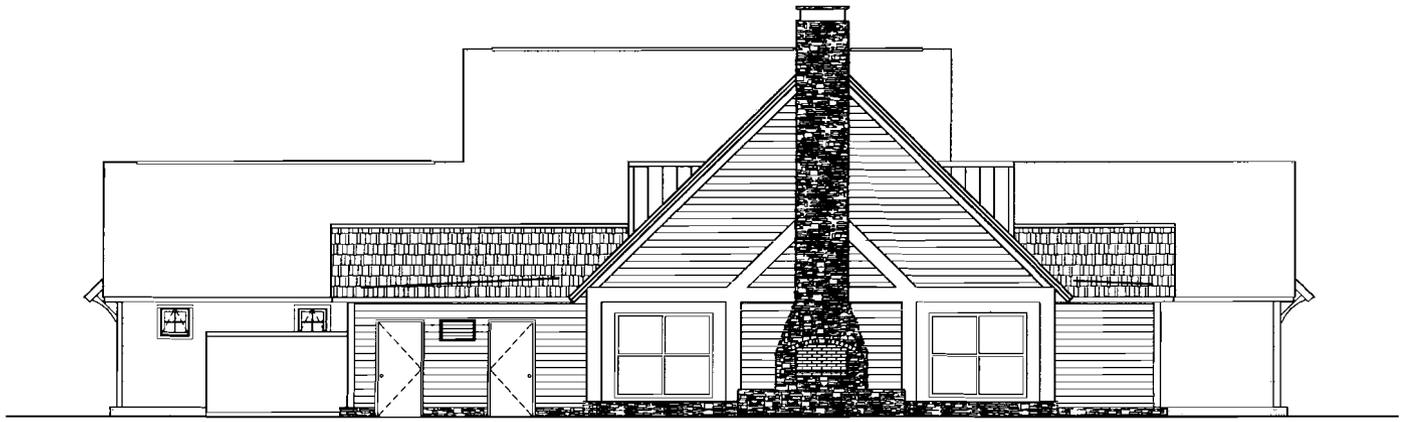
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6-5
A2.2

EAST ELEVATION

SCALE: 1/4"=1'-0"



A-3
A2.2

SOUTH ELEVATION

SCALE: 1/4"=1'-0"

NOT FOR CONSTRUCTION
PROGRESS SET 10.14.10

No.	Revisions	Date

FREEDOM PARK INTERPRETIVE CENTER
5537 CENTERVILLE RD
JAMES CITY COUNTY, VA

BUILDING ELEVATIONS

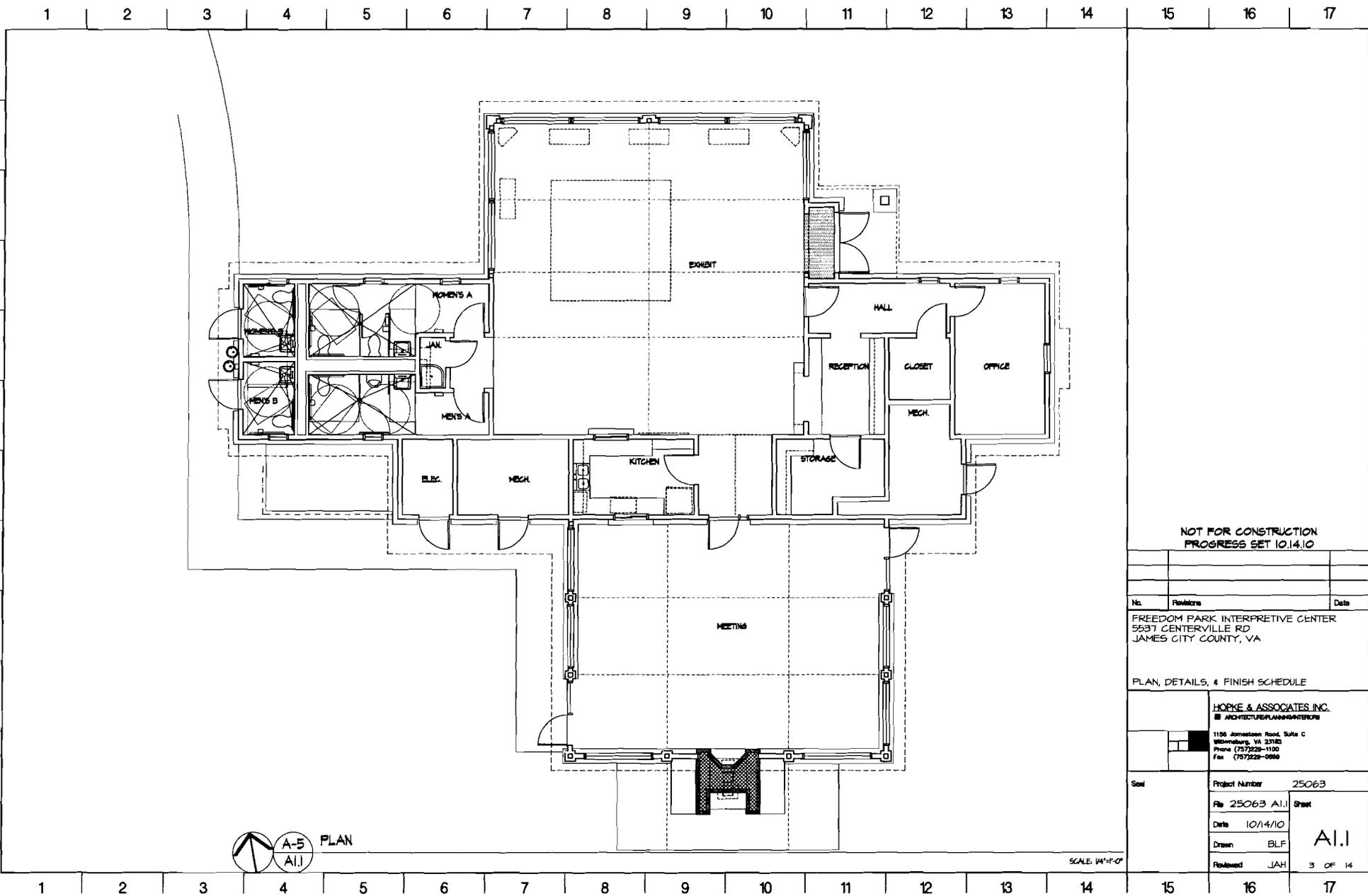
Seal	HOPKE & ASSOCIATES INC. ARCHITECTURE/PLANNING/INTERIORS	
	1158 Jamestown Road, Suite C Williamsburg, VA 23185 Phone (757)228-1100 Fax (757)228-0888	
	Project Number	25063
	File	25063 A2.2
	Date	10/14/10
Drawn	BLF	A2.2
Reviewed	JAH	
		5 OF 14

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NOT FOR CONSTRUCTION
 PROGRESS SET 10.14.10

No.	Revisions	Date

FREEDOM PARK INTERPRETIVE CENTER
 5537 CENTERVILLE RD
 JAMES CITY COUNTY, VA

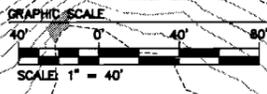
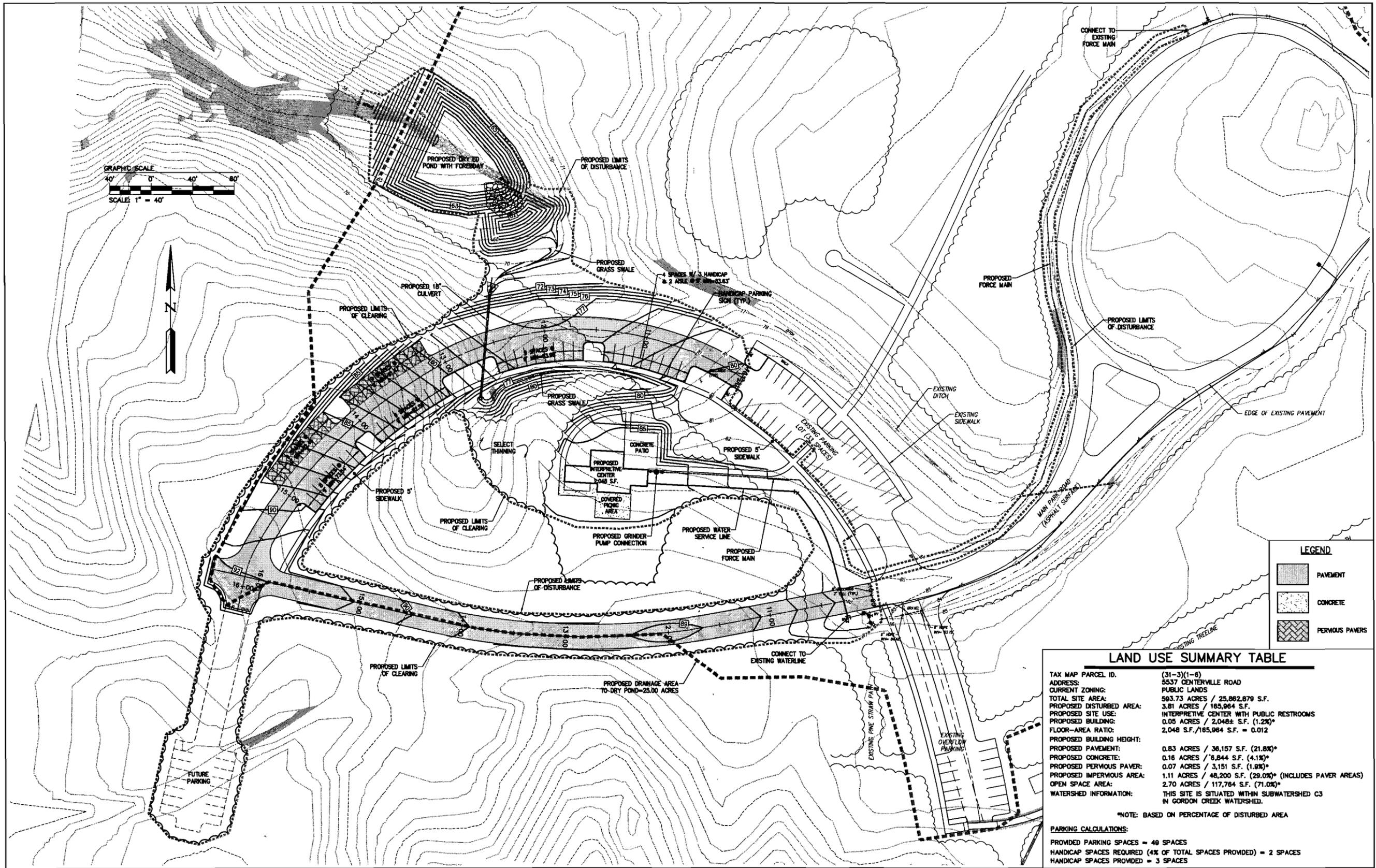
PLAN, DETAILS, & FINISH SCHEDULE

HOPKE & ASSOCIATES, INC.
 ARCHITECTURE/INTERIORS
 1156 Jamestown Road, Suite C
 Williamsburg, VA 23183
 Phone (757)229-1100
 Fax (757)229-0860

Scale	Project Number	25063
	File	25063 A.I.I. Sheet
	Date	10/14/10
	Drawn	BLF
	Revised	JAH 3 OF 14

A.I.I.

SCALE: 1/4"=1'-0"



LEGEND

	PAVEMENT
	CONCRETE
	PERVIOUS PAVERS

LAND USE SUMMARY TABLE

TAX MAP PARCEL ID:	(31-3)(1-6)
ADDRESS:	5537 CENTERVILLE ROAD
CURRENT ZONING:	PUBLIC LANDS
TOTAL SITE AREA:	593.73 ACRES / 25,862,879 S.F.
PROPOSED DISTURBED AREA:	3.81 ACRES / 165,964 S.F.
PROPOSED SITE USE:	INTERPRETIVE CENTER WITH PUBLIC RESTROOMS
PROPOSED BUILDING:	0.05 ACRES / 2,048± S.F. (1.2%)*
FLOOR-AREA RATIO:	2,048 S.F./165,964 S.F. = 0.012
PROPOSED BUILDING HEIGHT:	
PROPOSED PAVEMENT:	0.83 ACRES / 36,157 S.F. (21.8%)*
PROPOSED CONCRETE:	0.16 ACRES / 6,844 S.F. (4.1%)*
PROPOSED PERVIOUS PAVER:	0.07 ACRES / 3,151 S.F. (1.9%)*
PROPOSED IMPERVIOUS AREA:	1.11 ACRES / 48,200 S.F. (29.0%)* (INCLUDES PAVER AREAS)
OPEN SPACE AREA:	2.70 ACRES / 117,764 S.F. (71.0%)*
WATERSHED INFORMATION:	THIS SITE IS SITUATED WITHIN SUBWATERSHED C3 IN GORDON CREEK WATERSHED.

*NOTE: BASED ON PERCENTAGE OF DISTURBED AREA

PARKING CALCULATIONS:

PROVIDED PARKING SPACES = 49 SPACES
 HANDICAP SPACES REQUIRED (4% OF TOTAL SPACES PROVIDED) = 2 SPACES
 HANDICAP SPACES PROVIDED = 3 SPACES

Rev.	Date	Description	Revised By

AES
 CONSULTING ENGINEERS
 5248 Old Towne Road, Suite 1
 Williamsburg, Virginia 23188
 Phone: (767) 253-0040
 Fax: (767) 220-8994
 www.aesve.com

Hampton Roads | Central Virginia | Middle Peninsula

CONCEPTUAL PLAN FOR
FREEDOM PARK INTERPRETIVE CENTER
 5537 CENTERVILLE ROAD
 SITE PLAN
 POWHATAN DISTRICT | JAMES CITY COUNTY | VIRGINIA

Project Contacts:	REC, GVC
Project Number:	9801-E-30
Scale:	1"=40'
Date:	2/4/10
Sheet Number:	2

MEMORANDUM COVER



Subject: Ratification of Forest Heights Community Development Block Grant (CDBG) Agreement and Appropriation of Funds

Strategic Management Plan Pathway: 2.a. - Address the needs of the underserved and protect the vulnerable; 2.c. - Increase the variety of safe, sanitary and affordable housing; and 4.f. - Manage stormwater effectively and protect groundwater

Action Requested: Shall the Board approve the resolution ratifying the agreement dated January 12, 2011, with the Virginia Department of Housing and Community Development executed by the County Administrator, which provides the \$1,400,000 CDBG funds under a single, 24-month contract for the Forest Heights CDBG project?

Summary: In early January 2011, the County was notified that the Virginia Department of Housing and Community Development (VDHCD) had revised the terms of the Community Development Block Grant (CDBG) funding offer for the Forest Heights Neighborhood Improvement Project. After review of the documents submitted by the County, VDHCD decided to provide the \$1,400,000 of CDBG funds awarded to the County for the Forest Heights Neighborhood Improvement Project under a single, 24-month contract instead of the original multi-year offer of an initial contract of \$800,000 of CDBG funds with a second contract of \$600,000 of CDBG funds to be provided after demonstration of successful progress in completing project activities under the first contract.

Staff recommends approval of the resolution.

Fiscal Impact: The CDBG funds will provide \$1,400,000 to the County for use in this project. The local match funds will be provided from the fund balance and projected FY 2012 revenues in the County's Community Development Fund.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell DP

County Administrator

Robert C. Middaugh

Attachments:
1. Memorandum
2. Resolution

Agenda Item No.: I-2
Date: January 25, 2011

MEMORANDUM

DATE: January 25, 2011

TO: The Board of Supervisors

FROM: Richard B. Hanson, Housing and Community Development Administrator

SUBJECT: Ratification of Forest Heights Community Development Block Grant (CDBG) Agreement and Appropriation of Funds

In early January 2011, the County was notified that the Virginia Department of Housing and Community Development (VDHCD) had revised the terms of the Community Development Block Grant (CDBG) funding offer for the Forest Heights Neighborhood Improvement Project. After review of the documents submitted by the County, VDHCD decided to provide the \$1,400,000 of CDBG funds awarded to the County for the Forest Heights Neighborhood Improvement Project under a single, 24-month contract instead of the original multi-year offer of an initial contract of \$800,000 of CDBG funds with a second contract of \$600,000 of CDBG funds to be provided after demonstration of successful progress in completing project activities under the first contract.

In all other respects, the project remains the same. The project will improve housing conditions; provide new streets, drainage, and other facilities; and preserve Forest Heights as a viable residential neighborhood. CDBG funds of \$1,400,000, along with local funds of \$1,094,552, private funds of \$270,000, and \$72,500 of other federal funds, are to be expended to undertake the following activities specified in the CDBG Agreement:

1. Rehabilitation of seven homes to housing quality standards, including energy audits, and energy efficiency improvements.
2. Substantial reconstruction of two homes to be moved following boundary line adjustments.
3. Permanent relocation of two owner households and two non-owner households from property acquired due to road realignment.
4. Construction of four homes to provide homeownership opportunities for low- and moderate-income households.
5. Demolition of two vacant, dilapidated dwellings.
6. Demolition of three homes and one trailer due to road realignment.
7. Acquisition of 11 parcels totaling approximately 7.6 acres for road realignment, stormwater management, infill housing sites, and required open space.
8. Construction of approximately 1,680 linear feet of street with curb, gutter, and sidewalk built to the Virginia Department of Transportation (VDOT) standards.
9. Construction of 420 linear feet of multi-use trail along Richmond Road.
10. Construction of a storm drainage basin and approximately 3,350 linear feet of storm sewer.
11. Installation of approximately 880 linear feet of 8-inch water line, 670 linear feet of 8-inch sewer line, and 30 water and 23 sewer connections.
12. Construction of an approximately 400-linear-foot turn lane on Richmond Road.
13. Planting of street trees and installation of streetlights.
14. Clearance of junk, debris, derelict structures, inoperable vehicles, and overgrown vegetation in the project area.

The revised CDBG offer and single, 24-month contract will streamline the implementation and expedite completion of the Forest Heights Neighborhood Improvement Project. The \$479,127 of local County funds, in

Ratification of Forest Heights Community Development Block Grant (CDBG) Agreement

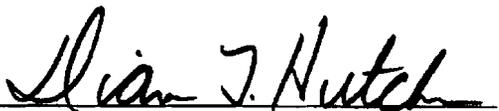
January 25, 2011

Page 2

addition to the previously appropriated \$615,425 required for the project, will be provided from the fund balance and projected FY 2012 Revenue in the Community Development Fund. We, therefore, recommend your approval of the attached resolution ratifying the agreement dated January 12, 2011, with the Virginia Department of Housing and Community Development executed by the County Administrator which provides the \$1,400,000 CDBG funds under a single, 24-month contract, and to appropriate the additional \$600,000 of CDBG funds provided under this agreement.


Richard B. Hanson

CONCUR:


Diana F. Hutchens

RBH/nb
FH-CDBGAgmt_mem

Attachments

RESOLUTION

RATIFICATION OF FOREST HEIGHTS COMMUNITY DEVELOPMENT

BLOCK GRANT (CDBG) AGREEMENT AND APPROPRIATION OF FUNDS

WHEREAS, the Board of Supervisors authorized by resolution on December 14, 2010, the County Administrator to sign the Forest Heights Community Development Block Grant (CDBG) Agreement and Phase One Contract with the Virginia Department of Housing and Community Development; and

WHEREAS, the Virginia Department of Housing and Community Development notified the County in January 2011, that it was revising the terms of the 2010 Virginia CDBG offer to provide the entire \$1,400,000 award of CDBG funds under a single, 24-month contract instead of the original offer of \$800,000 of CDBG funds to complete the first phase of project activities with an additional \$600,000 of CDBG funds conditioned on successful progress to be provided under a second contract to complete the remainder of the Forest Heights Neighborhood Improvement Project activities; and

WHEREAS, the acceptance of this revised CDBG grant offer will expedite completion of the Forest Heights Neighborhood Improvement Project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby ratifies and confirms the Agreement, Contract CIG No. 10-15, dated January 12, 2011, executed by the County Administrator, which provides \$1,400,000 to assist in funding the Forest Heights Neighborhood Improvement Project.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Budget, as adopted for the fiscal year ending June 30, 2011, as follows:

Revenue:

Forest Heights Neighborhood Improvement Project Community Development Block Grant	<u>\$600,000</u>
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Expenditure:

Forest Heights Project CDBG	<u>\$600,000</u>
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BE IT FURTHER RESOLVED that the appropriation of funds for the Forest Heights CDBG Project be designated a continuing appropriation to carry beyond FY 2011 until the Forest Heights Project is completed.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
January, 2011.

FH-CDBGAgmt_res

