

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS County Government Center Board Room December 11, 2012

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Kasey Tomes, a 10th grade student at Warhill High School, and Tara Heatwole, a 12th grade student at Jamestown High School.

E. PRESENTATIONS

1. The Comprehensive Annual Financial Report – Dixon Hughes Goodman, LLP
2. Lifesaving Recognition - James City County Recreation Center
3. Chairman's Award

F. PUBLIC COMMENT

G. BOARD REQUESTS AND DIRECTIVES

H. CONSENT CALENDAR

1. Minutes –
 - a. November 27, 2012, Regular Meeting
2. Grant Award – Virginia Department of Environmental Quality – \$14,755
3. Lifesaving Recognition - James City County Recreation Center
4. Establishment of a Part-time Regular Custodial Position

I. PUBLIC HEARINGS

1. Case No. SUP-0015-2012. Stewart Family Subdivision
2. Case No. AFD-07-86-1-2012. Mill Creek Agricultural and Forestal District Addition
3. Case No. SUP-0012-2012. Toano Middle School Parking Improvements
4. Case No. SUP-0013-2012. King of Glory Church Building Expansion
5. Case No. ZO-0004-2012. Soil Stockpile Ordinance
6. Zoning Ordinance Update
 - a. Case No. ZO-0006-2012. Floodplain Housekeeping
 - b. Case No. ZO-0009-2012. Procedural/Submittal Requirements and Definitions
 - c. Case No. ZO-0007-2012. Research and Technology
 - d. Case No. ZO-0008-2012. Private Streets Housekeeping
7. Case No. SO-0001-2011. Subdivision Ordinance

-CONTINUED-

J. BOARD CONSIDERATIONS

1. Support for a Regional Business Incubator to be Established Jointly by the Economic Development Authorities of James City County, York County, and the City of Williamsburg and Pledging Certain Future Tax Revenues in Support of the Incubator
2. 2013 Legislative Program
3. Powhatan Supervisor Selection Process

K. PUBLIC COMMENT

L. REPORTS OF THE COUNTY ADMINISTRATOR

M. BOARD REQUESTS AND DIRECTIVES

N. CLOSED SESSION

1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia
 - a. Williamsburg Area Arts Commission(2)
2. Consideration of the acquisition of real property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

O. ADJOURNMENT – 3:30 p.m. on December 12, 2012 for a Special Meeting.

MEMORANDUM COVER

Subject: Grant Award - Virginia Department of Environmental Quality - \$14,755

Action Requested: Shall the Board approve the resolution that appropriates the grant amount of \$14,755 to the Special Projects/Grants Fund in support of the litter prevention, beautification, and recycling programs?

Summary: The FY 2013 Virginia Department of Environmental Quality Litter Prevention and Recycling Grant was awarded to James City County in the amount of \$14,755. The litter grant fund is appropriated by the James City Clean County Commission to educate and encourage residents, local businesses, and industry to enhance both the physical and visual environment. Examples of annual programs and activities supported by the litter grant include the Annual Spring Cleanup, Community Outreach and Environmental Education, Household and Hazardous Chemical Collections, and Computer Recycling.

Staff recommends adoption of the attached resolution.

Fiscal Impact: \$14,755 Grant Funds

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Grant Award Letter

Agenda Item No.: H-2

Date: December 11, 2012

MEMORANDUM

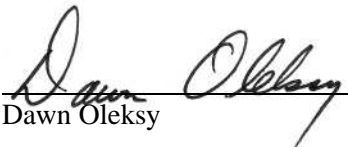
DATE: December 11, 2012
TO: The Board of Supervisors
FROM: Dawn Oleksy, Environmental Coordinator, General Services
SUBJECT: Grant Award - Virginia Department of Environmental Quality - \$14,755

The FY 2013 Virginia Department of Environmental Quality Litter Prevention and Recycling Grant was awarded to James City County in the amount of \$14,755.

The attached resolution appropriates the grant amount of \$14,755 to the Special Projects/Grants Fund in support of the litter prevention, beautification, and recycling programs.

The litter grant fund is appropriated by the James City Clean County Commission to educate and encourage residents, local businesses, and industry to enhance both the physical and visual environment. Examples of annual programs and activities supported by the litter grant include the Annual Spring Cleanup, Community Outreach and Environmental Education, Household and Hazardous Chemical Collections, and Computer Recycling.

Staff recommends adoption of the attached resolution.


Dawn Oleksy

CONCUR:


John T. P. Horne

DO/nb
GA_VDEQ_mem

Attachments

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY - \$14,755

WHEREAS, the Department of Environmental Quality has awarded James City County a Litter Prevention and Recycling Grant in the amount of \$14,755.

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 | <u>\$14,755</u> |
|----------------------|-----------------|

Expenditure:

| | |
|----------------------|-----------------|
| Litter Control Grant | <u>\$14,755</u> |
|----------------------|-----------------|

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

VOTES

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Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
December, 2012.

GA_VDEQ_res



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

TDD (804) 698-4021

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

October 2, 2012

Mr. Robert Middaugh
Administrator, County of James City
101 C Mounts Bay Road
Williamsburg, Virginia 23185

Dear Mr. Middaugh:

I am pleased to inform you that a grant award of **\$14,755** has been approved for the **County of James City** Litter Prevention and Recycling Program activities for the period July 1, 2012 to June 30, 2013. A payment for this amount should be received within the next two weeks if funds can be transferred electronically (EDI) or in thirty days in processing by check is required.

If you have any questions or need additional information, please contact me at steve.coe@deq.virginia.gov or at 804-698-4029.

Sincerely,

G. Stephen "Steve" Coe

G. Stephen Coe
Division of Land Protection & Revitalization
Recycling and Litter Programs

Cc: Grant file

MEMORANDUM COVER

Subject: Lifesaving Recognition – James City County Recreation Center

Action Requested: Shall the Board approve the attached resolution that recognizes Mr. Mike Prelewicz and Ms. Gerenda (Gigi) Robinson for their lifesaving efforts for a patron at the James City County Recreation Center?

Summary: On Thursday, November 15, 2012, a patron at the James City County Recreation Center collapsed while working out in the cardio room. Mr. Mike Prelewicz and Ms. Gerenda Robinson acted quickly and competently to assess and offer lifesaving care to the individual. As a result of their actions and prompt EMS care, the individual survived his cardiac arrest.

Staff recommends adoption of the attached resolution recognizing the lifesaving efforts taken by Mr. Prelewicz and Ms. Robinson while performing their work at the James City County Recreation Center.

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

Agenda Item No.: H-3

Date: December 11, 2012

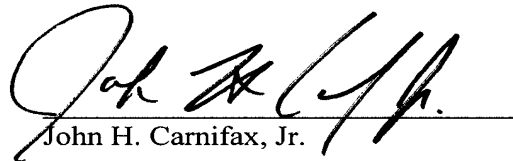
MEMORANDUM

DATE: December 11, 2012
TO: The Board of Supervisors
FROM: John H. Carnifax, Director of Parks and Recreation
SUBJECT: Lifesaving Recognition – James City County Recreation Center

On Thursday, November 15, 2012, a patron at the James City County Recreation Center collapsed while working out in the cardio room. Mr. Mike Prelewicz, the Senior Fitness Trainer, quickly called for back-up and then proceeded to assess the individual. Mr. Prelewicz found the gentleman without a pulse or respirations and quickly began Cardiopulmonary Resuscitation (CPR). Ms. Gerenda (Gigi) Robinson, a Senior Customer Assistant from the front desk, arrived upstairs and assisted by attaching an Automated External Defibrillator (AED). The device administered a shock and Ms. Robinson and Mr. Prelewicz performed two-man CPR through several cycles with the AED until Emergency Medical Services personnel arrived.

The patron was taken to the hospital and then flown to the Medical College of Virginia where lifesaving measures were given. Staff from the hospital cited staff's quick actions along with timely EMS care as the reason the patron survived the heart attack.

Staff recommends adoption of the attached resolution recognizing the lifesaving efforts taken by Mr. Prelewicz and Ms. Robinson while performing their work at the James City County Recreation Center.


John H. Carnifax, Jr.

JHC/nb
LifeSaving_mem

Attachment

RESOLUTION

LIFESAVING RECOGNITION – JAMES CITY COUNTY RECREATION CENTER

WHEREAS, a patron suffered a sudden cardiac arrest on November 15, 2012, while exercising at the James City County Recreation Center; and

WHEREAS, James City County Recreation Center staff found him unresponsive without a pulse or respirations; and

WHEREAS, Mr. Mike Prelewicz and Ms. Gerenda (Gigi) Robinson together performed Cardiopulmonary Resuscitation (CPR) in conjunction with the use of an Automated External Defibrillator (AED); and

WHEREAS, their quick efforts combined with EMS treatment resulted in a successful transportation of the individual to the hospital for further treatment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes and thanks Mr. Prelewicz and Ms. Robinson for their heroic efforts in saving the life of a James City County citizen at the James City County Recreation Center.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

LifeSaving_res

MEMORANDUM COVER

Subject: Establishment of a Part-Time Regular Custodial Position

Action Requested: Shall the Board of Supervisors approve the resolution to establish a part-time regular custodial position to maintain the Law Enforcement Center?

Summary: This position will be part of the team that maintains the cleanliness of the Law Enforcement Center (LEC).

When the LEC was being constructed, General Services opted to evaluate the man-hours needed in order to maintain this facility. Since that time on-call hours have been used on a daily basis to clean the facility in the evenings. This resolution would establish a 20-hour per week part-time permanent position to provide this needed service.

Staff recommends adoption of the attached resolution.

Fiscal Impact: Funding is already available in the FY 13 Operational 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.: H-5

Date: December 11, 2012

M E M O R A N D U M

DATE: December 11, 2012

TO: The Board of Supervisors

FROM: John T. P. Horne, Director of General Services

SUBJECT: Establishment of a Part-Time Regular Custodial Position

This position will be part of the team that maintains the cleanliness of the Law Enforcement Center. Upon opening the facility, General Services opted to evaluate the man-hours needed in order to maintain this facility. The International Facilities Management Association "Operations and Maintenance Benchmarks" reports that a facility this size should have 3.2 Full-Time Equivalents (FTEs) in the janitorial area. During daytime hours the facility is serviced by one full-time and one part-time staff. With this approved position, we would have two FTEs, one full-time and two part-time staff. The two FTEs were approved in the FY 11 budget, but one part-time position was eliminated in the FY 12-13 budgets. The intent was to fully evaluate whether the final .5 FTE was consistently needed.

We are currently maintaining the Law Enforcement Center with 1.5 FTEs and supplement with four on-call hours in the evening. These on-call hours are used very consistently on a daily basis. On-call hours typically are to be used when there is a staff shortage or for special projects, as opposed to regularly recurring duties. In general, reliable long-term on-call staff is more difficult to recruit and retain. Funding for the on-call hours is already in the department budget and converting the position to part-time permanent requires no additional funding for salaries. Based on experience staff believes that the facility can be adequately maintained with the addition of this requested position.

Staff recommends adoption of the attached resolution.


John T.P. Horne

JTPH/nb
Custodial_mem

Attachment

RESOLUTION

ESTABLISHMENT OF A PART-TIME REGULAR CUSTODIAL POSITION

WHEREAS, the James City County Department of General Services desires to provide outstanding custodial services to all County facilities; and

WHEREAS, it has been determined that a part-time permanent custodial position is needed to maintain the Law Enforcement Center.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one part-time permanent custodial position in the Department of General Services effective December 16, 2012.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Custodial_res

MEMORANDUM COVER

Subject: Case No. SUP-0015-2012. Stewart Family Subdivision

Action Requested: Shall the Board approve a family subdivision proposed for 9484 Richmond Road?

Summary: Ms. Tracie Woodward, the property owners' daughter, has applied on behalf of William and Carol Stewart for a Special Use Permit (SUP) to allow a family subdivision resulting in two new lots less than three acres in size. An SUP is required because the proposed lots will be less than three acres. The proposal is to subdivide a ±7.87-acre parcel into a total of three lots with the two new lots for the owners' son and daughter.

Staff recommends the Board of Supervisors approve this SUP with the conditions listed in the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Staff Report
2. Resolution
3. Location Map
4. Family Subdivision Plat Exhibit
5. Family Subdivision Affidavit No. 1
6. Family Subdivision Affidavit No. 2

Agenda Item No.: I-1

Date: December 11, 2012

**SPECIAL USE PERMIT-0015-2012. Stewart Family Subdivision
Staff Report for the December 11, 2012, 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

Board of Supervisors:

Building F Board Room; County Government Complex

December 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant: Tracie Woodward, daughter of property owners

Land Owners: William and Carol Stewart

Proposal: Family subdivision resulting in two new lots that are less than three acres in size

Location: 9484 Richmond Road

Tax Map/Parcel No.: 0240100042

Parcel Size: Current lot size: ±7.87 acres
Proposed Parcel No. 1 (parent parcel): 5.8 acres
Proposed Parcel No. 2: 1.0 acres
Proposed Parcel No. 3: 1.0 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding development and Section 19-17 of the Subdivision Ordinance. Staff recommends the Board of Supervisors approve this Special Use Permit (SUP) with the conditions listed in the attached resolution.

Staff Contact: Luke Vinciguerra, Planner I Phone: 253-6783

PROJECT DESCRIPTION

Ms. Tracie Woodward, the property owners' daughter, has applied on behalf of William and Carol Stewart for an SUP to allow a family subdivision resulting in two lots less than three acres in size. An SUP is required because the proposed lots will be less than three acres. The proposal is to subdivide a ± 7.87 -acre parcel into three lots; the two new lots would be given to the owners' son and daughter.

There are currently no structures on the property; William and Carol Stewart currently reside in New Kent County. As the parcel is outside the Primary Service Area (PSA), the applicant would need to demonstrate soil adequacy and space for drainfields and wells for each proposed parcel before plat approval. Access for all three lots would be from a shared access easement.

The property has been in a trust for approximately 20 years with the current owners as the trustees. Properties owned by trusts are not eligible for a family subdivision. In October 2012, the trust was dissolved and William and Carol Stewart became the owners of the property. While the draft subdivision ordinance currently under consideration by the Board requires property ownership for five years prior to Board consideration of a Family Subdivision, staff finds that the property is eligible for Board consideration under the currently adopted subdivision regulations and not in conflict with other recently approved subdivisions.

Surrounding Zoning and Land Use

The property is surrounded by A-1, General Agriculture, land that is designated Rural Lands on the 2009 Comprehensive Plan. Existing uses are residential, agricultural, or vacant parcels. Though the majority of parcels in the vicinity are large (5+ acres), there are a number of smaller parcels (around one acre) immediately southeast that have a residential use. The proposed lot arrangement, when developed would not be viewed as inconsistent with adjacent development.

PUBLIC UTILITIES

Environmental Impacts

Watershed: Diascund Creek

Engineering and Resource Protection Staff Comments: The Engineering and Resource Protection Division has reviewed the proposal and has no comments at this time.

Virginia Department of Health Comments: Both new lots will be served by private well and septic. Well and soils information will need to be approved by the Health Department before plat approval.

COMPREHENSIVE PLAN

The site is located outside the PSA and is designated as Rural Lands on the 2009 Comprehensive Plan Land Use Map. Recommended primary uses in the Rural Lands include agricultural and forestal activities and public or semi-public institutions that require a spacious site. Recommended residential uses include single-family developments as low-density and small-scale rural clusters. Such developments should be compatible with the natural and rural character of the area and be in accordance with the Rural Lands Development Standards provided in the Comprehensive Plan.

Staff Comments: The creation of two additional lots is not in conflict with the rural character of the area, is compatible with immediately adjacent lot sizes and land uses, and is compatible with other family subdivisions approved by the Board of Supervisors. The proposed family subdivision does not represent a large-scale residential development and will not negatively impact any agricultural or forestal uses.

RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this SUP with the conditions listed in the attached resolution.

Luke Vinciguerra

CONCUR:

Allen J. Murphy, Jr.

LV/nb
Sup15-12Stewart

ATTACHMENTS:

1. Resolution
2. Location Map
3. Family Subdivision Plat Exhibit
4. Family Subdivision Affidavit No. 1
5. Family Subdivision Affidavit No. 2

RESOLUTION

CASE NO. SUP-0015-2012. STEWART FAMILY SUBDIVISION

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

WHEREAS, Ms. Tracie Woodward has requested an SUP to allow for a family subdivision with two new lots less than three acres in size in an A-1, General Agricultural, District, located at 9484 Richmond Road, further identified as James City County Real Estate Tax Map Parcel No. 0240100042; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0015-2012; and

WHEREAS, the Board of Supervisors is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-0015-2012, as described herein, pursuant to the following conditions:

1. **Plan.** This SUP is valid for a family subdivision for the creation of no more than two new lots and one parent lot with each lot being no less than one acre in size as generally shown on the conceptual plat submitted with this application. The final number of lots shall be determined by the Director of Planning subject to a review of septic drainfield information.
2. **Access.** Only one entrance serving all lots through a shared driveway shall be allowed onto Richmond Road. Access shall be from an all-weather surface of rock, stone, or gravel, with a minimum depth of three inches and a minimum width of ten feet per Sec. 19-17 of the Subdivision Ordinance.
3. **Commencement.** Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. **Severance Clause.** The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

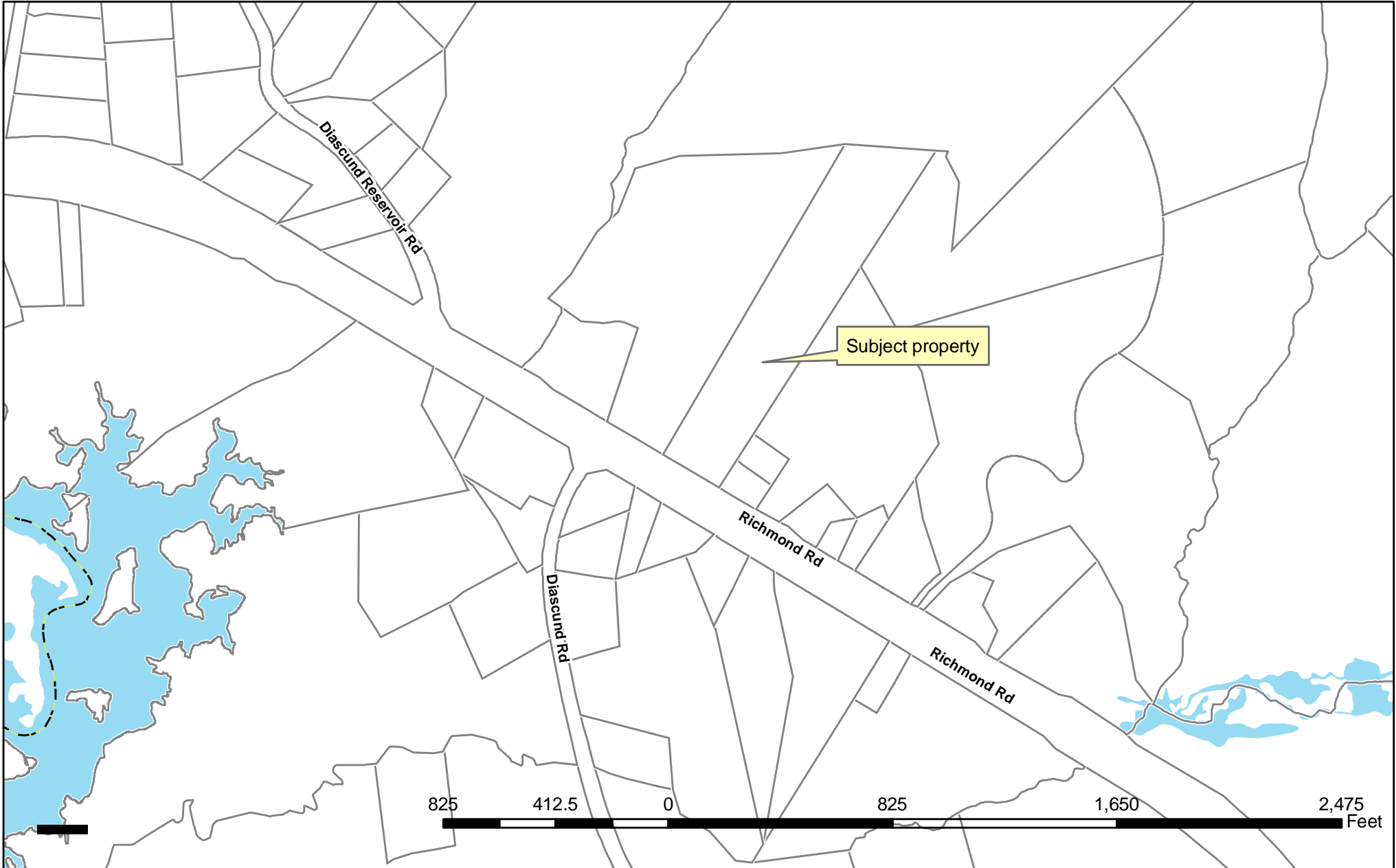
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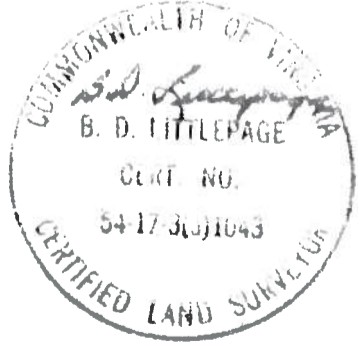
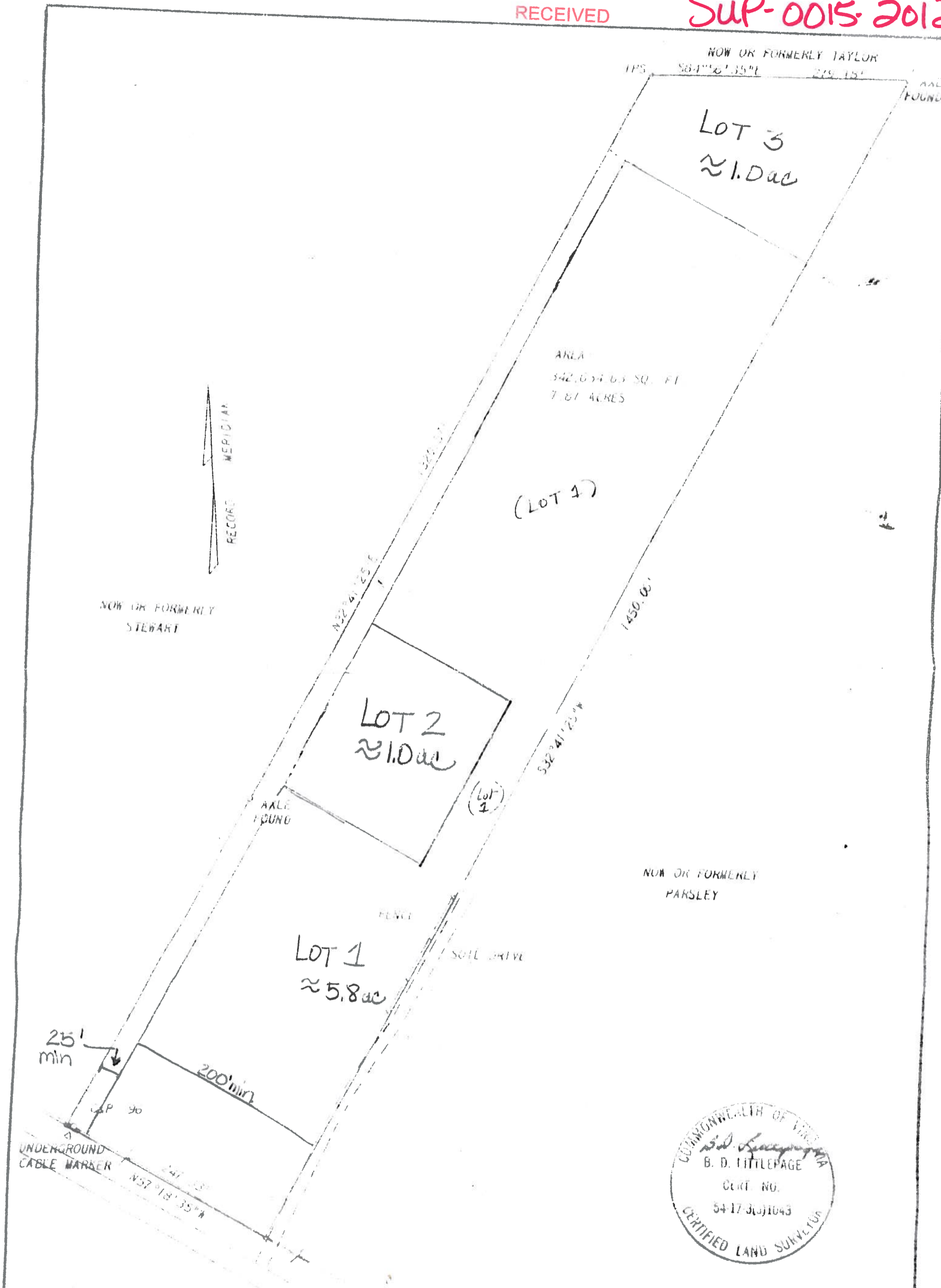
Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Sup15-12Stewart_res

SUP-0015-2012

Stewart Family Subdivision





L. V. WOODSON & ASSOCIATES, INC. ENGINEERS, SURVEYORS & PLANNERS, P. O. BOX 633 WILLIAMSBURG, VIRGINIA 23186

LEGEND: • = IP = IRON PIN, □ = MON = MONUMENT, — = PROPERTY LINE, - - - = CENTERLINE, - - - - = EASEMENT LINE

A SURVEY OF A PARCEL OF LAND STANDING IN THE NAME OF THOMAS G. STEWART LYING IN POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA

SCALE 1" = 100' REF: 00387268 CLOSURE J. O. 1579 DATE MARCH 15, 1979



County of James City, Virginia - Family Subdivision Affidavit

November 5, 2012

I/we, William E. Stewart, III and Carol S. Stewart, own a parcel of property consisting of 7.87 acres and located at 9484 Richmond Rd. Lanexa, VA 23089 and further identified as James City County Real Estate Tax Map No. 0240100042 (the "Property"). I/we hereby request that James City County, Virginia, approve a family subdivision of the Property into a total of 3 parcel(s), in the specific location and sizes as shown on a plat entitled

"A survey of a Parcel of Land standing in the Name of Thomas G. Stewart", made by L.V. Woodson & Associates, and dated March 15, 1974 (the "Family Subdivision Plat").

This family subdivision is being made for the purpose of transferring a lot by sale or gift to: Tracie Stewart Woodward, who is my/our daughter, and is not made for the purpose of circumventing any of the provisions of the Code of the County of James City, Virginia. It is my/our intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the Family Subdivision Plat.

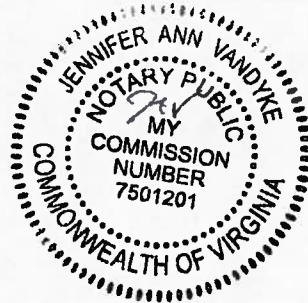
William E. Stewart III
Owner
Carol S. Stewart
Owner

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

The foregoing Affidavit was acknowledged before me this 5 day of November, 2012 by, William E. Stewart, Carol S. Stewart, owner(s).

My Commission expires: 5/31/2015

Jennifer Ann Vandye
Notary Public
Notary No. 7051201



Prepared by and return to:
Name: Luke Vnelguerra
Address: 101-A Mounts Bay Rd.
Williamsburg, VA 23187
Telephone: (757) 253-6685



County of James City, Virginia - Family Subdivision Affidavit

November 5, 2012

I/we, William E. Stewart, III and Carol S. Stewart, own a parcel of property consisting of 7.87 acres and located at 9484 Richmond Rd. Lanexa, VA 23089 and further identified as James City County Real Estate Tax Map No. 0240100042 (the "Property"). I/we hereby request that James City County, Virginia, approve a family subdivision of the Property into a total of 3 parcel(s), in the specific location and sizes as shown on a plat entitled

"Faylor A survey of a Parcel of Land Standing in the Name of", made by L.V. Woodson & Associates, and dated March 15, 1974 (the "Family Subdivision Plat"). Thomas G. Stewart

This family subdivision is being made for the purpose of transferring a lot by sale or gift to:

William E. Stewart, IV, who is my/our SON, and is not made for the purpose of circumventing any of the provisions of the Code of the County of James City, Virginia. It is my/our intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the Family Subdivision Plat.

William E. Stewart III
Owner

Carol S. Stewart
Owner

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

The foregoing Affidavit was acknowledged before me this 5 day of November, 2012 by, William E. Stewart III, Carol S. Stewart, owner(s).

My Commission expires: 5/31/2015

Joy Lamb
Notary Public

Notary No. 7051201



Prepared by and return to:
Name: Luke Vinciguerriz
Address: 101-A Mounts Bay Rd.
Williamsburg, VA 23187
Telephone: (757) 253-6685

MEMORANDUM COVER

Subject: AFD-7-86-1-2012. Mill Creek Agricultural and Forestal District (AFD) Addition (8700 Barnes Road)

Action Requested: Shall the Board of Supervisors approve the addition to the Mill Creek AFD?

Summary: Mr. Kevin Fair, has applied on behalf of Barnes Road LLC to request the addition of 104 acres of land into the Mill Creek Agricultural and Forestal District (AFD). The property is located at 8700 Barnes Road and is zoned A-1, General Agricultural.

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Mill Creek AFD contains 3,361 acres. If the 104-acre addition is approved, the district will have 3,465 acres. On September 28, 2010, the Board of Supervisors approved a renewal of the Mill Creek AFD for a period of four years, one month, and three days. If approved, this parcel would have the same conditions and expiration date (October 31, 2014) as the rest of the Mill Creek AFD parcels.

Staff recommends that the Board of Supervisors approve this addition to the Mill Creek AFD. At its October 18, 2012, meeting, the AFD Advisory Committee voted 8-0 to recommend approval of this application. At its November 7, 2012, meeting, the Planning Commission voted 6-0 to recommend approval of this application.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Staff Report
2. Ordinance
3. Location Map
4. Unapproved minutes from the November 7, 2012, Planning Commission meeting

Agenda Item No.: I-2

Date: December 11, 2012

AGRICULTURAL & FORESTAL DISTRICT-7-86-12. Mill Creek AFD Addition (8700 Barnes Road)

Staff Report for the December 11, 2012, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

October 18, 2012 , 4:00 p.m.
November 7, 2012, 7:00 p.m.
December 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Kevin Fair

Land Owner: 8700 Barnes Road LLC

Location: 8700 Barnes Road

Tax Map/Parcel No.: 1010100037

Primary Service Area: Outside

Parcel Size: 104 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Surrounding AFD Land: The parcel is surrounded to the south by other parcels located in the Mill Creek Agricultural and Forestal District (AFD), as well as one on the northern side across Barnes Road.

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors approve the addition to the Mill Creek AFD with the conditions found in the attached ordinance. At its October 18, 2012, meeting, the AFD Advisory Committee voted 8-0 to recommend approval of the application.

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

PLANNING COMMISSION RECOMMENDATION

On November 7, 2012, the Planning Commission voted 6-0 to recommend approval of this application.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

The parcel is wooded with approximately 2,600 feet of frontage along Barnes Road. The parcel has not been developed and there are steep slopes and wetlands that bisect the property in multiple locations. This area is best protected by its current land use and approval of this AFD would aid in the protection of this environmentally sensitive portion of the site. The property is outside of the Primary Service Area (PSA).

Surrounding Land Uses and Development

This parcel is zoned A-1, General Agricultural, and is surrounded by mostly wooded land that is a part of the Mill Creek AFD. There are smaller residential lots across Barnes Road from this parcel, as well as to the east of the property. The forestal use on this parcel is compatible with the surrounding land uses and development in the area.

COMPREHENSIVE PLAN

The Comprehensive Plan designates this parcel as Rural Lands. A Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The AFD program supports this objective.

Soils

The site consists of soil types which are suited to support the growth of woodlands and the property is wooded.

Analysis

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Mill Creek AFD contains 3,361 acres. If the 104-acre addition is approved, the district will have 3,465 acres. On September 28, 2010, the Board of Supervisors approved a renewal of the Mill Creek AFD for a period of four years, one month, and three days. The district will be up for renewal in October 31, 2014. This addition would be subject to the conditions of the existing district as follows:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties, which are in accordance with the County's policies and ordinances regulating such facilities.

RECOMMENDATION

Staff recommends that the Board of Supervisors approve the addition to the Mill Creek AFD with the conditions found in the attached ordinance. At its October 18, 2012, meeting, the AFD Advisory Committee voted 8-0 to recommend approval of the application. At its November 7, 2012, meeting the Planning Commission voted 6-0 to recommend the approval of the application.

Jason Purse

CONCUR:

Allen J. Murphy, Jr.

JP/gb

AFD-7-86-12MillCrkAdd.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the November 7, 2012, Planning Commission meeting

ORDINANCE NO. _____

AFD-7-86-1-2012. MILL CREEK AFD ADDITION (8700 BARNES ROAD)

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia, (the “Board of Supervisors”) to add 104 acres of land owned by Barnes Road LLC located at 8700 Barnes Road and identified as James City County Real Estate Tax Map No. 1010100037 to AFD 7-86, which is generally known as the 3,361-acre “Mill Creek Agricultural and Forestal District” (the “Application”); and

WHEREAS, at its October 18, 2012, meeting the Agricultural and Forestal District (AFD) Advisory Committee voted 8-0 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the “Commission”) at its November 7, 2012, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the “Virginia Code”), after which the Commission voted 6-0 to recommend approval of the Application; and

WHEREAS, pursuant to Section 15.2-4214 of the Virginia Code, a public hearing was advertised and held by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, James City County, Virginia, hereby adds 104 acres owned by Barnes Road LLC, as referenced herein to the 3,361 acres of the Mill Creek Agricultural and Forestal District, which is scheduled to expire October 31, 2014, with the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors’ Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties, which are in accordance with the County’s policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Directors

ATTEST:

Robert C. Middaugh
Secretary to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Directors of the James City Service Authority, James City County, Virginia, this 11th day of December, 2012.

AFD-7-86-12MillCrkAdd_res

8700 Barnes Road AFD application



Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

AFD-07-86-1-2012, Mill Creek AFD Addition

Mr. Jason Purse stated Mr. Kevin Fair has applied to add 104 acres of land to the existing Mill Creek Agricultural and Forestal District (AFD). He stated the parcel is located at 8700 Barnes Road, and is zoned A-1, General Agricultural. He stated the parcel is located outside of the Primary Service Area (PSA), and is surrounded by mostly wooded land that is a part of the Mill Creek AFD. He stated there are smaller residential lots across Barnes Road from this parcel, as well as to the east of the property. He stated the forestal use is compatible with the surrounding land uses and the Comprehensive Plan designation of Rural Lands.

Mr. Purse stated the proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. He stated if the 104-acre addition is approved, the district will have 3,465 acres. He stated on September 28, 2010, the BOS approved a renewal of the Mill Creek AFD for a period of four years, one month and three days. He stated the district will be up for renewal on October 31, 2014.

Mr. Purse stated staff recommends that the Planning Commission recommend approval of the addition to the Mill Creek AFD to the BOS. He stated at its October 18, 2012 meeting, the AFD Advisory Committee voted 8-0, to recommend approval of the application.

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

Mr. Krapf moved for approval of the Mill Creek AFD Addition.

In a unanimous voice vote, the report was approved (6-0; absent: Woods).

MEMORANDUM COVER

Subject: Case No. SUP-0012-2012. Toano Middle School Parking Lot Improvements

Action Requested: Shall the Board approve the proposed improvements to the school's parking lot and drop-off area?

Summary: This application proposes a new student drop-off area, 30 additional parking spaces, and other minor improvements on the school site located at 7817 Richmond Road. The property is zoned PL, Public Lands, and designated as Federal, State, and County Land on the 2009 Comprehensive Plan. A Special Use Permit (SUP) is required for this proposal since it is an expansion of a specially permitted use. On November 7, 2012, the Planning Commission voted 6-0 to recommend approval of this application.

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

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Resolution
2. Unapproved Minutes from the November 7, 2012, Planning Commission Meeting
3. Location Map
4. Aerial Photo of Existing Parking Lot Conditions with Proposed Areas of Changes
5. Master Plan

Agenda Item No.: I-3

Date: December 11, 2012

**Special Use Permit-0012-2012. Toano Middle School Parking Lot Improvements
Staff Report for the December 11, 2012, 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

November 7, 2012, 7:00 p.m.
December 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Bruce Abbott of AES Consulting Engineers

Land Owner: Williamsburg-James City County Public Schools (W-JCC)

Proposal: To allow the construction of a new student drop-off area, 30 additional parking spaces, and other minor improvements to the site

Location: 7817 Richmond Road; Stonehouse District

Tax Map/Parcel No.: 1240100051

Parcel Size: 34.1 acres

Existing Zoning: PL, Public Lands

Comprehensive Plan: Federal, State, and County land

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions listed in the attached resolution.

Staff Contact: Jose Ribeiro, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On November 7, 2012, the Planning Commission recommended approval of this application by a vote of 6-0.

Proposed Changes Made Since Planning Commission Meeting

Following the Planning Commission meeting, the applicant made a minor revision to the parking layout by increasing the width of a landscape island bay (separating the drop-off area from the general parking lot) in order to improve overall vehicular circulation and safety.

PROJECT DESCRIPTION

Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of W-JCC schools for a special use permit (SUP) to allow the construction of a new student drop-off area and additional parking spaces at the school site. The property is located at 7817 Richmond Road and zoned PL, Public Lands. An SUP is required for this proposal since it is an expansion of a specially permitted use.

According to the applicant, the number of students being dropped off at the school site has increased over the years and the area originally designated as a student drop-off area (i.e. internal traffic loop) is not capable of safely handling the increase in demand. As a result, students are being dropped off in multiple locations at the school and sometimes along Route 60.

In order to provide for a new drop-off area, a row of 22 parking spaces (including 19 regular and three handicap parking spaces) will be removed at the southernmost area of the parking lot. A row of 47 new parking spaces will be constructed at the northernmost area of the parking lot. Five parking spaces will be designed as handicap spaces and relocated to an area closer to the entrance of the school and physically separated from the main parking lot area. With the proposed changes, the number of parking spaces will increase from 117 (including three handicap spaces) to 147 (including five handicap spaces), a gain of 30 parking spaces. The number of parking spaces for buses will remain unchanged. The current drop-off area will be designated as a fire lane with signage to prevent vehicles from parking for long periods of time. The applicant has indicated that this area will only be used as an additional student drop-off area in very limited circumstances. Signs will be posted to orient drivers to the new student drop-off area. In addition to the proposed improvements to the parking area, a four-foot-wide bike lane will be added along the frontage of the site connecting to an existing bike lane located along Route 60 (the existing bike lane segment in front of the school will be restriped to its correct location).

PUBLIC IMPACTS

Archaeological Impacts

The subject property is not located within an area identified as a highly sensitive area in the James City County archaeological assessment and therefore an archaeological assessment is not required.

Environmental

Watershed: Yarmouth Creek

The Engineering and Resource Protection Division has no comments on the SUP request and supports the addition of three small bioretention areas proposed near the new parking areas as a means of addressing additional stormwater runoff. According to the master plan, 15.25 percent of the site is covered by impervious surface. As proposed, the percent of impervious coverage will increase to 16.2 percent. The reduction of open space area is minimal (i.e. from approximately 84.7 percent to 83.9 percent). During the site plan review, the applicant will provide additional information regarding the design of the bioretention areas and address the poor soil infiltration conditions as indicated in the geotechnical report submitted as part of this SUP application.

Public Utilities

The site is located within the Primary Service Area (PSA) and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and has recommended approval. A Water Conservation Agreement (SUP Condition No. 2) will be reviewed and approved by JCSA at the time of plan of development.

Transportation:

The Virginia Department of Transportation (VDOT) staff has reviewed this SUP application and has no objections to the proposal. No additional vehicle trips will be generated with the proposed student drop-off area and the additional parking spaces. During the site plan review the proposed bike lane shall be

designed in accordance with VDOT Road Design Manual Appendix A.

2007 Traffic Counts (Richmond Road): From Rochambeau Road (Route 30) to Croaker Road there were 17,201 trips.

2035 Volume Projected: From Rochambeau Drive (Route 30) to Croaker Road there is the projection of 29, 293 trips. This portion of Richmond Road is not recommended for improvement.

Staff Comments: Staff notes that the current parking layout does not meet all current zoning ordinance requirements. The distances between landscaped bay islands placed between groups of parking stalls were built on average 100 feet apart from each other (the Zoning Ordinance currently requires a maximum distance of 90 feet). Also, the existing parking lot was constructed with bay islands measuring 9 x 20 foot. However, the current Zoning Ordinance requires these dimensions to be 9 x 30 foot.

According to Section 24-55 (3) of the zoning ordinance, if a parking lot is being expanded which either increases the number of parking spaces by more than 15 percent or reduces the landscape areas of the parking lot by more than 15 percent, the existing parking area as well as the new parking area shall be brought into conformance with the current zoning regulations; provided, however, the planning director may waive the geometric design requirements as they apply to existing parking areas, upon finding that the costs of complying with these standards would impose a severe hardship or that insufficient area exists to allow such revision. The addition of the 30 parking spaces will exceed the 15 percent requirement by six spaces.


The Planning Director has granted the parking lot design waiver based on a written request made by the applicant on a letter dated October 24, 2012, stating that compliance with the current parking regulations would place a hardship on the school systems already approved budget. Staff notes that the proposed 30 parking spaces meet all current zoning ordinance design requirements.

COMPREHENSIVE PLAN

The site is designated by the 2009 Comprehensive Plan as State, Federal, and County Land. Land uses in this designation are publicly owned and include County offices and facilities in addition to larger utility sites and military installations. Staff finds that the proposed improvements to the school's parking area are consistent with the Comprehensive plan as these are accessory to a recommended land use. From a land use perspective, this project will have a minimum impact on the local road system (no additional traffic generation) and adjacent properties. The new layout of the school's parking lot will provide for a safer student drop-off area and for much needed additional parking areas. The proposed bike lane will also be a benefit for the schools and the community as a whole as it provides for a safer means of alternative transportation.

RECOMMENDATION

On November 7, 2012, the Planning Commission recommended approval of this application by a vote of 6-0. Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Board of Supervisors approve this application with the conditions listed in the attached resolution.

Handwritten signature of Jose Ribeiro in black ink, consisting of two large loops and the name written in a cursive style.

Jose Ribeiro

CONCUR:

Allen J. Murphy, Jr.

JR/nb
Sup12-12ToanoMS.doc

ATTACHMENTS:

1. Resolution
2. Unapproved Minutes from the November 7, 2012, Planning Commission Meeting
3. Location Map
4. Layout of Existing Parking Lot with Proposed Areas of Improvements
5. Master Plan (under separate cover)

RESOLUTION

CASE NO. SUP-0012-2012. TOANO MIDDLE SCHOOL PARKING LOT IMPROVEMENTS

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 (the "SUP") process; and

WHEREAS, Mr. Bruce Abbott has applied for an SUP to allow the construction of a new student drop-off area, 30 parking spaces, and other minor improvements to the site; and

WHEREAS, the proposed development is shown on a plan titled "Master Plan Toano Middle School Williamsburg/James City County City County Schools" dated September 21, 2012, and revised on October 23, 2012 and November 15, 2012; and

WHEREAS, the property is located at 7817 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100051; and

WHEREAS, the Planning Commission, following its public hearing on November 7, 2012, voted 6-0 to recommend approval of this application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0012-2012 as described herein with the following conditions:

1. **Master Plan.** This SUP shall be valid for a proposed new student drop-off area, additional off-street parking spaces, and other minor improvements to the site located at 7817 Richmond Road and further identified as James City County Real Estate Tax Map No. 1240100051 (the "Property"). Development of the Property shall occur generally as shown on the exhibit drawn by AES Consulting Engineers, entitled "Master Plan Toano Middle School Williamsburg/James City County Schools" dated September 21, 2012, and revised on October 23, 2012, and November 15, 2012 (the "Master Plan"), with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **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.

3. **Lighting.** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
4. **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.
5. **Severance Clause.** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
 Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
 Clerk to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | _____ | _____ | _____ |
| JONES | _____ | _____ | _____ |
| KENNEDY | _____ | _____ | _____ |
| ICENHOUR | _____ | _____ | _____ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Sup12-12ToanoMS_res

Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

SUP-0012-2012, Toano Middle School Parking Improvements

Mr. Jose Ribeiro stated Mr. Bruce Abbott of AES has applied on behalf of Williamsburg-James City County schools for a Special Use Permit (SUP) to allow the construction of a new student drop-off area and thirty parking spaces at the Toano Middle School site located at 7817 Richmond Road. He stated the property is zoned Public Lands (PL), and surrounded by residential developments such as Toano Trace, Toano Terrace, and Hunter's Creek. He stated a school is a specially permitted use in the PL district. He stated that an SUP amendment is necessary for these improvements as it proposes the physical expansion of a specially permitted use.

Mr. Ribeiro stated according to the applicant, the proposed student drop-off area and additional parking spaces are necessary in order to promote the general safety and welfare of students and improve the parking capacity at the school site. He stated for several years, the number of students being dropped off has increased, and in many cases students are being dropped off in every location at the school site even along Route 60. He stated the new student drop-off area, as shown on the master plan, will allow for a dedicated corridor where vehicles entering the parking area will circulate through the perimeter of the lot until reaching the drop-off zone where it's physically separated from the rest of the parking area.

Mr. Ribeiro stated in order to provide for the new drop-off area, a row of 22 existing parking spaces will be removed from its current location and rearranged throughout the parking area. He stated additionally, a row of 30 new parking spaces is proposed. He stated with these changes, the number of parking spaces will increase from 117 to 147, a gain of 30 parking spaces including five handicap parking spaces. He stated in addition to these improvements, a four foot wide bike lane is proposed along the frontage of the site connecting to an existing bike lane located along Route 60. He stated also, three bio-retention areas, as shown on the master plan, are designed to address the increase in impervious surface.

Mr. Ribeiro stated all agencies have reviewed this application and have recommended approval. He stated staff finds this proposal consistent with the Zoning Ordinance and the 2009 Comprehensive Plan. He stated staff recommends that the Planning Commission recommends approval of this SUP amendment request to the BOS with the conditions listed in the staff report.

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

Mr. Maddocks asked what triggered the need for Planning Commission review.

Mr. Ribeiro stated that a school is a specially permitted use in the PL district. He stated that an SUP amendment is necessary for these improvements as it proposes the physical expansion of a specially permitted use.

Mr. Maddocks moved for approval of the Toano Middle School Parking Improvements as presented.

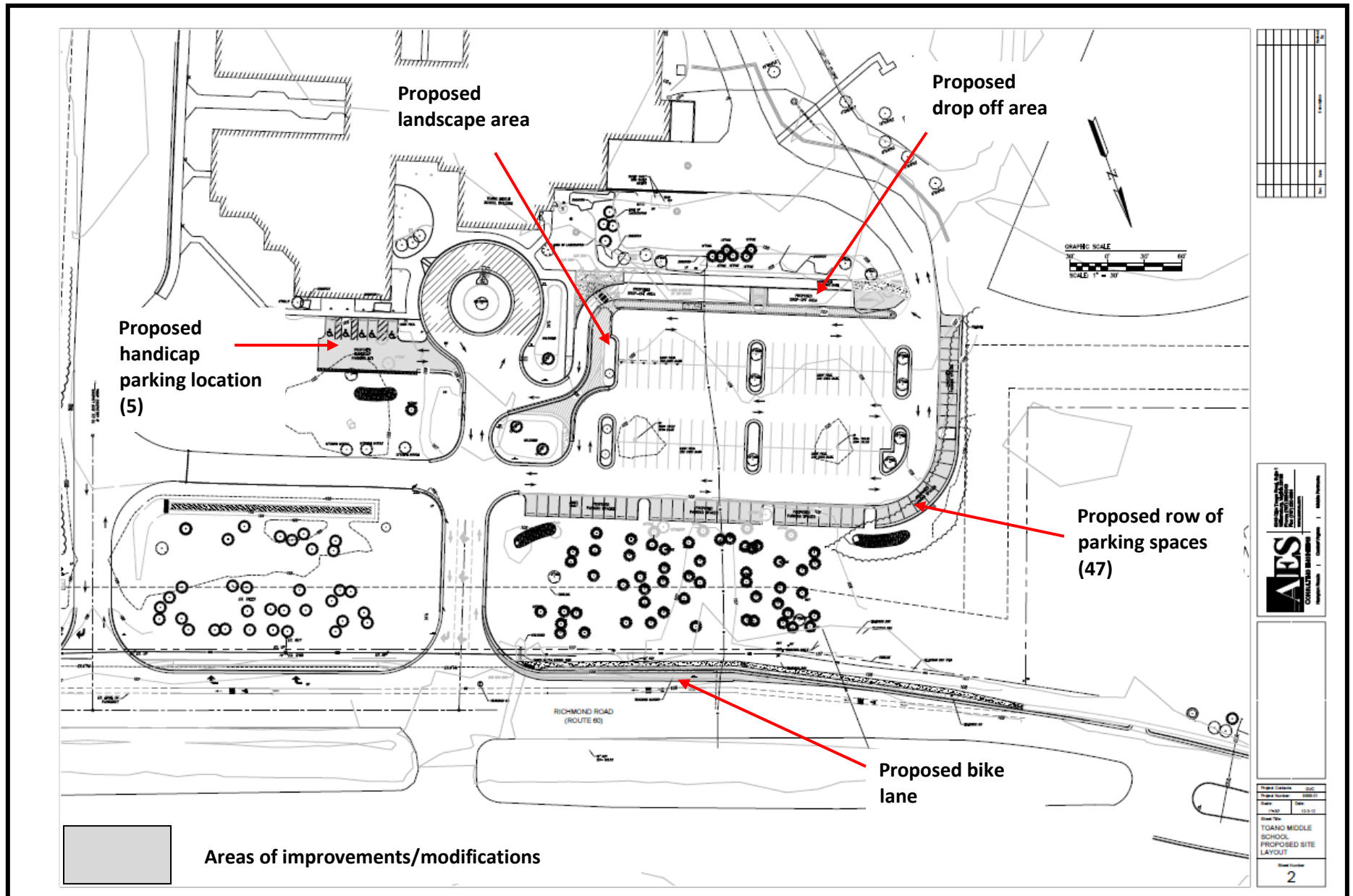
In a unanimous voice vote, the report was approved (6-0; absent: Woods).

SUP-0012-2012

Toano Middle School Parking Improvements



Layout of the existing parking lot with proposed areas of improvements/modifications



MEMORANDUM COVER

Subject: Case No. SUP-0013-2012. King of Glory Lutheran Church Building Expansion

Action Requested: Shall the Board approve the proposed 12,500-square-foot building expansion?

Summary: This application proposes a 12,500-square-foot building expansion that would provide additional space for offices, meeting rooms, and storage areas to the church facilities. The property is located at 4897 Longhill Road, zoned R-2, General, Residential, and designated Low Density Residential on the 2009 Comprehensive Plan. A Special Use Permit (SUP) is required for this proposal since it is an expansion of a specially permitted use. The proposed addition will not increase the seating capacity of the existing sanctuary or the number of children in the preschool. No additional parking spaces are proposed and traffic generation is not expected to increase as the expansion is designed to accommodate activities and uses already in place at the church campus. On November 7, 2012, the Planning Commission voted 6-0 to recommend approval of this application.

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

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Resolution
2. Unapproved Minutes from the November 7, 2012, Planning Commission Meeting
3. Location Map
4. Floor Plan for the Proposed Expansion
5. Master Plan

Agenda Item No.: I-4

Date: December 11, 2012

**SPECIAL USE PERMIT-0013-2012. King of Glory Lutheran Church Building Expansion
Staff Report for the December 11, 2012, 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

November 7, 2012, 7:00 p.m.
December 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Matthew Connolly of Land Tech Resources, Inc
Land Owner: King of Glory Lutheran Church
Proposal: 12,500-square-foot building expansion
Location: 4897 Longhill Road; Jamestown District
Tax Map/Parcel No.: 3240100033
Parcel Size: 12.95 acres
Existing Zoning: R-2, General Residential
Comprehensive Plan: Low Density Residential
Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions listed in the attached resolution.

Staff Contact: Jose Ribeiro, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On November 7, 2012, the Planning Commission recommended approval of this application by a vote of 6-0.

Proposed Changes Made Since Planning Commission Meeting

None

PROJECT DESCRIPTION

Mr. Matthew Connolly has applied for a special use permit (SUP) to allow a 12,500-square-foot building expansion that would provide additional space for offices, meeting rooms, and storage areas to the church facilities. The property is located at 4897 Longhill Road adjacent to Ford's Colony, Section 12 to the south, Windsor Forest to the west, Wellsprings United Methodist Church to the north, and the Williamsburg Plantation timeshares to the east. An SUP is required for this proposal since it is an expansion of a specially permitted use.

In 1995, King of Glory Lutheran Church built the original 7,592-square-foot sanctuary, classrooms, and an administration building with 48 parking spaces. At the time the original sanctuary seated 311 people with a combination of pews and chairs. Over the years, the site has gone through a series of changes. In 1999, the church added a 1,350-square-foot modular classroom building to the church campus; in 2001, an SUP request allowed the placement of a 15,381-square-foot building (pre-school wing and Fellowship Hall) and additional parking areas; subsequent amendments have allowed the expansion of the modular building in 2008 and the potential to place two additional modular buildings in 2009. In 2009, the church expanded its property by purchasing the adjacent parcel which was previously the site of the Crossroads Youth Home; a boundary line extinguishment between the two properties was approved and as a result, the area of the church's parcel increased from seven acres to 13.85 acres. Finally, in 2011, a site plan proposing on additional 70 parking spaces was approved bringing the total availability of parking to its current 236 spaces.

This SUP application seeks to increase the existing 29,753-square-foot church building by approximately 12,500 square feet (i.e., Phase 1). According to the applicant, there is an immediate need to expand the administrative offices, storage, and meeting areas at the church campus. The existing Fellowship Hall labeled on the master plan as "existing multi-purpose" building was originally designed as a place to house social gatherings. Due to the limitations of space, part of the building is also being used to accommodate other activities such as meetings (e.g., bible studies groups, youth groups, etc). The proposed addition would address the lack of space by providing areas specifically designed to meet the needs of the congregation.

According to the proposed building floor plan provided by the applicant (Attachment No. 2) the majority of the proposed expansion (approximately 5,000 square feet) would be designated as a "multi-purpose" room to accommodate larger meetings such as Blood Drives and Boy Scout meetings. The remaining space would be utilized for other purposes: approximately 680 square feet of offices; smaller meeting room areas totaling approximately 3,000 square feet; storage areas totaling approximately 1,000 square feet, and miscellaneous uses such as a music room. The applicant has indicated that the uses associated with the proposed building addition would likely occur at the same time as church services on Sunday. The existing Fellowship Hall would only be used as a location where refreshments would be available to the congregation and no events would be scheduled at the same time as worship services.

The proposed addition will not increase the seating capacity of the existing sanctuary or the preschool area. No additional parking spaces are proposed and traffic generation is not expected to increase as the expansion is designed to accommodate activities and uses already in place at the church campus.

The visual impact of the new structure is limited from Longhill Road as the expansion will be located behind the existing church building. Staff has drafted a condition (SUP Condition No. 3) requiring the applicant to submit architectural renderings and building material examples for the approval of the Planning Director to ensure architectural consistency with existing structures on the site. The perimeter of this triangular-shaped parcel is generally covered by natural vegetation in a continuous strip designated as open space.

Per comments made by the James City County Fire Department, a dedicated fire lane is also provided as part of this proposal; this will ensure that the proposed building expansion can be accessed by emergency vehicles. There are no changes proposed to the two entrances on the site. Due to issues related to sight distance, the secondary access will remain restricted to emergency vehicles in accordance with approved SUP condition associated with SUP-0022-2009. On August 29, 2012, the Development Review Committee (DRC)

considered a conceptual plan depicting a more intense use of the property with additional structures (expansion of the sanctuary and preschool spaces) and parking space areas. The applicant has opted to phase the development in order to allow time to better understand the implications of the Longhill Corridor Study and its proposed widening from two to four lanes before proceeding with Phase 2 of the planned expansion.

PUBLIC IMPACTS

Archaeological Impacts

The subject property is not located within an area identified as a highly sensitive area in the James City County archaeological assessment and therefore an archaeological assessment is not required.

Environmental

Watershed: Powhatan Creek

The Engineering and Resource Protection (ERP) Division has reviewed this application and has recommended approval. The majority of the stormwater runoff on the existing church property is captured by a stormwater pond located at the southern tip of the parcel. According to the ERP, the applicant may have to upgrade the pond in order to address the increase in impervious surface (i.e. from 18 percent to 21 percent of the site). Staff notes that a Master Stormwater Management Plan for the entire property was submitted and approved by the Engineering and Resource Protection Division on June 29, 2012.

Public Utilities

The site is located within the Primary Service Area (PSA) and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and has recommended approval. The existing Water Conservation agreement associated with approved SUP-0022-2009 was deemed to be acceptable by JCSA staff for this addition.

Transportation:

The Virginia Department of Transportation (VDOT) has reviewed this application and has recommended approval. No additional vehicle trips are expected with this proposal. VDOT notes that the secondary entrance should remain restricted to emergency vehicles access only.

- **2007 Traffic Counts**-Longhill Road (Route 612):
From Olde Town Road (Route 658) to Route 199 there were 20,055 daily trips.
- **2035 Volume Projected**-Longhill Road (Route 612):
From Olde Town Road (Route 658) to Route 199 there is the projection of 34,249 daily trips. This portion of Longhill Road is listed under the "Recommended for Improvement" category in the 2009 Comprehensive Plan.

COMPREHENSIVE PLAN

The site is designated by the 2009 Comprehensive Plan as Low Density Residential. Recommended land uses in this designation allow for schools, churches, very limited commercial, single-family homes, and community-oriented facilities. Staff finds that the proposed 12,500-square-foot expansion is consistent with the Comprehensive Plan as it constitutes an expansion of a recommended use. From a land use perspective, this project will have a minimum impact on the local road system (limited additional traffic generation) and adjacent properties. SUP Condition No. 3 ensures that the aesthetical appearance of the expansion will be consistent with the architecture of existing structures at the church campus. Longhill Road is a Community Character Corridor (CCC) and a 50-foot landscape buffer, as suggested by the Comprehensive Plan, is observed at the side of the property nearest the secondary entrance (i.e., the previous site of Crossroads Youth Home).

RECOMMENDATION

On November 7, 2012, the Planning Commission recommended approval of this application by a vote of 6-0.

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this application with the conditions listed in the attached resolution.

Handwritten signature of Jose Ribeiro in black ink, consisting of two large loops and the name written below them.

Jose Ribeiro

CONCUR:

Allen J. Murphy, Jr.

JR/nb

Sup13-12KOGExpansion.doc

ATTACHMENTS:

1. Resolution
2. Unapproved Minutes from the November 7, 2012, Planning Commission Meeting
3. Location Map
4. Floor Plan Diagrams of Existing and Proposed Uses
5. Master Plan (under separate cover)

RESOLUTION

CASE NO. SUP-0013-2012. KING OF GLORY LUTHERAN CHURCH BUILDING EXPANSION

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

WHEREAS, Mr. Matthew Connolly has applied for an SUP to allow the construction of a 12,500-foot building; and

WHEREAS, the proposed development is shown on a plan titled "Master Plan for King of Glory-Phase 1 Plan " dated October 14, 2012, and revised on October 22, 2012; and

WHEREAS, the property is located at 4897 Longhill Road and can be further identified as James City County Real Estate Tax Map Parcel No. 3240100033; and

WHEREAS, the Planning Commission, following its public hearing on November 7, 2012, voted 6-0 to recommend approval of this application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0013-2012 as described herein with the following conditions:

1. **Master Plan.** This SUP shall be valid for a proposed 12,500-square-foot building expansion and other minor improvements to the site located at 4897 Longhill Road and further identified as James City County Real Estate Tax Map No. 3240100033 (the "Property"). Development of the Property shall occur generally as shown on the exhibit drawn by Mr. Mel Grewe, entitled "Master Plan for King of Glory-Phase 1 Plan", dated October 14, 2012, and revised on October 22, 2012, with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **Lighting.** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
3. **Architectural Review.** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his

designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures on the site.

- 4. **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.
- 5. **Severance Clause.** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Sup13-12KOGExpansion_res

Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

SUP-0013-2012, King of Glory Church Building Expansion

Mr. Ribeiro stated that Mr. Matthew Connolly of LandTec, has applied for a SUP to allow a 12,500 square foot building expansion at the King of Glory Lutheran Church site located at 4897 Longhill Road. He stated the property is zoned R-2, General Residential and surrounded by subdivisions such as Ford's Colony Section 12, Windsor Forest, Williamsburg Plantation, and also Wellsprings United Methodist Church. He stated a house of worship is a specially permitted use in the R-2 district. He stated a SUP amendment for this project is necessary as it proposes the physical expansion of a specially permitted use.

Mr. Ribeiro stated according to the applicant, the proposed expansion is desired in order to provide additional space for offices, storage, and in particular, meeting areas to better accommodate groups such as bible studies, youth groups and others. He stated these meetings are currently taking place in areas not originally designed to support these uses. He stated staff notes that the proposed expansion does not increase the sanctuary or the pre-school seating capacity. He stated the expansion of these facilities, as well as a Family Life Center, is planned as part of "Phase II" of the development and will be considered at a later time. On August 29, 2012, the DRC met to provide input to a conceptual master plan (which included Phase I, Phase II, and additional parking areas). He stated at the time of the DRC meeting, Phase I proposed a smaller building expansion. He stated it has been revised to its current dimension.

Mr. Ribeiro stated staff finds that the proposed expansion will have limited impacts to adjacent property owners, the local road system and the environment. He stated it will be located behind an existing building therefore its visual impacts from the public right-of-way will be limited. He stated also, due to existing vegetation along the perimeter of the property the visual impact of the expansion on adjacent properties also appears to be limited.

Mr. Ribeiro stated the proposed expansion does not necessitate an increase in parking spaces and it's not expected to generate additional traffic to and from the site. He stated the expansion is meant to reorganize and better distribute spaces to accommodate uses already in place. He stated staff notes that a Master Stormwater Management Plan for Phase I and II was submitted and approved by the Engineering and Resource Protection Division on June 29, 2012.

Mr. Ribeiro stated all agencies have reviewed this application and have recommended approval. He stated that staff finds this application consistent with the 2009 Comprehensive Plan and with zoning code. He stated staff recommends that the Planning Commission recommends approval of this SUP amendment request to the BOS with the conditions listed in the staff report.

Mr. O'Connor stated that according to Engineering and Resource Protection the applicant may have to upgrade the stormwater management pond in order to address the increase in impervious surface. He asked if this is necessary.

Mr. Ribeiro stated that the Stormwater Management Plan does address this issue. He stated that making improvements to the pond is one option available to the applicant. He stated that the applicant has received approval from the Engineering and Resource Protection Division. He stated that during the site plan process there will be more details made available clearly showing which option the applicant elected to pursue regarding stormwater management.

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

Mr. Krapf stated that he had seen these plans while being reviewed by the DRC. He stated that one feature he appreciates is that all the construction will be behind the church and will not be visible from the community character corridor. He stated that he supports the application.

Mr. Krapf moved for approval of the King of Glory Church Building Expansion application as presented.

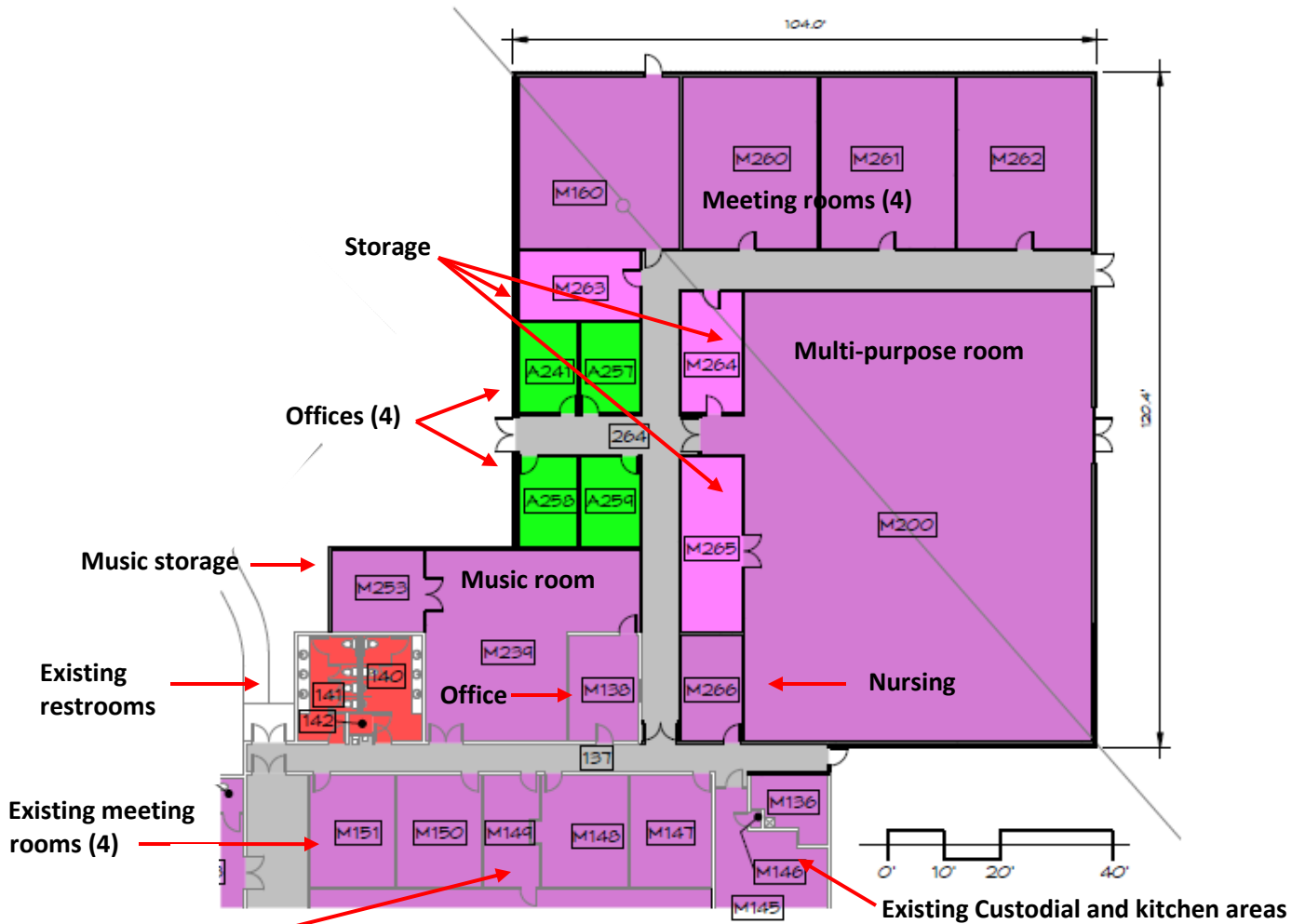
In a unanimous voice vote, the application was approved (6-0; absent: Woods).

JCC SUP-0013-2012

King of Glory Building Expansion



Detail of the proposed 12,500 square foot expansion (Phase I)



Existing Control room

| PHASE 1 NEW ROOM SCHEDULE | | | | |
|---------------------------|---------------|-----------|------|----------------|
| Number | Name | Area | SF/O | CODE OCCUPANTS |
| 264 | CORRIDOR | 1,236 SF | | |
| A241 | OFFICE | 169 SF | 100 | 2 |
| A257 | OFFICE | 171 SF | 100 | 2 |
| A258 | OFFICE | 169 SF | 100 | 2 |
| A259 | OFFICE | 171 SF | 100 | 2 |
| M160 | MEETING | 873 SF | 15 | 58 |
| M200 | MULTI-PURPOSE | 5,000 SF | 15 | 333 |
| M239 | MUSIC | 1,047 SF | 15 | 70 |
| M253 | MUSIC STORAGE | 241 SF | | |
| M260 | MEETING | 733 SF | 15 | 44 |
| M261 | MEETING | 733 SF | 15 | 44 |
| M262 | MEETING | 726 SF | 15 | 48 |
| M263 | STORAGE | 268 SF | | |
| M264 | STORAGE | 234 SF | | |
| M265 | STORAGE | 338 SF | | |
| M266 | NURSING | 204 SF | 35 | 6 |
| | | 12,314 SF | | |

KING OF GLORY
PRELIMINARY PHASE 1
09-02-2012

MEMORANDUM COVER

Subject: ZO-0004-2012. Soil Stockpiling

Action Requested: Shall the Board of Supervisors approve the soil stockpile ordinance?

Summary: At its meeting on July 24, 2012, the Board unanimously voted to initiate an amendment to the zoning ordinance, ZO-0004-2012 - Soil Stockpile Areas. In an effort to make the treatment of stockpile areas more consistent for developers and the community in general, staff has created a new section of the ordinance, which is included at the end of the Special Regulations section, that specifically provides guidance for all stockpiles associated with development plans.

Staff finds that the addition of development standards would help guide staff decisions and make the process more consistent and predictable. Staff recommends that the Board of Supervisors approve the soil stockpile ordinance change.

At its October 11, 2012, meeting, the Policy Committee recommended 4-0 to recommend approval of the ordinance change. At its November 7, 2012, meeting, the Planning Commission voted 6-0 to recommend approval of this ordinance change.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Ordinance
3. Unapproved minutes from the November 7, 2012, Planning Commission meeting

Agenda Item No.: I-5

Date: December 11, 2012

M E M O R A N D U M

DATE: December 11, 2012

TO: The Board of Supervisors

FROM: Jason Purse, Senior Planner II

SUBJECT: Z0-0004-2012. Soil Stockpiling

At its meeting on July 24, 2012, the Board unanimously voted to initiate an amendment to the zoning ordinance, Z0-0004-2012 - Soil Stockpile Areas. In order to process applications for soil stockpile areas in a consistent manner, staff has drafted an ordinance to specify development standards for temporary soil stockpile areas associated with development plans. Typically, stockpiles are created on-site and then used to regrade other portions of the property to help maintain positive drainage patterns without the need to bring in additional fill from off-site. These stockpile areas have been shown on Erosion and Sediment Control plans, but have not always included specific details about the height, size, and dimensions of the piles. In other instances, stockpile areas for large developments (e.g., New Town, Colonial Heritage) require multiple stockpile locations as different phases of development occur simultaneously. Staff has worked with developers to achieve desirable locations for these staging and storing areas; however, without Zoning Ordinance regulations in place, these situations have created uncertainty during the plan development stage of construction. In an effort to make the treatment of stockpile areas more consistent for developers and the community in general, staff has created a new section of the ordinance, which is included at the end of the Special Regulations section of the ordinance, that specifically provides guidance for all stockpiles associated with development plans.

The draft ordinance language establishes performance standards for all stockpile areas, including the following requirements:

- Stockpiles must be located on-site, at least 50 feet from property lines, and 100 feet from existing buildings;
- Must have a minimal impact on existing residential streets;
- Must have an absolute maximum height of 25 feet in a residential district and 40 feet in a commercial or industrial district;
- Must be temporary in nature and therefore limited to a two-year time period; and
- Must preserve existing vegetative buffers, as well as limit the visibility along Community Character Corridors.

All stockpiles that meet these requirements are proposed to be approved administratively under typical site plan review criteria. However, if an applicant wishes to get a waiver from one or more of the standards, a waiver provision has been included that can be approved by the Planning Director and allows for the ability to appeal to the Development Review Committee (DRC).

Staff finds that the addition of development standards would help guide staff decisions and make the process more consistent and predictable. Staff recommends that the Board of Supervisors approve of the soil stockpile ordinance.

At its October 11, 2012, meeting, the Policy Committee voted 4-0 to recommend approval of the ordinance change.

At its November 7, 2012, meeting, the Planning Commission voted 6-0 to recommend approval of this ordinance change.

Z0-0004-2012. Soil Stockpiling

December 11, 2012

Page 2

Jason Purse

CONCUR:

Allen J. Murphy, Jr.

JP/gb

ZO-4-12SSStockpiling_mem

Attachments:

1. Ordinance
2. Unapproved minutes from the November 7, 2012, Planning Commission meeting.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, BY ADDING SECTION 24-46, SOIL STOCKPILING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 1, In General, by adding Section 24-46, Soil stockpiling.

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-46. Soil stockpiling.

(a) *Applicability. When soil is placed on a parcel of land for the purpose of storage, whether temporary or long-term, and the deposits of soil cover a total cumulative land area exceeding 2,500 square feet, or the deposit exceeds eight feet from the natural grade at its maximum height, then the activity shall be considered a "soil stockpile" and shall be subject to the permitting and performance standards set forth in this section. However, the following specific activities shall not be considered "soil stockpiling."*

(1) *Placement of soil on a site for the purpose of changing the natural grade, such as filling low spots, improving drainage, or improving the suitability of the site for building;*

(2) *Placement of soil for temporary storage purposes at depths greater than one foot, covering a cumulative area of less than 2,500 square feet, and when all of the following conditions are met:*

- a. *the soil deposit is not mounded higher than eight feet above the natural existing grade;*
- b. *the soil deposit are no closer to any property line than the minimum principal building setback for the district in which the parcel is located;*
- c. *the soil deposit does not block, encroach on or otherwise adversely affect stormwater drainage;*
- d. *the soil deposit is not within the drip-line of any tree on or abutting the site; and*
- e. *the soil deposit is removed from the site, or distributed and graded across the site to depths of less than one foot, within one year.*

(3) *Placement of soil associated with agricultural or mining activities on the site.*

Any and all of the activities listed above shall be required to comply with all federal, state and local permit requirements including county and state erosion and sediment control, Chesapeake Bay preservation area, floodplain and Virginia stormwater management permit regulations.

(b) *Prohibited materials. Nothing herein shall be construed to allow the creation of stockpiles containing anything other than clean soil, including, but not limited to, the following specifically prohibited materials:*

(1) *stockpiles of any waste material, including: commercial/business waste; construction, clearing and/or demolition waste; garbage or trash; hazardous waste; household waste; industrial waste; institutional/governmental waste; solid waste; or, unacceptable waste as defined in chapter 24 of the county code;*

(2) *stockpiles of sand, gravel, stone, felled forestal debris, wood chips/mulch or similar materials.*

(c) *Effects of other zoning districts. The standards established in section (e) below shall be required unless a more restrictive requirement is specifically stated in an individual zoning district, in which case the more restrictive standards shall apply.*

(d) *Development plans. The location, size and dimensions of all stockpiles shall be shown on any associated development plan and approved as part of a site plan or construction plan for a subdivision prior to development. At a minimum the plan shall include:*

(1) *A stockpile plan prepared in sufficient detail to demonstrate compliance with all applicable performance standards; and*

(2) *An operations plan information shall be included in the site plan submittal documents and shall contain the following information:*

a. *The date on which the operation will commence, the date on which the operation will be completed, the date that all required stabilization measures are to be completed, a statement as to the ultimate disposition of the stockpile and the length of time that the stockpile will remain on the site;*

b. *A statement listing the public streets and highways to be used to access the site and as haul routes;*

c. *The hours of operation each day and the days of operation during the week;*

d. *A general description of the type and quantity of equipment to be used in connection with the use;*

e. *Operating practices to be used to minimize noise, dust, air contaminants, and vibration including information on the treatment of access roads to eliminate dust and deposit of mud on public roads;*

f. *Methods for ensuring that oil, grease, or other contaminating materials from equipment maintenance are not deposited on the ground or within the confines of any drainageways.*

(e) *Performance standards. All soil stockpiling shall be subject to the following conditions:*

(1) *Location. All soil stockpiles shall be located on the same parcel within the proposed development in the area under construction.*

(2) *Setbacks.*

a. *Setback areas for soil stockpiles shall be:*

i. *Not less than 50 feet from any property line in any zoning district; and*

ii. *Not less than 100 feet from any existing off-site structure;*

b. All existing trees, bushes, shrubs and other vegetation within such setback areas shall be protected and preserved during and after the stockpiling operation. The planning director may require the installation of trees or shrubs to help buffer the view of any stockpiles authorized on sites without sufficient screening.

(3) Access. Operation plan, as referenced in section 24-46 (d) (2), shall include access information required below at site plan submittal:

a. Local residential streets (i.e., those platted/created as a component of a recorded subdivision) shall not be used for access to the stockpile site. The developer shall be limited to using those routes specified in the application and approved by the county.

b. All on-site access roads and driveways shall be maintained to prevent the creation of dust and shall have an appropriate surface treatment to prevent the deposit of mud, debris or dust onto any public street.

c. Any access road shall be a minimum of 20 feet from any property line except at the point of access to any public right-of-way.

d. If determined necessary by the Virginia Department of Transportation (VDOT), the operator shall be required to post a letter of credit to VDOT in an amount sufficient to cover any potential damages to the public road system attributable to the operation.

(4) Hours of operation. The construction activity shall be conducted between local sunrise and sunset and shall have no Sunday operations, unless for necessary maintenance of equipment essential for public health and safety.

(5) The height of the soil stockpile shall be limited by the following design parameters:

a. One foot of stockpile height for every two feet of setback from any perimeter property line;

b. Side slopes shall not exceed three feet in width to one foot in height (3H:1V; horizontal: vertical);

c. The maximum height of any stockpile shall be 25 feet in a residential district and 40 feet in a commercial or industrial district. In a mixed-use area, the maximum height shall be determined based on the predominant land use designation on the master plan; and

d. No stockpile shall exceed the height of the treeline on or abutting the stockpile site. If no treeline is located on-site or adjacent to the site, or if vegetation consists of under-story growth or shrubs, the height of the stockpile shall not exceed 25 feet in height.

(6) Stockpiles shall be limited to a maximum term of two years. In the event the operator wishes to maintain the temporary soil stockpile beyond that term, he or she may apply to the development review committee (DRC) for a time extension.

(7) No stockpile shall be located within 150 feet of a community character corridor. If the parcel is less than 300 feet in depth, the location of the stockpile may be reduced to 75 feet from a front property line along a community character corridor.

(8) Elimination of noise, dust, and vibration.

a. All equipment used for the transportation or movement/grading of soil shall be constructed, maintained and operated in such a manner as to minimize any noise, dust or vibration which would be harmful or a nuisance to persons living in the vicinity of the stockpile.

b. All service roads or other non-vegetated open areas within the boundaries of the site shall be maintained to prevent dust or other windblown air pollutants. Proposed methods of dust control and equipment proposed for such control shall be included in the operations plan and shall be located at the site during operation.

c. Trucks shall not be loaded beyond design capacity, as defined in the department of motor vehicles size, weight and equipment requirements manual DMV-109, and loads shall be covered as required by state law to prevent hauled materials from being deposited or spilled during transport across any public or private land or property.

(9) The approved exterior limits of all areas where soil will be stockpiled shall be delineated with construction fencing and adequate tree protection measures shall be used, as determined by the engineering and resource protection director, prior to beginning operation.

(10) The following drainage requirements shall be met during the operation of the stockpile:

a. The site shall be graded to prevent standing water which would or could reasonably be expected to constitute a safety or health hazard; and

b. Existing drainage channels shall not be altered in such a way that water backs up onto adjoining properties or that the peak flow of water leaving the site exceeds the capacity of the downstream drainage channel.

(11) The operation shall at all times comply with the applicable provisions of the Virginia erosion and sediment control handbook promulgated by the Virginia soil and water conservation board.

(12) Maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other contaminating materials on the ground or into drainageways.

(f) Waivers.

(1) An applicant may request a waiver from the planning director from any of the provisions of section 24-46 (e) (1) through (7) above. The planning director shall only consider waivers that meet the following requirements:

a. Stockpiles shall not be visible from a community character corridor;

b. Stockpiles shall be screened from adjacent properties;

c. Stockpiles shall be located on a parcel that will have minimal impact on surrounding residential parcels, as determined by the DRC;

d. Stockpiles shall be located on a parcel that can be accessed without disruption to local residential streets, as determined by the DRC.

e. Stockpiles shall have no impacts to environmental inventory features as listed in section 23-10 (2) of the county Chesapeake Bay preservation ordinance.

(2) *Appeals. In the event the planning director disapproves the items specified in (f) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the DRC which shall forward a recommendation to the planning commission.*

Secs. 24-47 - 24-51. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

| | VOTES | | |
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| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

ZO-4-12SSStockpiling_ord

Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

ZO-0004-2012, Soil Stockpile Ordinance

Mr. Purse stated in an effort to make the treatment of stockpile areas more consistent for developers and the community in general, staff has created a new section of the ordinance, which is included at the end of the Special Regulations section. He stated that the draft ordinance language establishes performance standards for stockpiles, including: “stockpiles must be located on-site, at least 50 feet from property lines, and 100 feet from existing buildings”; must have an absolute “maximum height of 25 feet in residential districts” and “40 feet in commercial or industrial districts”; and, must be “temporary in nature” and therefore limited to a two-year time period.

Mr. Purse stated all stockpiles that meet these requirements can be approved administratively, under typical site plan review criteria. He stated however, if an applicant wishes to get a waiver from one or more of the standards, a waiver provision has been included. He stated in the draft ordinance, at the request of the Policy Committee, staff has amended this language to reflect a waiver process that is approved by the Planning Director and allows for the ability to appeal to the DRC.

Mr. Purse stated since the Policy Committee’s review, staff added section 24-46 (c), which states that new standards shall be required unless a more restrictive requirement is specifically stated in an individual zoning district. He stated this will ensure that there are no conflicts with existing ordinance language. He stated staff finds that the addition of development standards will help guide staff decisions and make the process more consistent and predictable. He stated that staff recommends that the Planning Commission recommend approval of the soil stockpile language to the BOS. At its October 11, 2012 meeting, the Policy Committee voted 4-0, to recommend approval of the ordinance change.

Mr. O’Connor opened the public comment.

There being none, Mr. O’Connor closed the public comment.

Mr. Drummond moved for approval of the Soil Stockpile Ordinance.

In a unanimous voice vote, the report was approved (6-0; absent: Woods).

MEMORANDUM COVER

Subject: Zoning Ordinance Update – Housekeeping Items, including ZO-0006-2012, Floodplain; ZO-0007, Research and Technology District; ZO-0008-2012, Private Streets; and ZO-0009-2012, Procedural/Submittal Requirements, and Definitions

Action Requested: Shall the Board approve the housekeeping amendments to the Zoning Ordinance?

Summary: The Board of Supervisors has adopted a series of zoning ordinance amendments as part of the Zoning Ordinance Update process. Staff has identified five ordinance sections (Floodplain Area Regulations, Procedural Descriptions/Submittal Requirements, Definitions, Research and Technology, and Private Streets) where additional revisions are necessary either to fix minor grammatical or consistency issues or to further clarify the previously adopted ordinances.

At its November 7, 2012, meeting, the Planning Commission recommended approval of the Floodplain Area Regulations, Procedural Descriptions/Submittal Requirements, Definitions, Research and Technology District, and Private Streets amendments by a vote of 6-0.

Staff recommends that the Board of Supervisors approve the attached revised ordinances.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Six Ordinances

Agenda Item No.: I-6

Date: December 11, 2012

MEMORANDUM

DATE: December 11, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II

SUBJECT: Zoning Ordinance Update – Housekeeping Items, including ZO-0006-2012 Floodplain, ZO-0007 Research and Technology District, ZO-0008-2012 Private Streets, and ZO-0009-2012 Procedural/Submittal Requirements and Definitions

The Board of Supervisors has adopted a series of zoning ordinance amendments as part of the Zoning Ordinance Update process. Staff has identified five ordinance sections (Floodplain Area Regulations, Procedural Descriptions/Submittal Requirements, Definitions, Research and Technology, and Private Streets) where additional revisions are necessary either to fix minor grammatical or consistency issues or to further clarify the previously adopted ordinances. The Policy Committee considered the proposed changes to the above-referenced ordinance sections on September 4, 2012, and made recommendations for minor changes which were presented to the Board of Supervisors at its work session on September 25, 2012.

The following list represents a brief summary of the specific changes. The attached ordinances reflect the input of both the Policy Committee and Board of Supervisors.

1) Floodplain Area Regulations Overlay District

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the Floodplain Area Regulations in the Zoning Ordinance. Since that time, staff has identified several minor items that require further amendment or clarification. These items include the following:

- Section 24-590 – Changes two references to the County Engineer to reference instead the Development Management Director or his designee. This change is necessary because there is no longer a designated County Engineer position.
- Section 24-595 – Clarifies ordinance language that requires utilities to be flood proofed to the level of two feet above the 100-year base flood elevation to specifically state that mechanical, plumbing, gas, and electrical systems are all considered utilities for the purposes of the Floodplain Area Regulations are also subject to this requirement. This change will further improve the County’s Community Rating System (CRS) rating while benefiting homeowners within the floodplain.

2) Procedural Descriptions/Submittal Requirements

On June 12, 2012, the Board of Supervisors adopted a series of amendments to the Procedural Description and Submittal regulations in the Zoning Ordinance. Since its adoption, staff has identified a few items that require further amendment or clarification. These items include the following:

- Section 24-23(a)(2)(f) – Adds a procedure allowing applicants to appeal the Planning Director’s decision regarding master plan consistency determination to the Development Review Committee (DRC). This addition is consistent with the role of the DRC as presented in other sections of the Zoning Ordinance. Per Policy Committee comments, there is an additional change of re-inserting an area designation category “D” for apartments and splitting the general multifamily category “B” into “B” – multifamily containing up to and including four dwelling units and “C” – multifamily containing more

than four dwelling units. This change will make the submittal requirements table consistent with what was adopted in the Mixed Use, R-4, and Planned Unit Development District ordinances.

- Section 24-23 (a)(4) – Reverts approved language referencing a fee schedule back to the original language referencing Section 24-7. This change is necessary because the Administrative Fees section was not removed from the ordinance.
- Section 24-145 (b) – Changes two references to the Zoning Administrator instead the Planning Director. This change is necessary to ensure consistency with the rest of the Zoning Ordinance.

3) Definitions

On July 11, 2012, the Planning Commission recommended approval of a series of amendments to the Definitions section in the Zoning Ordinance, and the Board of Supervisors adopted these amendments on September 11, 2012. Following Planning Commission consideration on July 11, staff identified a few items that require further amendment, mostly to correct grammatical errors. Staff determined that because the Planning Commission had already considered the initial amendments, any further changes should be handled through the housekeeping ordinance items rather than making changes to the ordinance between the Planning Commission and Board of Supervisors meetings. These items include definitions for the following:

- Acreage parcel;
- Building, height of;
- Street functional classification;
- Iso-foot candle diagram;
- Mobile home;
- Noninterference/intermodulation study;
- Start of construction; and
- Tourist home.

4) RT, Research and Technology

On September 11, 2012, the Board of Supervisors adopted a series of amendments to the Residential and Multiple Use sections in the Zoning Ordinance. Staff identified that the Research and Technology District, which was not included in the package of amendments adopted on September 11, contains some language that should be identical to language contained within the Residential and Multiple Use districts. These items include the following:

- Converts the permitted/specially permitted use lists into table format;
- Changes the use “warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties” from a specially permitted to a permitted use;
- Simplifies of the Submittal Requirements section;
- Changes items in the Requirements for Improvements and Design section to coordinate with changes to private streets and outdoor lighting;
- Removes the nondevelopable land definition which is now covered in the Definitions section;
- Changes the Setback Requirements section to specify Planning Director review of reductions and modifications, with appeal to the Development Review Committee; and
- Incorporates changes to coordinate with the wireless communication facility amendments.

5) Private Streets

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the private streets regulations in the Zoning Ordinance. Since that time, staff has developed the R-3, Residential Redevelopment District, which will require a reference. In addition, this section will be revised to remove the R-5, Cluster provision, since this option has been removed from the R-5 District ordinance.

RECOMMENDATION

At its November 7, 2012, meeting, the Planning Commission recommended approval of the Floodplain Area Regulations, Procedural Descriptions/Submittal Requirements, Definitions, Research and Technology District, and Private Streets amendments by a vote of 6-0. Staff recommends that the Board of Supervisors approve the attached revised ordinances.

Ellen Cook

CONCUR:

Allen J. Murphy, Jr.

EC/gb
ZoningOrdUpdate_mem

Attachments:

1. Minutes of the November 7, 2012, Planning Commission meeting
2. Floodplain Area Regulations Overlay District amendments
3. Procedural Descriptions/Submittal Requirements amendments – includes Sections 24-23 and 24-145
4. Definition amendments
5. Research and Technology District amendments
6. Private Street amendments
7. Clean copies of the ordinances (in Reading File)

Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

Zoning Ordinance Housekeeping Items

- i. ZO-0006-2012, Floodplain Area Regulations
- ii. ZO-0009-2012, Procedural/Submittal Requirements and Definitions
- iii. ZO-0007-2012, Research and Technology
- iv. ZO-0008-2012, Private Streets

Mr. Ribeiro stated the BOS has recently adopted a series of Zoning Ordinance amendments as part of the Zoning Ordinance Update process. He stated that staff has identified five ordinance sections where additional revisions are necessary either to fix minor grammatical or consistency issues or to further clarify the previously adopted ordinances. He stated minor revisions were made to the Floodplain Ordinance, Procedural Descriptions/Submittal Requirements, Definitions, the Research and Technology District, and Private Streets. He stated they were presented to the Policy Committee on September 4; recommendations were made and incorporated. He stated those changes were then presented to the BOS at its work session on September 25. He stated the ordinances the Commission received in its packages reflect the input of both the Policy Committee and BOS. He stated that staff recommends that the Planning Commission recommend approval of the revised ordinances to the BOS.

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

Mr. Maddocks moved for approval of the Zoning Ordinance housekeeping items.

In a unanimous voice vote, the revised ordinances were recommended for approval (6-0; absent: Woods).

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS AND SECTION 24-595, REGULATIONS FOR CONSTRUCTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 3, Floodplain Area Regulations, by amending Section 24-590, Designation of floodplain districts and Section 24-595, Regulations for construction.

Chapter 24. Zoning

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not *be* limited to, the September 28, 2007, flood insurance study prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA), since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the ~~county engineer~~ *development manager or his designee* in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used

correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the ~~county engineer~~ *development manager or his designee*.

Where flood elevations are provided by the FIA, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988; Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2008; Upper Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2010.*

(b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the 100-year flood be conveyed without increasing the water surface areas included in this district.

(c) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE on the maps accompanying the flood insurance study.

(d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

Sec. 24-595. Regulations for construction.

(a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the 100-year floodplain shall not be permitted unless the project is in conformance with the following requirements:

- (1) In case of residential usage, the finished elevation of the lowest floor, including the basement or cellar of the building, shall be at least two feet above the 100-year flood elevation. For nonresidential structures, watertight floodproofing in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein. Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate as appropriate to the director of building safety and permits.
- (2) Utility and sanitary facilities, *including but not limited to mechanical, plumbing and electrical systems and gas lines*, shall be floodproofed up to the level of two feet above the 100-year base flood elevation.
- (3) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district having a 100-year elevation greater than 7-1/2 feet (North American Vertical Datum - NAVD, 1988) unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the development manager or his designee.
- (4) All other federal and state permits shall be obtained by the applicant before a building permit can be issued.
 - (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Floodplain_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-23, Submittal requirements.

Article I. In General

Sec. 24-23. Submittal requirements.

(a) The following information shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

(1) The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:

a. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/or, those projects with an entrance or exit onto a roadway with a level of service “D” or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than

- one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact analysis; and
- b. A water and sewer impact study for all projects with an anticipated average daily flow greater than 15,500 gallons and/or for proposed residential projects containing 50 lots or more. Water Conservation information in accordance with the Water Conservation Guidelines Policy; and
 - c. Environmental information in accordance with the Environmental Constraints Analysis for Legislative Cases; and
 - d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy; and
 - e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
 - f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
 - g. An environmental inventory in accordance with the James City County Natural Resource policy; and
 - h. A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and

- i. Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines.
- (2) The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-way (with an indication of whether public or private), accesses, open spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:
- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;
 - b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
 - c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
 - d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;
 - e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
 - f. If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:

| Type of Development | Area Designation |
|--|------------------|
| Single family | A |
| Multi-family dwellings <i>containing up to and including four dwelling units</i> | B |
| <i>Multi-family dwellings containing more than four dwelling units</i> | C |
| Apartments | C-D |
| Commercial uses | E |
| Wholesale and warehouse uses | F |
| Office uses | G |
| Light industrial uses | H |
| Institutional or public uses | I |
| Areas of common open space, with recreation areas noted | J |
| Structures containing a mixture of uses | M* |
| Other structures, facilities or amenities | X |

Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in ~~parenthesis~~ *parentheses*, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent

with the master plan, but may deviate from the master plan if, the planning director concludes that the development plan does not:

1. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. *In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.* For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~the fee schedule document approved by the James City County board of supervisors.~~ *section 24-7 of this chapter.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezonings” policy as adopted by the board of supervisors and any additional policies as deemed necessary by the planning director.

- (c) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012

ProSubReq_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE III, SITE PLAN, BY AMENDING SECTION 24-145, SITE PLAN SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article III, Site Plan, by amending Section 24-145, Site plan submittal requirements.

Chapter 24 Zoning

Article III. Site Plan

Sec. 24-145. Site plan submittal requirements.

- (a) Site plans shall, at a minimum, identify or contain:
 - (1) Project title, title block, north arrow, legend, graphic scale, zoning, parcel identification number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;
 - (2) Name of engineer, architect, landscape architect, planner and/or licensed surveyor;
 - (3) Vicinity and location of site by an inset map at a scale no less than one inch equal to 2,000 feet;
 - (4) Boundary survey of site;
 - (5) Location, type and size of all entrances to the site. All existing and proposed streets and easements, their names, numbers and width;
 - (6) Existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;

- (7) Existing topography using county base mapping (two (2) foot contour or greater with the prior approval of the ~~E~~ngineering and ~~R~~esource ~~P~~rotection ~~D~~irector), or other mapping sources or resources, and proposed finished contours.
- (8) Spot elevations shown at topographic low and high points;
- (9) A landscaped plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas; areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes; and size and type of trees to be removed having a minimum diameter breast height of 12 inches;
- (10) A tree preservation plan and a phased clearing plan in accordance with sections 24-87 and 24-90;
- (11) An outdoor lighting plan in accordance with section 24-130;
- (12) Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, calculations indicating the number of parking spaces required and the number provided;
- (13) Number of floors, floor area, height and location of each building;
- (14) For a multi-family or apartment development, the number, size and type of dwelling units and the location, type and percentage of total acreage of recreation facilities;
- (15) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights and fire hydrants; and showing the locations of garbage and trash disposal facilities;
- (16) Provisions for the adequate control of stormwater drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures;
- (17) Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multi-family or apartment developments;
- (18) Bylaws of homeowner association where applicable;
- (19) Copies of notification to adjacent property owners;

- (20) Copy of conceptual plan (if applicable);
 - (21) Narrative description of compliance of plan to any proffers or special use permit conditions; and
 - (22) The following environmental information about the site proposed for development including:
 - a. All existing easements, disturbed area, impervious cover, and percent impervious estimates;
 - b. Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable hydrologic soils group A & B);
 - c. Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);
 - d. Demonstration that the project complies with section 23-9(b)(1), (2), ~~&~~ *and* (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, impervious cover minimized);
 - e. County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and
 - f. Description of Better Site Design or Low Impact Development (LID) techniques if being used.
- (b) If the ~~zoning administrator~~ *planning director* determines that one or more of the above submittal requirements is not applicable to the proposed project, the ~~zoning administrator~~ *planning director* may waive those requirements.
- (c) The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

SitePlanSubReq_ord

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions.

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Acreage parcel. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

Building, height of. The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Street functional classification. ~~A classification of streets, approved by the governing body, into the following categories: Interstate, expressway, principal arterial, minor arterial, major collector and minor collector.~~ *Streets shall be functionally classified as follows:*

- (1) Interstate: A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
- (2) Expressway *or Freeway*: A roadway designated exclusively for unrestrictive movement of traffic. Access is only with selected arterial streets by means of interchanges.
- (3) Arterial streets (principal, minor). ~~A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two or three digit numbers, state secondary roads with three digit numbers, and any other street which the subdivision agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three digit numbered streets which are part of a recorded subdivision or an extension thereof.~~ *Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersection streets.* The arterial classification is further subdivided into “principal arterial” and “minor arterial” based on traffic volumes.
- (4) Collector streets (major, minor): ~~A street with relatively low speed and low volume providing circulation within and between neighborhoods. Collector streets usually serve short trips and are~~

~~intended for collecting trips from local streets and distributing them to the arterial network. Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers.~~ The collector classification is further divided into “major collector” and “minor collector.”

(5) *Local or access streets.* Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

~~Iso-foot-candle~~ *footcandle* diagram. A diagram consisting of lines showing the relative illumination in foot candles from a light source or group of light sources.

Mobile home. A mobile home is a structure not meeting the specifications or requirements of a manufactured home, designed for transportation, after fabrication, on streets and highways on its own wheels or on flat bed or other ~~trailers-trailer~~, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. (See "trailer" and "travel trailer" following in this section.)

Noninterference/intermodulation study. A study prepared by a licensed engineer indicating potential interference ~~of wireless communications facilities~~ with public safety communication equipment.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the ~~alteration~~ *alteration* affects the external dimensions of the building.

Tourist home. A dwelling where lodging or lodging and meals are provided for compensation for up to five rooms ~~and which are~~ open to transients.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

Definitions_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, BY AMENDING AND RENAMING SECTION 24-461, PERMITTED USES TO NEW NAME USE LIST; BY DELETING SECTION 24-462, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-463, OUTDOOR OPERATIONS AND STORAGE WITH NEW NUMBER 24-462; BY AMENDING AND RENUMBERING SECTION 24-464, DOCUMENTS REQUIRED FOR SUBMISSION WITH NEW NUMBER 24-463; BY DELETING SECTION 24-465, MASTER PLAN – ADMINISTRATIVE REVIEW FEES; BY RENUMBERING SECTION 24-466, PROCEDURES WITH NEW NUMBER 24-464; BY DELETING SECTION 24-467, DEVELOPMENT PLAN; BY DELETING SECTION 24-468, SAME – ADMINISTRATIVE REVIEW FEE; BY RENUMBERING SECTION 24-469, MINIMUM AREA OF DISTRICTS WITH NEW NUMBER 24-465; BY AMENDING AND RENUMBERING SECTION 24-470, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-466; BY AMENDING AND RENUMBERING SECTION 24-471, OPEN SPACE WITH NEW NUMBER 24-467; BY AMENDING AND RENUMBERING SECTION 24-472, SETBACK REQUIREMENTS WITH NEW NUMBER 24-468; BY AMENDING AND RENUMBERING SECTION 24-473, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER 24-469; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-474, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER AND NAME 24-470 SIGN REGULATIONS; BY DELETING SECTION 24-475, UTILITIES; AND BY RENUMBERING SECTION 24-476, SITE PLAN REVIEW WITH NEW NUMBER 24-471.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 13, Research and

Technology District, by amending 24-461, Use list; Section 24-462, Outdoor operations and storage; Section 24-463, Documents required for submission; Section 24-464, Procedures; Section 24-465, Minimum area of districts; Section 24-466, Requirements for improvements and design; Section 24-467, Open space; Section 24-468, Setback requirements; Section 24-469, Height limits and height limitation waivers; Section 24-470, Sign regulations; and Section 24-471, Site plan review.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 13. RESEARCH AND TECHNOLOGY DISTRICT, RT

Sec. 24-460. Statement of intent.

The primary purpose of the Research and Technology District, RT, is to establish an area where the principal use of land is for research and technology operations which are not ordinarily compatible with residential and retail business development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for research and technology purposes;
- (2) Encourage large-scale, master-planned developments in a campus or park-like setting;
- (3) Prohibit residential and retail business developments on land reserved for research and technology uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of research and technology uses.

Sec. 24-461. ~~Permitted uses~~ *Use list*.

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

~~Accessory uses as defined in section 24-2.~~

~~Antennas and towers, self supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.~~

~~An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.~~

- ~~Banks and other similar financial institutions as an accessory use to other permitted uses.~~
- ~~Child day care centers as an accessory use to other permitted uses.~~
- ~~Clinics as an accessory use to other permitted uses.~~
- ~~Corporate offices.~~
- ~~Courier services.~~
- ~~Data processing centers as an accessory use to other permitted uses.~~
- ~~Fire stations.~~
- ~~Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses.~~
- ~~Industrial and technical training schools.~~
- ~~Laser technology production.~~
- ~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~
- ~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~
- ~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~
- ~~Off street parking as required by section 24-54.~~
- ~~Private streets within "qualifying industrial parks" in accordance with section 24-62.~~
- ~~Publicly owned solid waste container sites.~~
- ~~Radio and television studios and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height.~~
- ~~Research, development and design facilities or laboratories.~~
- ~~Restaurants as an accessory use to other permitted uses.~~
- ~~Telephone exchanges and telephone switching stations.~~
- ~~Timbering in accordance with section 24-43.~~
- ~~Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.~~
- ~~Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities.~~

| <i>Use Category</i> | <i>Use List</i> | <i>Permitted Uses</i> | <i>Specially Permitted Uses</i> |
|--|---|-----------------------|---------------------------------|
| <i>Residential Uses</i> | <i>An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.</i> | <i>P</i> | |
| <i>Commercial Uses</i> | <i>Accessory uses and structures as defined in section 24-2</i> | <i>P</i> | |
| | <i>Banks and other similar financial institutions as an accessory use to other permitted uses</i> | <i>P</i> | |
| | <i>Child day care centers as an accessory use to other permitted uses</i> | <i>P</i> | |
| | <i>Clinics as an accessory use to other permitted uses</i> | <i>P</i> | |
| | <i>Corporate offices</i> | <i>P</i> | |
| | <i>Courier services</i> | <i>P</i> | |
| | <i>Data processing centers as an accessory use to other permitted uses</i> | <i>P</i> | |
| | <i>Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses</i> | <i>P</i> | |
| | <i>Off-street parking as required by section 24-54 article II, division II of this chapter</i> | <i>P</i> | |
| <i>Restaurants as an accessory use to other permitted uses</i> | <i>P</i> | | |
| <i>Civic</i> | <i>Fire stations</i> | <i>P</i> | |
| <i>Utility</i> | <i>Antennas or towers (not attached to buildings) in excess of 60 feet in height</i> | | <i>SUP</i> |
| | <i>Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.</i> | <i>P</i> | |
| | <i>Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more</i> | | <i>SUP</i> |
| | <i>Radio and television studios and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height</i> | <i>P</i> | |
| | <i>Railroad facilities including tracks, bridges, switching yards and stations. However, s Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and shall not require a special use permit</i> | | <i>SUP</i> |
| | <i>Telephone exchanges and telephone switching stations</i> | <i>P</i> | |
| | <i>Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height</i> | | <i>SUP</i> |
| | <i>Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases,</i> | | <i>SUP</i> |

| | | | |
|------------|---|--------------|-----|
| | liquids or solids. However, e Extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit | | |
| | Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, t The following are permitted generally and shall not require a special use permit: (a) private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (b) distribution lines and local facilities within a development, including pump stations | | SUP |
| | Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet | P | |
| | Water impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more | | SUP |
| | Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities | P | |
| Open | Timbering in accordance with section 24-43 | P | |
| Industrial | Heliports and helistops and accessory uses | | SUP |
| | Industrial and technical training centers or schools | P | |
| | Laser technology production | P | |
| | Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products | P | |
| | Manufacture or assembly of electronic instruments, electronic devices or electronic components | P | |
| | Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments | P | |
| | Private streets within "qualifying industrial parks" in accordance with section 24-62 | P | |
| | Publicly owned solid waste container sites | P | |
| | Research, development and design facilities or laboratories | P | |
| | Solid waste transfer stations and container sites, public or private | | SUP |
| | Warehouse, storage and distribution centers to serve only uses permitted in the Research and Technology District, RT, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property | P | SUP |
| | Waste disposal facilities | | SUP |

Sec. 24-462. ~~Uses permitted by special use permit only.~~

~~In the Research and Technology District, RT, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit, by the board of supervisors:~~

~~Antennas or towers (not attached to buildings) in excess of 60 feet in height.~~

~~Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Heliports and helistops and accessory uses.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right of ways and track and safety improvements in existing railroad right of ways are permitted generally and shall not require a special use permit.~~

~~Solid waste transfer stations.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.~~

~~Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Waste disposal facilities.~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:~~

- ~~(a) — private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and~~
- ~~(b) — distribution lines and local facilities within a development, including pump stations.~~

~~Water impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more.~~

Sec. 24-4632. Outdoor operations and storage.

Any research or technology operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-4198.

Sec. 24-4643. Documents required for submission.

~~(a) — Required documents.~~ The applicant shall submit ~~the following documents~~ *documents in accordance with section 24-23* to the planning director ~~for submission to the planning commission; prior to any rezoning or special use permit application consideration by the planning commission.~~

~~(1) — Application for rezoning~~

~~(2) — Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(b) — Master plan.~~ The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:

~~(1) — An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) — A north arrow.~~

~~(3) — The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.~~

~~(4) — The approximate location of proposed streets and rights of ways with an indication of whether public or private; the approximate location of common open space areas and all areas proposed for dedication to public use within the project.~~

~~Each section or area of the master plan shall be designated as follows:~~

| <u>Area Designation</u> | <u>Type of Development</u> |
|-------------------------|---|
| F | Warehouse uses |
| G | Office uses |
| H | Light industrial, research or technology uses |
| I | Institutional or public uses |
| J | Areas of common open space |
| M* | Structures containing a mixture of uses |

~~X~~ _____ Other structures, facilities or amenities

~~For purposes of this article, the term ‘common open space area’ shall refer to any tract of land intended to be used in common primarily by users of the RT, research and technology district.~~

~~*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M(HF)) in the order of their proportion in the structure.~~

- ~~(5) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:
 - a. _____ The use;
 - b. _____ Approximate development phasing;
 - c. _____ Maximum square feet of floor space for office, industrial, research, or technology uses.
 - d. _____ Maximum acreage of each use.~~
- ~~(6) Schematic plans which shall indicate the phasing of development and master water, sewer, and drainage plans.~~
- ~~(7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.~~

~~The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, roads, rights of ways, accesses, open spaces, public uses, and other features located or to be located on the sites. The master plan shall be reviewed and upon approval by the board of supervisors shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-467, shall supersede the master plan and schematic plans.~~

~~Sect. 24-465. Master plan – Administrative review fees.~~

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

Sec. 24-466. Procedures.

(a) *Report of the planning director.* The planning director may refer copies of the master plan to other local public officials for their comments, and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following:

- (1) Evaluation of the proposed uses at the site in relation to the county's Comprehensive Plan.
 - (2) Evaluation and recommended changes in the design of land use and circulation shown on the master plan of the property.
 - (3) Impact of the proposal on surrounding property and the environment.
 - (4) Final recommendation regarding approval of the application and master plan or changes which are necessary.
- (b) *Consideration by the planning commission and board of supervisors.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.
- (c) *Guarantees.* The director of building safety and permits shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and sewer facilities, shown on the development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.

~~Sec. 24-467. Development plan.~~

~~Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.~~

~~Sec. 24-468. Same – Administrative review fee.~~

~~Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accordance with section 24-7 or section 19-15.~~

~~Sec. 24-469.5. Minimum area of districts.~~

~~Research and technology districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than twenty-five acres.~~

~~Sec. 24-470.66. Requirements for improvements and design.~~

- (a) *Water and sewer.* All structures and uses within a research and technology district shall be served by publicly owned and operated water and sewer systems.

- (b) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of ~~sections 24-53 and 24-474~~ *article II, division 2 of this chapter.*
- (c) *Street.* All ~~dedicated public~~ streets ~~shown on the development plan~~ shall meet the ~~design and construction~~ requirements of the Virginia Department of Transportation's ~~standards or the county subdivision ordinance, whichever is more stringent.~~ *Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan.* ~~The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of engineering and resource protection. Private streets may be permitted within 'qualifying industrial parks' in accordance with section 24-55 upon the approval of the board of supervisors in accordance with the provisions of section 24-62.~~
- (d) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the service authority manager and county fire chief. ~~No structure within the district shall generally be further than 400 feet from a hydrant.~~
- (e) ~~Streetlights~~ *Outdoor Lighting.* ~~Streetlights~~ *Outdoor lighting* shall ~~generally be provided at each intersection and adequately spaced in parking lots and other public areas~~ *be provided, as required by article II, division 7 of this chapter and the county subdivision ordinance.* ~~The lighting shall be directed so as not to produce objectionable glare on adjacent property within or near the development. No lighting fixture shall exceed a height of 30 feet in this district.~~
- (f) ~~Drainage facilities.~~ ~~Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation Drainage Manual.~~
- (g) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites, and similar irreplaceable assets shall be preserved to the maximum extent possible.
- (hg) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with ~~section 24-86~~ *article II, division 4 of this chapter,* and Chapter 23 of the county's Chesapeake Bay Preservation Ordinance.

Sec. 24-47167. Open space.

(a) Development within the research and technology districts shall provide usable open space area to create a park-like setting. The amount of open space shall be not less than ten percent of the developable area of the site, and where possible shall be continuous open space. Nondevelopable area ~~consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient~~ shall not be counted towards meeting the open space requirement. For the purposes of this article, open space shall not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, ~~section 24-86~~ *article II, division 4 of this chapter* (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a community character corridor on the Comprehensive Plan which shall be left in a natural, undisturbed state.
- (2) Buffer area(s) of no less than 50 feet around a Resources Management Area wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area ~~demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in Virginia's Endangered Species, (Virginia Department of Game and Inland Fisheries, 1991)),~~ onsite that is set aside to meet the county's natural resource policy where preservation of such area is not required by other local, state or federal law.
- (5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.

Open space area shall be protected by easements, maintenance agreements and/or other assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property.

Sec. 24-47268. Setback requirements.

(a) *Required perimeter setback from research and technology districts.* For uses permitted in research and technology districts, the following setbacks are required and shall be left in it's a natural undisturbed state:

- (1) A minimum landscaped setback of 100 feet shall be maintained from the right-of-way of any existing or planned public roads which abut the site; and
- (2) A minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district. Where uses permitted in the research and technology district adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 100 feet.

(b) *Lesser perimeter setback requirements for research and technology districts; criteria for determination.* The ~~development review committee~~ planning director may recommend approval of a reduction in the perimeter setback as specified in section 24-47268 (a) (2) only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of ~~section 24-86~~ article II, division 4 of this chapter (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas;

- (3) The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan; and
- (4) The setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Location of structures.* Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(d) *Lesser setback requirements for research and technology area internal to research and technology districts; criteria for determination.* The ~~development review committee~~ *planning director* may recommend approval of a setback of less than 50 feet as specified in section 24-47268 (c) above, for those areas of a research and technology district that are internal to a research and technology district. A setback reduction may be eligible for review by the ~~development review committee~~ *planning director* only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of ~~section 24-86~~ *article II, division 4 of this chapter* (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas; and
- (3) The proposed setback will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan.

The ~~development review committee~~ *planning director* may recommend approval of a reduction to section 24-47268 (c) upon finding that one or more of the following criteria are met:

- (i) The proposed setback meets the intent of the master plan and is in keeping with the overall character of development that encourages open space; or
- (ii) The proposed setback is for the purpose of integrating proposed research and technology development with adjacent development; or
- (iii) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography; or
- (iv) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(e) *Requests for modifications.* Requests for modifications to the setbacks as specified in sections 24-47268 (a) and (c) shall be filed in writing with the planning director and shall identify the reasons for such

requests together with the proposed alternative. The planning director ~~shall make a recommendation to the development review committee to~~ approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met. *In the event the planning director denies the request or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.*

(f) *No minimum lot size or yard requirements.* Except for required setbacks as stated in this section, there shall be no minimum lot size nor minimum side or rear yard requirements for any lot within a research and technology district other than as specified in approved development plans.

(g) *Uses prohibited.* Landscape setbacks shall not be used for streets or for parking except for entrances and driveways which may cross the setback at a perpendicular or near perpendicular angle as possible.

Sec. 24-47369. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure *and accessory and nonaccessory wireless communication facilities that utilize alternative mounting structures in accordance with division 6, Wireless Communications Facilities,* shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-47268(c); however, the board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structures will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, ~~so as~~ to offer adequate protection to life and property; and
- (6) Such structures will not be contrary to the public health, safety and general welfare.

Sec. 24-4740. Sign regulations and parking requirements.

(a) — To assure an appearance and condition which is consistent with the purposes of the Research and Technology District, RT, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) — ~~Off street parking and off street loading shall be provided as required in sections 24-53 and 24-54.~~

Sec. 24-475. Utilities.

(a) — ~~All development shall be served by public water and sewer.~~

(b) — ~~The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan of this chapter.~~

Sec. 24-4761. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

Secs. 24-4772 - 24-481. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

ResTechDist_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING, BY AMENDING SECTION 24-62, SPECIAL PROVISIONS FOR PRIVATE STREETS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 2, Highways, Streets, Parking and Loading, Section 24-62, Special provisions for private streets.

Chapter 24. Zoning

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Division 2. Highways, Streets, Parking and Loading

Sec. 24-62. Special provisions for private streets.

(a) Approval process.

(1) Generally. Private streets may be permitted for the uses listed in Table 1 below upon approval of the board of supervisors unless otherwise specified and shall be coordinated with existing or planned streets of approved master plans and the Comprehensive Plan. Such approval shall be requested in writing.

Table 1: Zoning districts and uses where private streets may be permitted

| Use | Qualified Industrial Park per Sec. 24-62(a)(2) | Manufactured Home Park per Sec. 24-181 | Single-Family Residential | Multi-Family Residential | All uses permitted in zoning district |
|-----------------|--|--|---------------------------|--------------------------|---------------------------------------|
| Zoning District | A-1, General Agriculture | X | ✓ | X | X |
| | R-1, Limited Residential | X | X | X | X |
| | R-1, with cluster overlay | X | X | X | X |
| | R-2, General Residential | X | X | X | X |
| | R-2, with cluster overlay | X | X | X | ✓ |
| | <i>R-3, Residential Redevelopment</i> | X | X | ✓ | ✓ |
| | R-4, Residential Planned Community | ✓ | ✓ | ✓ | ✓ |
| | R-5, Multi-Family Residential | X | X | B | B |
| | R-5, with cluster overlay | X | X | B | B |
| | R-6, Low Density Residential | X | X | X | X |
| | R-8, Rural Residential | X | □ | X | X |
| | LB, Limited Business | X | X | X | X |
| | B-1, General Business | X | X | X | X |
| | M-1, Limited Business/Industrial | ✓ | X | X | X |
| | RT, Research & Technology | ✓ | X | X | X |
| | M-2, General Industrial | ✓ | X | X | X |
| | PUD, Planned Unit Development | ✓ | ✓ | ✓ | ✓ |
| | MU, Mixed Use | ✓ | ✓ | ✓ | ✓ |
| | PL, Public Land | X | X | X | X |
| | EO, Economic Opportunity | ✓ | ✓ | ✓ | ✓ |

✓ : permitted with board approval X: not permitted B: By-right

(2) Qualifying Industrial Parks

- a. A "qualifying industrial park" shall be defined as an industrial and/or business park that has an actual or planned size of at least 1,000,000 square feet. The "Qualifying Industrial Park Square Footage Adjustments" shall be applied, to determine the qualifying industrial park square footage in order to determine whether the qualifying threshold can or would be reached. Qualifying square footage is computed by multiplying the existing or planned total square footage by the square footage credit listed in the following chart.

| Qualifying Industrial Park Square Footage Adjustments | |
|--|------------------------------|
| Use | Square Footage Credit |
| Existing industrial/office/warehouse development | 1 |
| Other P permitted D development | 0.75 |
| Planned industrial/office/warehouse development | 0.75 |
| Other P permitted D development | 0.5 |

The planned development adjustments listed above shall be applied to undeveloped property zoned Mixed-Use, MU; Limited Business/Industrial District, M-1; General Industrial District, M-2; Research and Technology District, RT; and Planned Unit Development, **PUD** and allows nonindustrial/office and/or nonwarehouse activity to occur based on master plan projections which have been approved by the board of supervisors. For undeveloped property not subject to a binding master plan the square footage shall be determined by multiplying 0.75 by 25 percent of the net-developable area of the project.

If an industrial/office/warehouse development is proffered exclusively, the existing development adjustments listed above may be applied upon examination of the proffers.

- b. Requests for board approval of private streets in qualifying industrial parks shall include a traffic impact analysis and square footage estimates for the proposed industrial park. The traffic impact analysis shall be in conformance with the submittal requirements of section 24-23. Additionally, the traffic impact analysis shall address internal circulation and capacity.

(3) Guarantees. The construction of streets whether public or private shall be guaranteed by surety, in an amount and in a form approved by the county attorney.

(4) To the extent streets are private rather than public, the applicant shall also submit assurances satisfactory to the county attorney that a property owner's community association or similar organization has been legally established under which the lots within the area of the final development plan will be

assessed for the cost of maintaining private streets, and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(b) Minimum Standards:

(1) Private streets shown on the development plan shall meet the construction and geometric requirements of the Virginia Department of Transportation and the Administrative Guidelines for Certifications of Private Street Construction, except as specified in paragraph (2) below.

(2) If the uniqueness of a proposal requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, with associated drainage and specifications for curbs and gutters be subject to modification from the specifications established in chapter 19, the development manager or his designee, within the limits hereinafter specified, may waive or modify the specifications otherwise applicable for a particular private road (or road network) if the specifications are not required in the interests of the residents, occupants, workers, customers of businesses and property owners of the development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

It shall be the responsibility of the applicant to demonstrate to the satisfaction of the development manager or his designee with respect to any requested waiver or modification that:

- a. The waiver or modification shall result in design and construction that is in accordance with accepted engineering standards;
- b. The waiver or modification is reasonable because of the uniqueness of the development or because of the development within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;
- c. Any waiver or modification pertaining to streets is reasonable with respect to the generation of vehicular traffic that is estimated to occur within the area of the development;
- d. Traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and

- e. Waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

The applicant may appeal the decision of the development manager or his designee to the development review committee (DRC).

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | ___ | ___ | ___ |
| JONES | ___ | ___ | ___ |
| KENNEDY | ___ | ___ | ___ |
| ICENHOUR | ___ | ___ | ___ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012

PrivateSts_ord

MEMORANDUM COVER

Subject: Case No. SO 0001-2011. Subdivision Ordinance

Action Requested: Shall the Board approve the proposed amended Subdivision Ordinance?

Summary: Staff has developed the final Subdivision Ordinance language. Highlights of the proposed changes are listed in the attached memorandum.

On November 7, 2012, the Planning Commission recommended approval of the Subdivision Ordinance by a vote of 6-0.

Staff recommends approval of the attached Subdivision Ordinance.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Unapproved Minutes of the November 7, 2012, Planning Commission
3. Subdivision Ordinance

Agenda Item No.: I-7

Date: December 11, 2012

MEMORANDUM

DATE: December 11, 2012
TO: The Board of Supervisors
FROM: Ellen Cook, Senior Planner II
SUBJECT: Case No. SO 0001-2011. Subdivision Ordinance

As Stage III in the process for the Subdivision Ordinance, staff has prepared final ordinance language for the Board's consideration. During Stage II, the Policy Committee considered the draft language on September 4, 2012. The Policy Committee concurred with the changes as presented, with the suggested addition of a definition for a multifamily dwelling and several other minor revisions for consistency and clarity. The draft language, together with a record of the Policy Committee's input, was then considered by the Board of Supervisors at its September 25, 2012, work session. The Board did not request any additional changes.

Included in the amendments to the Subdivision Ordinance are the following items:

- With regard to on-site sewage disposal systems, amendments to better match terms used in the *Code of Virginia*, to clarify submittal requirements, and to clarify the procedural need to obtain a certification letter of approval from the Health Department prior to approval of new lots by the County; and
- A requirement in the family subdivision provisions for five years of ownership prior to subdivision and limitation of its use to the R-8, Rural Residential, and A-1, General Agricultural, zoning districts; and
- General updates and clarifications in response to agency (James City Service Authority (JCSA), Engineering and Resource Protection, etc.) comments and to frequently asked questions. This last category includes the changes discussed at the September 4, 2012, Policy Committee meeting.

Recommendation:

On November 7, 2012, the Planning Commission recommended approval of the Subdivision Ordinance by a vote of 6-0. Staff recommends approval of the attached Subdivision Ordinance.


Ellen Cook

CONCUR:

Allen J. Murphy, Jr.

EC/nb
SO-01-11SubdivOrd_mem

Attachments:

1. Unapproved Minutes of the November 7, 2012, Planning Commission
2. Subdivision Ordinance
3. Clean copy of the Subdivision Ordinance (in Reading File)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 19-2, DEFINITIONS; BY AMENDING SECTION 19-12, VACATION OF RECORDED PLAT; BY AMENDING SECTION 19-14, PRIVATE STREETS DECLARATION; BY AMENDING SECTION 19-15, FEES; BY AMENDING SECTION 19-17, SPECIAL PROVISIONS FOR FAMILY SUBDIVISIONS; BY AMENDING SECTION 19-18, EXCEPTIONS; BY AMENDING SECTION 19-19, PREAPPLICATION CONFERENCE AND SUBMISSION OF CONCEPTUAL PLAN; BY AMENDING AND RENAMING SECTION 19-20, MASTER PLAN WITH NEW NAME OVERALL PLAN; BY AMENDING SECTION 19-21, CLASSIFICATION OF SUBDIVISIONS; BY AMENDING AND RENAMING SECTION 19-22, PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS, TOWNHOUSE OR CONDOMINIUM SUBDIVISIONS WITH NEW NAME PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS OR MULTIFAMILY SUBDIVISIONS; BY AMENDING SECTION 19-23, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS; BY AMENDING SECTION 19-24, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS OF FEWER THAN FIFTY LOTS; BY AMENDING SECTION 19-27, PRELIMINARY PLAN-SUBMITTAL REQUIREMENTS; BY AMENDING AND RENAMING SECTION 19-28, PRELIMINARY PLAN-TOWNHOUSE AND CONDOMINIUM SUBDIVISIONS WITH NEW NAME PRELIMINARY PLAN-MULTIFAMILY SUBDIVISIONS; BY AMENDING SECTION 19-29, FINAL PLAN-SUBMITTAL REQUIREMENTS; BY AMENDING SECTION 19-30, PROCEDURE FOR APPROVAL OF FINAL PLAN; BY AMENDING SECTION 19-32, LAND MUST BE SUITABLE; BY AMENDING SECTION 19-33, LOCATION OF UTILITIES; BY AMENDING SECTION 19-34, LOCATIONS AND SPECIFICATIONS FOR MONUMENTS; BY AMENDING SECTION 19-35, LOT CORNER MONUMENTS; BY AMENDING SECTION 19-36, MONUMENTS-GENERAL REQUIREMENTS; BY AMENDING SECTION 19-37, EASEMENTS; BY AMENDING SECTION 19-39, LOT ARRANGEMENTS, DESIGN AND SHAPE; BY AMENDING AND RENAMING SECTION 19-40, LOT

LOCATION WITH NEW NAME LOT ACCESS AND FRONTAGE; BY DELETING SECTION 19-41, SIDE LOT LINES; BY ADDING NEW SECTION 19-41, BUILDING SETBACKS AND YARDS; BY ADDING NEW SECTION 19-42, STREET RIGHT-OF-WAY DEDICATION, BY ADDING NEW SECTION 19-43, LOT WIDTH; BY RENUMBERING SECTION 19-42, LOT REMNANTS WITH NEW NUMBER 19-44; BY AMENDING AND RENUMBERING SECTION 19-43, DOUBLE FRONTAGE LOTS WITH NEW NUMBER 19-45; BY RENUMBERING SECTION 19-44, SEPARATE OWNERSHIP OF LOTS TO BE SUBDIVIDED WITH NEW NUMBER 19-46; BY AMENDING AND RENUMBERING SECTION 19-45, LOT FRONTAGE WITH NEW NUMBER 19-47; BY AMENDING AND RENUMBERING SECTION 19-46, BLOCK LENGTH WITH NEW NUMBER 19-48; BY RENUMBERING SECTION 19-47, BLOCK WIDTH WITH NEW NUMBER 19-49; BY AMENDING AND RENUMBERING SECTION 19-48, STREET ALIGNMENT AND LAYOUT WITH NEW NUMBER 19-50; BY AMENDING AND RENUMBERING SECTION 19-49, STREET CONSTRUCTION STANDARDS WITH NEW NUMBER 19-51; BY AMENDING AND RENUMBERING SECTION 19-50, STREET DRAINAGE WITH NEW NUMBER 19-52; BY AMENDING, RENUMBERING AND RENAMING SECTION 19-51, SIDEWALKS WITH NEW NUMBER AND NAME 19-53, PEDESTRIAN ACCOMMODATIONS; BY AMENDING AND RENUMBERING SECTION 19-52, CUL-DE-SAC STREETS WITH NEW NUMBER 19-54; BY AMENDING AND RENUMBERING SECTION 19-53, PRIVATE STREETS WITH NEW NUMBER 19-55; BY RENUMBERING SECTION 19-54, STREET AND SUBDIVISION NAMES WITH NEW NUMBER 19-56; BY AMENDING AND RENUMBERING SECTION 19-55, STREET SIGNS WITH NEW NUMBER 19-57; BY AMENDING AND RENUMBERING SECTION 19-56, PUBLIC WATER WITH NEW NUMBER 19-58; BY AMENDING AND RENUMBERING SECTION 10-57, WATER FACILITIES WITH NEW NUMBER 19-59; BY RENUMBERING SECTION 19-58, INDIVIDUAL WELLS WITH NEW NUMBER 19-60; BY AMENDING AND RENUMBERING SECTION 19-59, PUBLIC SEWER WITH NEW NUMBER 19-61;

BY AMENDING AND RENUMBERING SECTION 19-60, INDIVIDUAL SEWER WITH NEW NUMBER 19-62; BY AMENDING AND RENUMBERING SECTION 19-61, REGULATIONS GOVERNING UTILITY SERVICE WITH NEW NUMBER 19-63; BY AMENDING AND RENUMBERING SECTION 19-62, INSPECTIONS OF PUBLIC WATER, SEWER, AND STORMWATER SYSTEM WITH NEW NUMBER 19-64; BY RENUMBERING SECTION 19-63, FIRE PROTECTION WITH NEW NUMBER 19-65; BY AMENDING AND RENUMBERING SECTION 19-64, STREETLIGHTS WITH NEW NUMBER 19-66; BY RENUMBERING SECTION 19-65, OFF-SITE SEWER, WATER, AND DRAINAGE COSTS WITH NEW NUMBER SECTION 19-67; BY RENUMBERING SECTION 19-66, OFF-SITE ROAD IMPROVEMENTS WITH NEW NUMBER 19-68; BY RENUMBERING SECTION 19-67, DEDICATION AND RESERVATION OF LAND FOR PUBLIC PURPOSES WITH NEW NUMBER 19-69; BY RENUMBERING SECTION 19-68, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION WITH NEW NUMBER 19-70; BY RENUMBERING SECTION 19-69, ENTRANCE FEATURE REVIEW WITH NEW NUMBER 19-71; BY RENUMBERING SECTION 19-70, STORMWATER MANAGEMENT FEATURE REVIEW WITH NEW NUMBER 19-72; BY AMENDING AND RENUMBERING SECTION 19-71, SHARED DRIVEWAY REQUIREMENTS FOR MINOR SUBDIVISIONS WITH NEW NUMBER 19-73; AND BY AMENDING AND RENUMBERING SECTION 19-72, INSTALLATION OF IMPROVEMENTS AND BONDING WITH NEW NUMBER 19-74.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Section 19-2, Definitions; Section 19-12, Vacation of recorded plat; Section 19-14, Private Streets declaration; section 19-15, Fees; Section 19-17, Special provisions for family subdivisions; Section 19-18, Exceptions; Section 19-19, Preapplication conference and submission of conceptual plan; Section 19-20, Overall plan; Section 19-21, Classification of subdivisions; Section 19-22, Procedure for review of minor subdivisions or multifamily subdivisions; Section

19-23, Procedure for preliminary plan review for major subdivisions; Section 19-24, Procedure for preliminary plan review for major subdivisions of fewer than fifty lots; Section 19-27, Preliminary plan-Submittal requirements; Section 19-28, Preliminary plan-multifamily subdivisions; Section 19-29, Final plan-submittal requirements; Section 19-30, Procedure for approval of final plan; Section 19-32, Land must be suitable; Section 19-33, Location of utilities; Section 19-34, Locations and specifications for monuments; Section 19-36, Monuments-general requirements; Section 19-37, Easements; Section 19-39, Lot arrangements, design and shape; Section 19-40, Lot access and frontage; Section 19-41, Building setbacks and yards; Section 19-42, Street right-of-way dedication; Section 19-43, Lot width; Section 19-44, Lot remnants; Section 19-45, Double frontage lots; Section 19-46, Separate ownership of lots to be subdivided; Section 19-47, Lot frontage; Section 19-48, Block length; Section 19-49, Block width; Section 19-50, Street alignment and layout; Section 19-51, Street construction standards; Section 19-52, Street drainage; Section 19-53, Pedestrian accommodations; Section 19-54, Cul-de-sac streets; Section 19-55, Private streets; Section 19-56, Street and subdivision names; Section 19-57, Street signs; Section 19-58, Public water; Section 19-59, Water facilities; Section 19-60, Individual wells; Section 19-61, Public sewer; Section 19-62, Individual sewer; Section 19-63, Regulations governing utility service; Section 19-64, Inspections of public water, sewer, and stormwater system; Section 19-65, Fire protection; Section 19-66, Streetlights; Section 19-67, Off-site sewer, water and drainage costs; Section 19-68, Off-site road improvements; Section 19-69, Dedication and reservation of land for public purposes; Section 19-70, Establishment of homeowners association; Section 19-71, Entrance feature review; Section 19-72, Stormwater management features review; Section 19-73, Shared driveway requirements for minor subdivisions; and Section 19-74, Installation of improvements and bonding.

Chapter 19

SUBDIVISIONS

ARTICLE I. GENERAL PROVISIONS

Sec. 19-1. Short Title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of James City County, Virginia," or simply as the "Subdivision Ordinance."

Sec. 19-2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

Agent. The James City County ~~Director of Planning~~ *director* or his designee.

Alternative on-site sewage disposal system. A treatment works that is not a conventional on-site sewage disposal system and does not result in a point source discharge.

Approved. The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

~~*Arterial streets.* A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one , two , or three digit numbers, state secondary roads with three digit numbers, and any other street which the agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three-digit-numbered streets which are part of a recorded subdivision or an extension thereof.~~

Block. Land containing lots which are bounded by streets or a combination of conservation areas, streets, public parks, cemeteries, railroads, rights-of-way, shorelines or boundaries of the county.

Brownfield site. Real property wherein the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Central water systems. A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the James City Service Authority. Central water system shall include all structures, hydrants, property, equipment and appurtenances used in the production, storage and distribution of water.

Commission. The James City County Planning Commission.

Common open space. A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development in which ownership is held in common with other owners of that development.

~~*Condominium.* A building, or group of buildings, in which units are owned individually, and the structures, common area, and common facilities are owned by all the owners on a proportional, undivided basis.~~

Conventional onsite sewage disposal system. A treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

County attorney. The James City County Attorney or his designee.

~~*County engineer.* The James City County Engineer or his designee.~~

Cul-de-sac. A street with only one outlet having a circular turn-around for a safe and convenient reverse traffic movement.

Development review committee. An administrative subcommittee of the commission charged with reviewing major subdivisions, conceptual plans, appeals of agent decisions, and exceptions to this chapter and making recommendations to the commission.

Division of building safety and permits. The James City County Director of Building Safety and Permits or his designee.

Dwelling. Any structure, or portion thereof, which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, tourist cabins, time-share units, motor lodges, tents, travel trailers, recreational vehicles and similar accommodations. Dwellings may include the following types:

1. *Single-family detached.* A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.
2. *Multi-family.* A building or structure including, but not limited to, townhouses, duplexes, and triplexes that are arranged or designed to be occupied by more than one family living in separate dwelling units with separate cooking, toilet facilities, and entrances.
3. *Apartments.* A building or structure arranged or designed to be occupied by three or more families living in separate dwelling units but sharing the entrance to the building.

Easement. A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

Engineering and resource protection division. The Director of the James City County Engineering and Resource Protection Division or his designee.

Fire chief. The James City County Fire Chief or his designee.

Governing body. The James City County Board of Supervisors.

Health department. The Commonwealth of Virginia Department of Health or an authorized official, agent or employee thereof.

Highly erodible soils. Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined by the *Universal Soil Loss Equation* as the product of the formula $RKLS-T$, as defined by the “Food Security Act (F.S.A.) Manual” of August, 1988 in the “Field Office Technical Guide” of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups “rapid” and “very rapid”) as found in the “National Soils Survey Handbook” of July 1983 November 1996, as amended, in the “Field Office Technical Guide” of the U.S. Department of Agricultural Soil and Natural Resources Conservation Service.

Hydric soils. Soils that are saturated, flooded or ponded long enough during the growing seasons to develop anaerobic conditions in the upper part, which are saturated for usually one week or more in the growing period and have the capacity to support hydrophytic wetland vegetation.

Impervious cover. A surface composed of any material that significantly impedes or prevents infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Improvements. All public and quasipublic utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, signs, sidewalks and streetlights required by this chapter.

Lot. A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by Chapter 24, Zoning, either shown on a plat of record or considered as a unit of property and described by metes and bounds. A lot is synonymous with parcel or tract.

Lot, corner. A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

Lot, double frontage. An interior lot having frontage on two streets.

Lot, flag. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way not less than 25 feet in width.

Lot, frontage. The minimum width measurement of a lot measured along a street right of way from one side lot line to the other along a straight line.

Lot, interior. Any lot other than a corner lot.

Lot of record. A lot, a plat or description of which has been recorded in the clerk's office of the circuit court.

Lot width. The horizontal distance between side lot lines measured at the setback line.

Monument. An iron pipe a minimum of 3/4 inches in diameter with a 24 inch length or a 5/8 inches in diameter reinforcing bar with a 24 inch length driven three inches to nine inches below the surface of the adjacent ground or an alternate type as approved by the ~~agent~~ county engineer.

Plat. A map or plan for a tract or parcel of land meeting the requirements of this chapter which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

Property. A unit or units of land of such size and dimensions that it may be subdivided into two or more lots.

Public sewer. A sewer system owned and operated by a municipality, county, service authority or the Hampton Roads Sanitation District Commission, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department and State Water Control Board where appropriate.

Public water. A water system owned and operated by a municipality, county or service authority, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department.

Right-of-way. The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, drainage facilities, curbing, gutters, pipes, sidewalks, shoulders and land necessary for the maintenance thereof. The right-of-way may contain public or private utilities.

Road, future or planned future right-of-way. Any road or similar transportation facility as shown on an approved plan of development or master plan or designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, ~~Peninsula Transportation Plan~~ Hampton Roads Long Range Transportation Plan or any road plan adopted by the board of supervisors.

Runoff. Precipitation which enters downstream waterways or properties.

~~*Septic tank system.* An individual nondischarge system approved by the health department which contains all the necessary apparatus for treating wastewater including a sewage holding tank and areas identified for primary and reserve drainfields.~~

Service authority. The James City Service Authority.

Service authority manager. The manager of the James City Service Authority or his designee.

Service authority regulations. The James City Service Authority *Regulations Governing Utility Service.*

Setback line. A line showing the closest point from a property line that a dwelling or principal structure may be constructed consistent with the zoning ordinance.

Soil absorption systems. On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

~~*Stormwater division.* The director of the James City County stormwater division or his designee.~~

Street. An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the transportation department or approved as a private transportation system under the zoning ordinance. A street shall provide access to property by vehicular and pedestrian traffic for all purposes of travel transportation or parking to which it is adopted and devoted. This term is synonymous with road, lane, drive, avenue, right-of-way, highway, or any other thoroughfare.

Street functional classification. Streets shall be functionally classified as follows:

1. *Interstate:* A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
2. *Expressway and freeway:* A roadway designated exclusively for unrestricted movement of traffic. Access is only with selected arterial streets by means of interchanges.
3. *Arterial streets (principal, minor)* Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersecting streets. The arterial classification is further subdivided into "principal arterial" and "minor arterial" based on traffic volumes.
4. *Collector streets (major, minor)* Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The collector classification is further divided into "major collector" and "minor collector."
5. *Local or access streets.* Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

Subdivide. The division of property into two or more lots.

Subdivider. An individual, corporation, partnership or other entity owning any property to be subdivided.

~~*Townhouse.* A dwelling unit for single family occupancy in a structure containing three or more such dwelling units not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such units, and each of which is serviced by an individual exterior entrance or entrances.~~

Transportation department. The Commonwealth of Virginia Department of Transportation or an authorized official, agent or employee thereof.

Yard. The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district.

Sec. 19-3. Compliance with chapter mandatory.

(a) No person shall subdivide land without making and recording a plat of subdivision and fully complying with the provisions of this chapter.

(b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent as required herein.

(e) The requirements of this chapter shall be considered separate from, and supplementary to, any requirements otherwise specified by this Code or by state or federal law. Nothing contained herein shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail.

Sec. 19-4. Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt any transaction from such penalties or from other remedies.

State law reference-Code of Va., §15.2-2254

Sec. 19-5. Administration and enforcement of chapter.

The agent is hereby delegated to administer and enforce the provisions of this chapter. The agent shall be considered the agent of the governing body. Notwithstanding an appeal as provided for in section 19-8, approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may consult with the commission on matters contained herein and may call for written opinions or decisions from other county departments, the transportation department, and the health department in considering details of any submitted plat.

State law reference-State law governing land subdivision and development, Code of Va., § 15.2-2240 et seq.

Sec. 19-6. Effect of private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

Sec. 19-7. Changes, erasures and revisions.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 19-8. Subdivider may appeal from disapproval of plat.

In the event a plat for subdivision is disapproved by the agent or commission, the subdivider may appeal to the governing body. The governing body may override the recommendation of the agent or commission and approve said plat. No appeal shall be made unless it is filed in writing with the clerk of the governing body within 30 days of disapproval by the agent or commission.

Sec. 19-9. Plan and plat preparation - by whom prepared.

Each subdivision plan and plat shall be prepared by an individual duly qualified as set forth in title 54.1 of the Code of Virginia.

Sec. 19-10. How chapter may be amended.

This chapter may be amended in whole or in part by the governing body. Any such amendment shall either originate with or be submitted to the commission for recommendation prior to adoption. If no recommendation is received from the commission after 60 days from submission, the governing body may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the governing body.

State law references-For state law as to amendments to county subdivision ordinances, see Code of Va., § 15.2-2253; required filing of amendments, Code of Va., § 15.2-2252.

Sec. 19-11. Resubdivision same as subdivision.

Any change in a recorded subdivision plat that modifies, creates or adjusts lot lines shall be approved in the same manner and under the same requirements as a new subdivision. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage or other public area laid out or described in such plat is affected, the plat shall be vacated pursuant to section 19-12 prior to resubdivision.

Sec. 19-12. Vacation of recorded plat.

Any recorded plat, or part thereof, may be vacated ~~by the governing body~~ pursuant to ~~section~~ *Code of Va.*, § 15.2-2271 through ~~section § 15.2-2276 of the Code of Virginia~~, as amended. Any such vacation shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest to the owners, proprietors and trustee, if any, the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

Sec. 19-13. Construction and severability of provisions.

This chapter shall be liberally construed so as to effectuate its purposes. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government, agency, person or circumstance.

Sec. 19-14. Private streets declaration.

If approved streets in a subdivision are not to be constructed to meet the standards necessary for inclusion in the secondary system of state highways, or are not to be dedicated to the ~~Virginia Department of Transportation~~ *department*, the subdivision plat and all deeds conveying lots in the subdivision, shall contain a statement advising that the streets in the subdivision shall not be maintained by the transportation department or the county, and where applicable, do not meet state design standards.

Sec. 19-15. Fees.

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below:

- (1) *General plan review.* There shall be a fee for the examination of every plan reviewed by the agent or commission. For all subdivisions that do not require public improvements, the fee for a major or minor subdivision shall be \$200.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. For all subdivisions that require public improvements, the fee for a major or minor subdivision shall be \$250.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. The fee for townhouse or condominium subdivisions which have undergone site plan review shall be \$50.00. The fee shall be submitted to the agent at the time of filing the plat for review. Any check shall be payable to the James City County treasurer. An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional agency comments.

- (2) *Inspection fee for water and sewer lines.* There shall be a fee for the inspection by the service authority of public water and sewer system installations. Such fee shall be \$1.43 per foot for every foot of sewer main or water main constructed and shall be submitted as specified by the service authority regulations.
- (3) *Inspection fee for stormwater installations.* There shall be a fee for the inspection by the stormwater division of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.
- (4) *Fees waived.* Payment of any permit fees established in section 19-15 shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) ~~The~~ other parties to the regional entity similarly waive fees; and (2) ~~The~~ regional entity has locations in more than one locality.

Sec. 19-16. Saving provision.

The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the adoption of this chapter, unless expressly provided for in this chapter. Any subdivision plan which has received preliminary approval prior to the adoption of this chapter and for which a final plat is recorded within one year from the date of preliminary approval shall have vested rights under the ordinance in effect at the date of preliminary approval. Failure to record a plat within one year shall render the preliminary approval null and void.

Sec. 19-17. Special provisions for family subdivisions.

In the Rural Residential, R-8, and General Agricultural, A-1 districts, Aa single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under Virginia Code section 16.1-331 et seq., or parent of the owner. Such subdivision shall be subject only to the following provisions:

- (1) *The property owner shall have owned the lot or parcel for a period of not less than five years prior to the application for a family subdivision. The property owner shall provide evidence of ownership satisfactory to the county attorney's office with the subdivision application.*
- (42) Only one such division shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.
- (23) The minimum width, yard and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 19-32.

- (34) For property not served with public water and public sewer, each lot shall have its ~~septic tank~~ *on-site sewage disposal* system and water source approved by the health department and shall be shown on the subdivision plat.
- (45) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-72. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.
- (56) The corners of all lots created by family subdivisions shall be marked with iron pipes as provided for in section 19-35.
- (67) A final subdivision plan shall be submitted to the agent for approval as provided in section 19-29 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fee set forth in section 19-15.
- (78) The above requirements shall be set forth in a subdivision agreement approved by the county attorney and recorded in the circuit court clerk's office for the City of Williamsburg and County of James City.

Sec. 19-18. Exceptions.

The commission may grant an exception to any requirement of the chapter, subject to the following:

- (1) No such exception shall be granted unless the subdivider petitions the commission in writing. The petition *should be submitted with the initial submission of the subdivision plan and* shall state fully the grounds for the exception and all the facts relied upon by the subdivider. The agent may require such additional information as he may deem necessary to process the request for the exception.
- (2) The agent shall provide written notification of the exception request to all adjacent property owners. The notification shall adhere to the following requirements:
- (a) Such notice shall specifically describe the exception requested and the date, time and location of the development review committee meeting first considering such request; and
 - (b) Such notice shall be mailed by the agent at least ten days before the development review committee meeting; and
 - (c) Evidence that such notice was sent by first class mail to the last known address as shown on the current real estate tax assessment book shall be deemed adequate compliance.

- (3) The burden shall be on the subdivider to demonstrate the need for an exception.
- (4) The commission shall not approve any exception unless it first receives a recommendation from the development review committee and unless it finds that:
 - (a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;
 - (b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;
 - (c) The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;
 - (d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and
 - (e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.
- (5) The commission in authorizing an exception may impose such reasonable conditions in addition to the regulations of this chapter as it may deem necessary in the public interest. The commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (6) If granted, such exception shall be specifically stated in writing together with the supporting justifications and filed with the subdivision plan or such plat or plans deemed necessary by the agent. A note shall be prominently placed on the record plat detailing any exception so granted.

ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED

Sec. 19-19. Preapplication conference and submission of conceptual plan.

- (a) Before submittal of any preliminary or final subdivision plan, the applicant is advised to confer with the subdivision agent and such other agencies of the state and county as the agent deems advisable concerning the proposed subdivision.
- (b) Prior to the submission of any major subdivision plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the ~~director of planning~~ *planning director*, or his designee; such action does not constitute the submission of a preliminary plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within 21 calendar days of submittal of a *conceptual* plan which meets all applicable submittal criteria.

(c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final plan approval by the zoning administrator; such action does not constitute final subdivision approval or preliminary plan approval. ~~Submittal of a preliminary plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the requirements of section 19-23.~~ Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

(d) Conceptual plans shall, at a minimum, ~~show~~ *identify or contain:*

- (1) ~~property lines,~~ *project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties*
- (2) ~~building locations and orientation~~ *vicinity and location maps and site address*
- (3) ~~building locations on adjacent properties~~ *county tax parcel identification number, site boundary and parcel site information*
- (4) ~~location of parking area(s)~~ *building location and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as resource protection areas (RPA) and community character corridors (CCC)*
- (5) ~~landscape areas/buffers~~
- (6) ~~entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.)~~ *and location of nearby roads*
- (7) ~~greenway connections (on-site and those adjacent to the subject property)~~
- (8) ~~narrative description of the proposed use of site~~
- (9) ~~building/landscape setbacks per James City County ordinance~~
- (10) ~~site zoning and zoning of surrounding properties~~
- (11) ~~location of stormwater management facilities~~
- (12) ~~graphic scale~~
- (13) ~~recorded easements (conservation, utility, rights-of-way, etc.)~~
- (14) ~~unique natural/visual features (viewsheds, water features, wetlands, RPA buffer, known archaeological sites, etc.)~~
- (15) ~~unique natural/visual features to be preserved (mature or specimen trees, known archaeological sites, etc.)~~
- (16) ~~list of currently binding proffers or special use permit conditions~~
- (17) ~~location of entry signs~~
- (18) ~~existing topography of site~~ *using county base mapping (five foot contour) or other mapping sources or surveys*

(e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.

Sec. 19-20. ~~Master plan~~ Overall plan.

For multiphased subdivisions *which are not subject to a binding master plan approved in accordance with article I of the zoning ordinance*, the subdivider shall submit to the agent ~~a master~~ *an overall* plan for all phases of the proposed subdivision as part of the *first* preliminary plan submittal. The purpose of such a ~~master~~ *an overall* plan is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The commission, upon submission of any ~~master~~ *overall* plan, may study it and advise the subdivider where it appears that changes are appropriate. The agent may

mark the ~~master overall~~ plan indicating appropriate changes. The subdivider shall return such ~~master overall~~ plan to the agent with each preliminary plan. The ~~master overall~~ plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their ~~category functional classification~~ (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water and sewer systems. The ~~master overall~~ plan is not binding on the subdivider or the governing body. Review of an ~~master overall~~ plan does not constitute final subdivision approval or preliminary plan approval. For multiphased subdivisions reviewed under this section, review of an ~~master overall~~ plan does not, in any way, guarantee approval of future subdivision phases.

Sec. 19-21. Classification of subdivisions.

Parcels of land existing as of January 1, 1989, shall be considered and known as "parent parcels."

(a) *Minor subdivision.* A minor subdivision shall be ~~any~~ division of a ~~tract of land~~ *parent parcel* into not more than five ~~lots~~ *parcels* abutting an existing public road within the transportation department system of ~~primary or secondary highways~~ and which does not create a new street or extend an existing street.

(1) Any contiguous or internal property owned by the same subdivider, or deemed by the agent as a logical part of a contiguous or internal subdivision, cannot be subdivided into greater than five ~~lots~~ *parcels* without being reviewed as, and meeting the requirements of, a major subdivision. *Any such subdivisions of a parent parcel shall not exceed a total of nine parcels, including the parent parcel.*

(2) ~~A minor subdivision may include family subdivisions as defined herein.~~ *Family subdivisions as allowed by section 19-17 shall not count toward this five parcel total.* A preliminary or final plan shall include only those submittal requirements of this chapter and requirements for design and minimum requirements required by article III deemed necessary by the agent.

(b) *Major subdivision.* A major subdivision shall be ~~any~~ division of a ~~tract of land~~ *parent parcel* into six or more ~~lots~~ *parcels* or any division which creates a new street or extends any existing street. However, where additional lots are being created for the sole purpose of permanent open space or for the purpose of being dedicated to a conservation organization, as evidenced by documentation acceptable to the ~~director~~ of planning *director*, the subdivision may be reviewed as, and meet the requirements of, a minor subdivision.

(c) ~~Townhouse or condominium~~ *Multifamily* subdivision. A ~~townhouse or condominium~~ *multifamily* subdivision shall be a division of a tract of land into lots for ~~townhouses or condominiums~~ *multifamily units* as shown on an approved site plan pursuant to the zoning ordinance. A preliminary or final plan shall include only those requirements for design and minimum improvements required by article III of this chapter deemed necessary by the agent.

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

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

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

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

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

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

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

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review *comments and* requirements by other agencies. The enhanced conceptual plan and the agent's composite report shall be ~~reviewed~~ *considered* by the DRC ~~when it meets~~ *at one of its scheduled meetings* to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent *and other agencies as deemed necessary by the agent*. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

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

- (1) Project title, title block, legends, north arrows and ~~plan~~ *graphic* scale labeled;
- (2) Vicinity and location maps and site address;
- (3) Site owner and developer information;
- (4) County tax parcel number, site boundary and parcel size information;
- (5) Setbacks (~~B~~*building*, ~~L~~*landscape*) and ~~B~~*buffers* (RPA, Community Character);
- (6) Adjacent property information;
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;
- (8) Existing topography using county base mapping (~~5~~*five* foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
- (9) Existing and proposed rights-of-way and easements;
- (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
- (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
- (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
- (13) Location and size of existing water mains and proposed connection point(s);
- (14) Proposed location of water meters, waterlines, and fire hydrants;
- (15) Proposed building usage and number of floors;
- (16) Preliminary water demands based on proposed use and required fire flow;
- (17) Fire flow test performed to determine adequate capacity;
- (18) Location of all existing or proposed private wells;
- (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
- (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
- (21) Verification of sewer flow acceptance;

- (22) Location of primary and secondary onsite disposal system;
- (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;
- (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
- (25) Proposed build out year and phasing information;
- (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
- (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
- (28) Proposed design features or elements for which waivers will be sought;
- (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
- (30) Applicable FEMA FIRM panel information and zone designations;
- (31) County watershed, subwatershed and catchment;
- (32) ~~Identify~~ *Identify* if the site is subject to the County's Special Stormwater Criteria (SSC);
- (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
- (34) Full ~~E~~ *Environmental* Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
- (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;
- (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;
- (37) ~~Identify~~ *Identify* Location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
- (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
- (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
- (40) ~~Identify~~ *Identify* Preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
- (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.

Sec. 19-24. Procedure for preliminary plan review for major subdivisions of fewer than fifty lots.

Major subdivisions of fewer than 50 lots, including such major subdivisions that are part of a multiphased subdivision of 50 lots or more, may, at the agent's discretion, be reviewed under the procedures set forth in section 19-22, ~~provided however, if the submitted preliminary plan does not have an approved conceptual plan, as set forth in section 19-19, then the preliminary plan shall be reviewed by the commission under the requirements of section 19-23.~~

Sec. 19-25. Effect of approval of preliminary plan.

Approval by the commission or the agent of the preliminary plan shall not constitute a guarantee of approval by the agent of the final plat.

Sec. 19-26. Term of validity for the preliminary plan and extension.

(a) Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the latest recorded plat. Such right shall be subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

Sec. 19-27. Preliminary plan-Submittal requirements.

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch,* except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning* and *graphic* scale. ~~If true north is used,~~

~~the method of determination shall be shown.~~ The plan shall also list any proffers or special use permit conditions that affect the property.

- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings *and improvements*, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, both private and public, including their names, *route* numbers and widths; existing and proposed utility or other easements, existing and proposed sidewalks, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate *receiving* channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage calculations shall be submitted with a *design report with computations and drainage area* map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage ~~area~~ map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

The drainage plan shall include the topographic plan and a soil map of the site. The topographic plan ~~submittal requirements vary depending on the location of the proposed development. Outlined below are the topographic plan submittal requirements for each specific area of the county.~~ *shall be based on recent field run or aerial two-foot contour intervals. Five-foot contour intervals may be used with the approval of the agent. Spot elevations shall be shown at topographic low and high points.*

~~Areas generally south of the boundary line—Reference the county tax map for the boundary line location. For all subdivisions planned in this area, the subdivision mapping and design shall be based on topographic surveys which are either derived from on site field surveys or aerial photography. James City County topographic maps shall not be used for this purpose unless the county engineer permits the use of field verified James City County Topographic Maps. Subdivision plans shall show at least one contour line for each 100 feet of horizontal distance and shall show existing and proposed contours at intervals of no more than five feet. The contour interval shall be in whole feet.~~

~~Areas generally north of the boundary line—Reference the county tax map for the boundary line location. The topographic plan submittal requirements are the same as those required for areas~~

~~generally south of the boundary line except that James City County topographic plans may be used. The applicant shall assume all risk associated with the accuracy and the precision of these maps.~~

- (f) *A stormwater management plan showing proposed stormwater management facilities including best management practices (BMPs) in accordance with chapters 8, 18A and 23 of the county code, and associated checklists. Such plan shall include construction details for all parts of the stormwater and drainage system, including pipe bedding and backfill.*
- (fg) *An erosion and sediment narrative and control plan showing the location, type and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the erosion and sediment control ordinance and associated checklists and shall be provided at a scale of 100 50 feet to the inch except in cases where the environmental engineering and resource protection director approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than five two feet except in cases where the engineering and resource protection director approves an alternative interval.*
- (gh) *Cross-sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, bikeways, utilities, side ditches and other features of the proposed streets.*
- (hi) *Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed connecting grade lines therewith and vertical curve information.*
- (ij) *Size and location of existing sanitary sewer and water facilities; location and method of proposed connections to existing sewer and water facilities; size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and cleanouts; grinder pump locations; profile views of water and sewer mains with manhole rim and invert elevations and percent of slope; sewage pump station location, design and details; and water well facility location, design and details. A capacity study of the existing system, in accordance with service authority regulations, may be required. All improvements shall be in accordance with the latest service authority Water and Sanitary Sewer Design and Acceptance Criteria Standards and Specifications.*
- ~~(j) The preliminary plan for a major subdivision shall contain a copy of conceptual plan reviewed under the requirements of section 19-19.~~
- (k) *As provided for in Code of Va., §§ 10.1-606.2 et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plan of the proposed subdivision.*
- (l) *As provided for in the Code of Va., § 15.2-2242, the agent may request submittal of a phase I environmental site assessment, where the proposed subdivision is located on a brownfield site, or where initial assessments indicate dumping or other contaminating activities have occurred on the property.*

- (m) *A phased clearing plan in accordance with section 24-89 of the zoning ordinance.*
- (n) *An outdoor lighting plan in accordance with section 24-130 of the zoning ordinance (these requirements do not apply to lighting on single family lots).*
- (o) *The following environmental information about the site proposed for development including:*
 - (1) *All existing easements, disturbed area, impervious cover, and percent impervious estimate;*
 - (2) *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A and B);*
 - (3) *Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);*
 - (4) *Demonstration that the project complies with section 23-9(b)(1), (2), and (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);*
 - (5) *County watershed, steep slopes (grade 25 percent of more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and*
 - (6) *Description of better site design or low impact development techniques if such is being used.*
- (p) *For proposed minor subdivisions, a copy of the plat showing the parent parcel to assist in verifying the requirements listed in section 19-21.*

Sec. 19-28. Preliminary plan-Townhouse and condominium Multifamily subdivisions.

The preliminary plan for a ~~townhouse or condominium~~ multifamily subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch*, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning, and graphic* scale. ~~If true north is used, the method of determination must be shown.~~ The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.

- (d) All existing, platted and proposed streets, including their names, numbers and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) All parcels of land to be dedicated for public use and conditions of such dedication.

Sec. 19-29. Final plan-Submittal requirements.

The final plan for a subdivision shall be on blue-line or black-line print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 1/2" x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision *shall meet the requirements of 17VAC15-60 et seq.* and shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- (c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.
- (d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

Owner's Certificate

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

_____ Date

_____ Signature

_____ Name printed

Certificate of Notarization

Commonwealth of Virginia
City/County of _____

I, _____ (Print Name) _____, a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my hand this _____ day of _____, (Year) _____.

(Signature)

My commission expires: _____.

Notary registration number: _____.

- (e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

Certificate of Source of Title

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

Engineer or Surveyor's Certificate

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

Date

Name

Name printed

- (f) Certificate of approval as follows:

Certificate of Approval

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

Date

Virginia Department of Transportation

Date

Virginia Department of Health

Date

Subdivision Agent of James City County

- (g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:

“Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section 23-7 of the James City County Code.”

- (h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:

“Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement.”

- (i) The plat shall include the following note:

“Unless otherwise noted, all drainage easements designated on this plat shall remain private.”

- (j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.

- (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.

- ~~(l) Prior to final approval, data for major subdivisions shall be submitted in accordance with the “GIS Data Submittal Requirements for Major Subdivisions” policy, as approved by the governing body. This requirement may be waived provided a note is placed on the final plat stating that the engineer or surveyor of record did not draft the subdivision plans with a computer.~~

- ~~(m)~~ If the subdivided property contains drainfield locations for a septic tank *requires on-site sewage disposal systems*, the plat shall include the following note: “~~Septic tank~~ *On-site sewage disposal system information* and soils information should be verified and reevaluated by the Health Department prior to any new construction.”

- ~~(n)~~ If the subdivided property contains an on-site sewage ~~treatment~~ *disposal* system, the plat shall include the following note:

“On-site sewage ~~treatment~~ *disposal* systems shall be pumped out at least once every five years per section 23-9(b)(6) of the James City County Code.”

- (n) *The plat shall include the following note:*
“Monuments shall be set in accordance with sections 19-34 through 19-36 of the county code. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor’s certificate that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent.”
- (o) *As provided for in Code of Va., § 10.1-606.2, et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be stated on the plat of the proposed subdivision.*

Sec. 19-30. Procedure for approval of final plan.

The subdivider shall submit for review and approval eight copies of the final plan for a major subdivision or as many copies of the final plat for minor subdivisions, ~~townhouse or condominium~~ or multifamily subdivisions as deemed necessary by the agent. Upon approval of the final plan by the agent, the subdivider shall submit one reproducible copy plus eight prints of the record plat portion of the final plat to the agent for review and approval. The record plat shall not be approved until the applicant:

- (1) Has complied with the requirements and minimum standards of design set forth in this chapter;
- (1) Has incorporated such changes or complied with such conditions on the final plan as may have been stipulated in the letter of notification following action by the commission or agent on the preliminary plan;
- (3) Has made satisfactory arrangements for performance assurances as specified in article IV of this chapter; ~~and~~
- (4) *Has submitted data for major subdivisions in accordance with the “GIS Data Submittal Requirements for Major Subdivisions” policy, as approved by the governing body; and*
- (45) Has executed all certificates required in section 19-29.

Sec. 19-31. Term of validity for the final plan.

The subdivider shall record the approved record plat in the clerk's office of the circuit court of the county within 180 days after approval thereof; otherwise, such approval shall become null and void.

ARTICLE III. REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS

Sec. 19-32. Land must be suitable.

(a) The agent shall not approve the subdivision of land if ~~he~~ *it is* ~~determines~~*d*, after adequate investigations conducted by the transportation department, the health department or the ~~director~~ of engineering and resource protection *director*, that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, utility easements or other features harmful to the safety, health and general welfare of the public.

(b) In determining the suitability of lots, the minimum criteria shall be for each lot to have an accessible building site *that is in compliance with the requirements of the zoning ordinance, and with suitable access from an approved street as specified in sections 19-39 and 19-40.*

(c) Land not suitable within a proposed subdivision shall be platted for uses not endangered by periodic or occasional inundation and which otherwise shall not produce conditions contrary to public welfare or such land shall be combined with other suitable lots.

Sec. 19-33. Location of utilities.

(a) All utilities, including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electricity, ~~telephone,~~ *voice, video and data,* gas, cable television or similar service, shall be placed underground; provided, that the following utilities shall be permitted above ground:

- (1) Electric transmission lines and facilities in excess of 50 kilovolts;
- (2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
- (3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.

(b) Whenever existing utilities are located aboveground in proposed subdivisions, they shall be removed and placed underground except where they are within ten feet of existing public street rights-of-way.

(c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority, in accordance with "Typical Utility Details" (see Appendix A) as published by the service authority or as may be otherwise approved by the agent.

Sec. 19-34. Locations and specifications for monuments.

(a) Monuments shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right-angle points and at the beginning and end points of curve along each street. Minimum requirements for monument material and installation shall be the same requirements contained in section 19-35 below. Alternate types of monuments may be used if approved by the ~~county engineer~~ *agent* prior to installation.

(b) At least two new or existing monuments at exterior subdivision boundaries shall be referenced to the county geodetic control network. Control monuments other than those installed by James City County may be used, ~~provided that the other monuments were installed by York County or the City of Newport News Waterworks~~ *with the approval of the agent* and also provided that the precision of other monuments used is at least equal to that of James City County control monuments. Subdivision plats must show the coordinate values in U.S. survey feet of two or more monuments so referenced. Additionally, the geodetic control monument from which the coordinate values are derived shall be referenced including its published coordinate values.

(c) This requirement shall apply to all subdivisions provided a county geodetic control monument exists within one mile of any exterior subdivision boundary. Surveys connecting to the James City County control monument network shall be conducted with a precision of 1:10,000. Surveyors may be required to submit coordinate value computations and supporting data to the ~~county engineer~~ *agent*.

Sec. 19-35. Lot corner monuments.

All lot corners shall be marked with an iron pipe monument not less than three-fourths inch in diameter and 24 inches long or a five-eighths inch in diameter reinforcing bar monument 24 inches long. The top of such monuments shall be driven three inches to nine inches below the surface of the ground. When rock is encountered, a hole shall be drilled four inches deep in the rock into which shall be cemented a steel rod one-half inch in diameter. The top of the rod shall be flush with the finished adjacent ground grade. Alternate types of monuments may be used if approved by the ~~county engineer~~ *agent* prior to installation.

Sec. 19-36. Monuments-General requirements.

The subdivider shall be responsible for replacing any monument which is damaged, disturbed or destroyed during construction. All monuments disturbed or destroyed shall be reset by a surveyor licensed in the Commonwealth of Virginia. ~~Prior to final release of the surety required for a subdivision, the subdivider shall provide certification from a licensed surveyor that monuments required by this chapter have been properly placed. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor's certification that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent.~~

Sec. 19-37. Easements.

Appropriate easements shall be provided by the subdivider. The easements shall be of sufficient width for the specified use, *shall meet any applicable agency easement standards*, and shall include the right of ingress and egress for installation and maintenance of such use. Wherever possible, easements should be adjacent and parallel to property lines. The agent may require that easements through adjoining property be provided.

Sec. 19-38. Lot size.

The minimum lot size shall be in accordance with the zoning ordinance provided, however:

- (1) That where public water or public sewer systems or both such systems are not available, such minimum lot size may be increased by the agent in accordance with the recommendation of the health department; and
- (2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension, or construction of any street or highway, the commission may require additional setbacks and yards for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway.

Sec. 19-39. Lot arrangements, design and shape.

The lot arrangement, design and shape shall be related to the topography such that each lot has:

- (1) An acceptable building site in compliance with the requirements of the zoning ordinance and applicable health regulations; ~~and~~
- (2) Suitable access to the building site from an approved street. *In the case of flag lots, it must be possible to gain access to the building site through the portion of the flag that abuts the street in a manner that meets all applicable regulations. However, if the flag lot is located in a minor subdivision subject to the shared driveway provisions in section 19-71, the requirement of being able to gain access through the flag may be waived by the agent; and*
- (3) Unusually shaped or elongated lots, as determined by the agent, established primarily for the purpose of providing minimum square footage, *or meeting minimum lot width, setback or yard requirements*, shall not be permitted.
- (4) *Sidelines of lots shall be approximately at right angles or radial to the street line.*

Sec. 19-40. ~~Lot location~~ Lot access and frontage.

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street, ~~unless otherwise specifically provided for in this chapter.~~ *The minimum lot frontage abutting such public street right-of-way shall be 25 feet. In zoning districts which permit private*

streets and where such streets have been approved via the process specified in section 24-62 of the zoning ordinance, the access and minimum lot frontage requirements can be met through frontage on a private street. If the existing streets do not meet the minimum transportation department width requirement, including adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

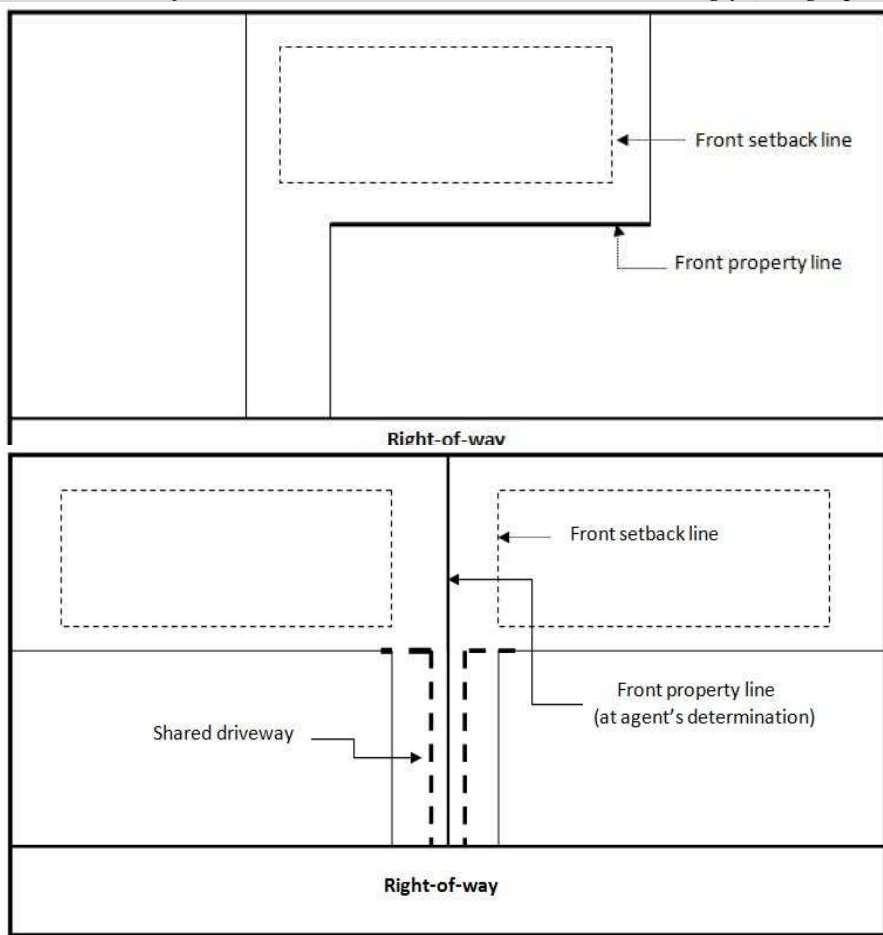
Sec. 19-41. Side lot lines.

~~Sidelines of lots shall be approximately at right angles or radial to the street line.~~

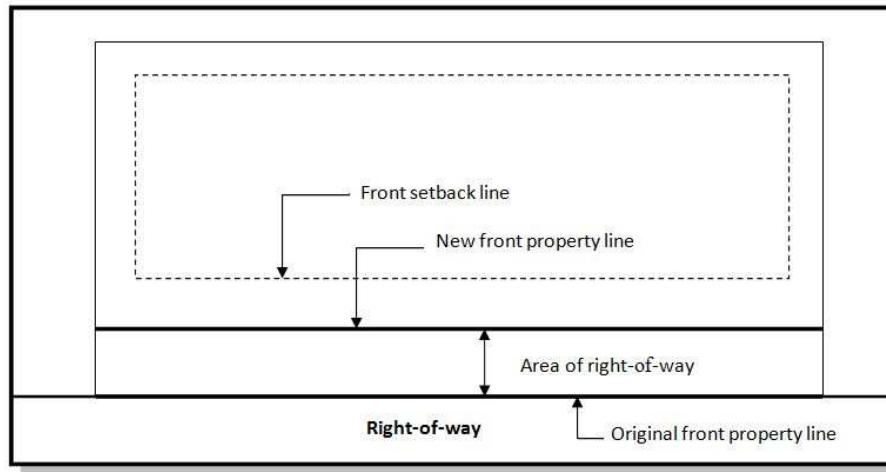
Sec. 19-41. Building setbacks and yards.

(a) *Front setback.* The front setback line shall be a line parallel with the front property line at the minimum distance specified in the zoning district regulations and determined as follows:

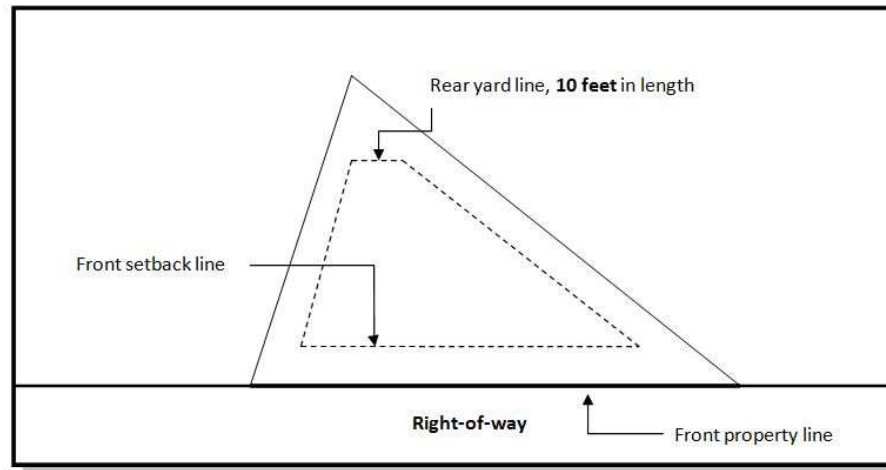
- (1) *For a flag lot, the front setback shall be measured from the front lot line, which is the lot line nearest and parallel or approximately parallel to the street to which the lot has access (see graphic). However, for lots within minor subdivisions that front on a shared driveway, the agent may determine that the front lot line is the lot line running parallel, or approximately parallel, to the shared driveway. In those instances the front setback line shall be measured accordingly (see graphic).*



- (2) For a corner lot, the front property line of the lot shall be the shorter of the two sides fronting on streets, and the front setback line shall be measured accordingly.
- (3) In instances where right-of-way has been dedicated in accordance with section 19-42 of this chapter, the front setback line shall be measured from the new property line (i.e., the internal line of the dedicated area) (see graphic).



(b) Side and rear yard setbacks. The front property line shall be used to determine the side and rear property lines. The minimum side and rear yard setback as specified in the zoning ordinance shall then be measured from these property lines. For rear yards where the lot is triangular or otherwise irregularly shaped, the yard setback shall be a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see graphic).



Sec. 19-42. Street right-of-way dedication.

(a) The subdivider of any major subdivision shall construct and dedicate a new public street to provide access to the lots. In zoning districts which permit private streets and where such streets have been approved by the process specified in section 24-62 of the zoning ordinance, the new street may be private.

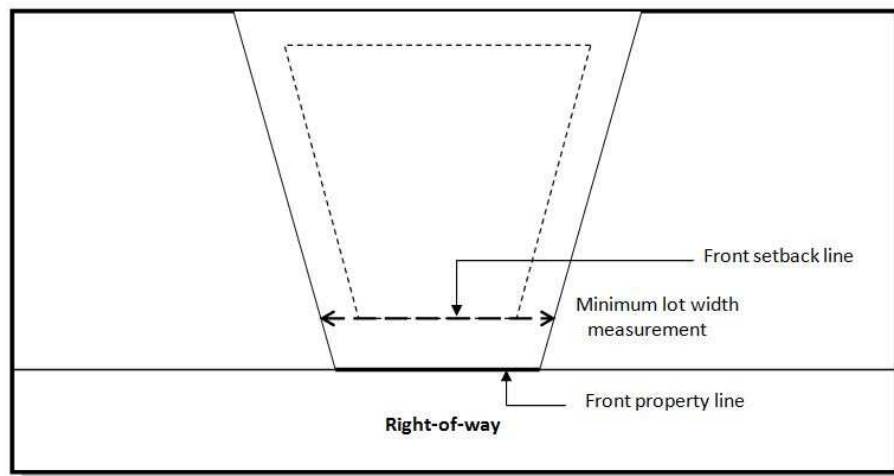
(b) In the case of lots fronting on an existing street right-of-way, if the existing street right-of-way is less than 50 feet in width, the subdivider shall dedicate half of the width necessary to result in a 50-foot right-of-way. In instances where the right-of-way is a prescriptive easement and the land is owned by the property owner to the street's centerline, the full area must be dedicated. In all other instances, the width dedicated shall be one half of the numerical difference between the existing width and 50 feet. Such area on the plat shall be indicated as dedicated to public use. This requirement may be waived or modified if an alternative minimum right-of-way width has been deemed appropriate by the agent.

(c) In addition, whenever there are plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the agent may require dedication of right-of-way sufficient to preserve and protect the planned future right-of-way for such proposed street or highway.

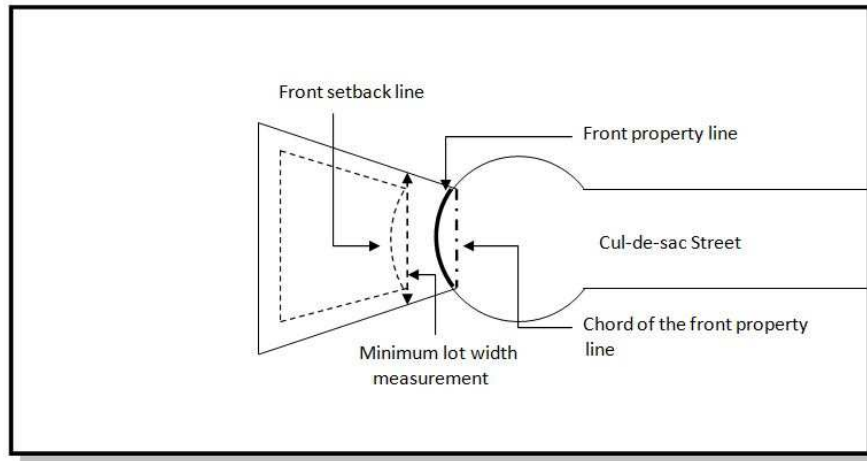
(d) The area of the property dedicated as right-of-way shall not be counted toward meeting the minimum area requirements specified in the zoning districts.

Sec. 19-43. Lot width.

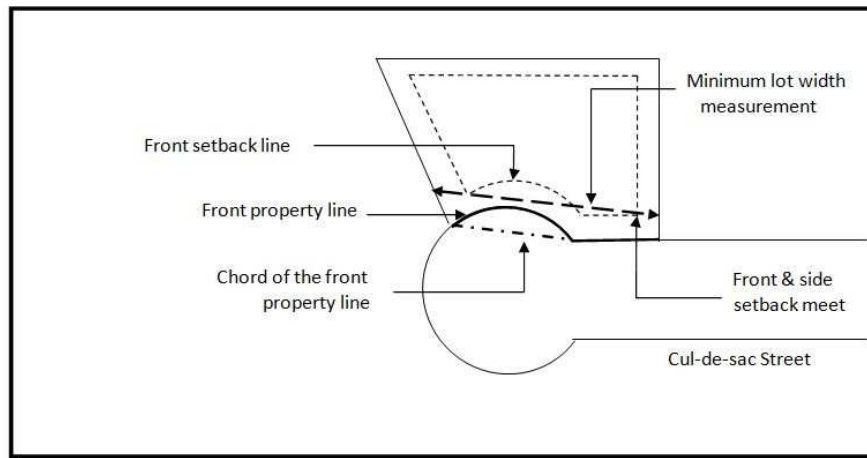
(a) Where the front property line is straight, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the front property line (see graphic).



(b) Where the front property line is an arc, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the chord of the front property line. For the purposes of meeting this requirement, “at the front setback line” shall mean that the line used to measure the width passes through at least one of the points formed by the meeting of the front setback line and the side setback line (see graphic).



(c) In the case of irregular lots (front lot lines that contain arcs of opposing directions or both an arc and a straight segment), the lot width measurement method ((a) or (b) above) shall be based on the arc or straight segment that is of greatest length (see graphic).



(d) Unusually shaped or elongated lots, as determined by the agent, that render reasonable measurement of the setbacks and minimum lot widths impossible, shall not be permitted.

(e) Should the proposed lot fail to meet minimum lot width at the minimum front setback distance specified in the zoning district regulations, the overall front setback distance may be increased to the point where the minimum lot width is met, if that is possible, provided that the resulting lot continues to meet all other setback and yard requirements and retains a suitable buildable area.

Sec. 19-424. Lot remnants.

Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the agent, identified as common open space or natural open space.

Sec. 19-435. Double frontage lots.

Double frontage lots shall not be permitted except where it is necessary that they abut *arterial existing* streets with a functional classification other than local. Any access to *such* an *arterial existing* street shall be prohibited by easement. This section shall apply to corner lots only if ~~such the~~ lots abut *such* an *arterial existing* street.

Sec. 19-446. Separate ownership of lots to be subdivided.

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property line is extinguished in the subdivision, each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such a deed shall be recorded with the final plat.

Sec. 19-457. Lot frontage.

Lots within major subdivisions shall not front on *arterial existing* streets *other than streets which are part of a recorded subdivision or an extension thereof.*

Sec. 19-468. Block length.

The length of blocks shall be determined by public safety, traffic flow and existing topographic conditions. Where streets are approximately parallel, connecting streets shall be provided. In addition, a minimum 50-foot right-of-way shall be platted to the property line at suitable intervals, as determined by the agent, where appropriate to afford access to undeveloped land. *Such rights-of-way shall meet all applicable transportation department regulations.*

Sec. 19-479. Block width.

Blocks shall be designed to consist of two tiers of lots. If such block design is prevented by topographical conditions, open space, buffers, size of the property, adjoining major streets, railroads or waterways, the agent may approve a single tier of lots.

Sec. 19-4850. Street alignment and layout.

(a) Streets in new subdivisions shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision as to location, width, grades and drainage. All street intersections shall be in accordance with transportation department standards. Street intersection jogs, with centerline offsets of less than ~~150~~ 200 feet, shall be prohibited.

(b) Where streets are planned in multi-phased subdivisions, and when those streets are planned to be constructed in different phases, the following requirements shall apply:

- (1) These rights-of-way shall be clearly marked on the plats and labeled “Future Public Street” or “Future Public Street Extension” as appropriate.
- (2) The following notation shall be incorporated into any plat showing a stub or future street:
“This right-of-way is platted with the intent of being extended and continued in order to provide ingress and egress to and from future subdivisions or adjacent property.”

Sec. 19-4957. Street construction standards.

(a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety bond. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.

(b) Any private street permitted shall be certified to the satisfaction of the ~~county engineer~~ *development manager*, or his designee, as having been constructed in accordance with all ordinance requirements and approved plans. Until such time as the ~~county engineer~~ *development manager* has accepted and approved such certification, surety required to guarantee the proper construction of such private streets shall not be released. Construction certification shall be in accordance with administrative guidelines ~~prepared by the county engineer~~ *for certification of private street construction*.

Sec. 19-502. Street drainage.

(a) *All drainage conveyance systems and associated components shall comply with the James City County drainage design guidelines.*

(ab) Streets with a longitudinal slope of less than 0.75 percent as shown on the profile sheet of the preliminary and final plan shall be constructed as curb and gutter streets or as open ditch streets with a concrete paved ditch. The minimum longitudinal slope for any street to be constructed with a paved ditch shall be 0.5 percent.

(bc) The minimum longitudinal slope for curb and gutter sections shall be 0.3 percent. If curb and gutter is proposed for any portion of a subdivision, it shall be required for all subsequent sections which extend a curb and gutter improved street.

(ed) Drainage from street rights-of-way must be contained in either a pipe system constructed of materials approved by the transportation department, when within a street right-of-way, or a concrete paved ditch to the point where it outfalls ~~into natural drainage or enters a common area~~ *into a drainage system that is adequate to convey the anticipated stormwater flows. Adequacy shall be provided consistent with state minimum standards.* The paved ditch must have a minimum longitudinal slope of 0.3 percent. The upstream invert of any outlet pipe shall be 0.5 feet higher than the downstream invert and have a minimum slope of 0.2 percent. The downstream invert of the pipes or ditches must be at or above natural, existing ground. Side slopes of ditches not located within a public street right-of-way shall not exceed a slope of 3:1. These requirements may be waived or modified by the ~~director of engineering and resource protection~~ *director* upon written request and justification by the owner or developer.

Sec. 19-513. Sidewalks *Pedestrian accommodations.*

~~Sidewalks~~ *Pedestrian accommodations* shall be required for all major subdivisions in accordance with section 24-35 of the zoning ordinance.

Sec. 19-524. Cul-de-sac streets.

Cul-de-sac streets shall not exceed 1,000 feet in length. *A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way, to the centerline of the right-of-way of the nearest diverging or intersecting road.* Each cul-de-sac shall be terminated by a turnaround meeting minimum transportation department ~~and fire department~~ standards.

Sec. 19-535. Private streets.

There shall be no private streets permitted in any subdivision except where permitted by the zoning ordinance ~~or by section 19-17 of this chapter; provided, however, private streets may be allowed in townhouse and condominium subdivisions if the private streets are approved by the commission and meet, unless specifically exempted, all other street requirements in this chapter.~~

Sec. 19-546. Street and subdivision names.

(a) Proposed streets which align with existing streets shall bear the names of the existing streets. Names of proposed streets or subdivisions shall not duplicate, irrespective of suffixes, or be similar in sound or spelling to existing street or subdivision names in James City County, the City of Williamsburg, or the northern portions of York County, and the southern portions of New Kent County which may be served by the Williamsburg or James City County Post Office, by common zip code or by interjurisdictional emergency services.

(b) Street names shall be indicated on the preliminary and final plat and shall be approved by the agent. Names of existing streets or subdivisions shall not be changed except by approval of the governing body.

Sec. 19-557. Street signs.

Permanent street identification signs shall be installed at all intersections. The signs shall be of a design approved by the agent, but at a minimum, ~~either the street sign or the alphanumeric lettering shall be of a reflective material~~ *the sign face shall meet all the design requirements of the transportation department.*

Sec. 19-568. Public water.

If public water is available, it shall be extended to all lots within a subdivision including recreation lots. Availability of public water shall be determined in accordance with the service authority regulations *governing utility service.*

Sec. 19-579. Water facilities.

(a) *Major subdivisions inside the primary service area must connect to the service authority or Newport News Waterworks water system and the public sewer system.*

(ab) If public water is not available, the subdivider of any major subdivision *outside the primary service area* shall construct a central water system including distribution lines, storage, *treatment* and supply facilities within the subdivision. Central water service shall be extended to all lots within a subdivision, including recreation lots. Upon completion and acceptance of the improvements, the water system, together with all necessary easements and rights-of-way, including the well lot, shall be dedicated to the service authority by deed and an accompanying plat.

(bc) The central water system requirement may be waived by the service authority manager. Such a waiver shall be requested in writing by the subdivider and approved prior to submission of preliminary plans. Any waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider.

Sec. 19-5860. Individual wells.

If public water is not available, each lot in a minor subdivision shall be served by an individual well. All individual wells shall be approved by the health department or the service authority prior to approval of the subdivision plat.

Sec. 19-5961. Public sewer.

If public sewer is available, it shall be extended to all lots within the subdivision, including recreation lots. Availability shall be determined in accordance with the service authority regulations governing utility service.

Sec. 19-602. Individual sewer.

If public sewer is not available, each subdivision lots shall be served by individual ~~septic tank~~ on-site sewage disposal systems in accordance with the following:

(1) Individual ~~septic tank~~ on-site sewage disposal systems for each lot must be approved by the health department and shall be a soil absorption system of conventional or alternate design.

(2) The plans for such subdivisions shall include specific ~~septic tank~~ onsite sewage disposal system locations, including primary and reserve drainfields and soils information as required by health department regulations, as well as appropriate notation as required in section 19-29 (l) and (m). *The immediate area in and around each proposed system must be shown using a contour interval not greater than two feet; the contour area shown outside the system should be sufficient to establish the relationship of the area to relevant topographic features such as, but not limited to, drainage ways, sink holes, road cuts, and steep slopes.* The record plat shall clearly designate each lot which has been approved by a soil absorption system of alternate design and shall contain a note which clearly discloses that such alternate systems may entail additional expenses.

(3) *For the purpose of subdivision of new lots, the on-site sewage disposal system must meet health department regulations that enable the health department to approve the system in perpetuity through a certification letter. For these new proposed lots, the applicant shall obtain subdivision approval from the county prior to health department issuance of any construction permits.*

Any proposed lots not suitable for the installation of ~~septic tank~~ on-site sewage disposal systems shall be combined with lots that are suitable.

Sec. 19-613. Regulations governing utility service.

All subdividers shall comply with the service authority regulations governing utility service.

Sec. 19-624. Inspection of public water, sewer, and stormwater system.

(a) Inspection of public water or sewer system installations shall be the responsibility of the service authority. Any subdivider of a subdivision shall obtain a certificate to construct sewer or water lines and facilities from the ~~James City Service Authority (JCSA)~~ prior to either extending existing facilities or building new facilities. Certificates to construct shall not be issued until the subdivider has paid the ~~JCSA service authority~~ inspection fees ~~in accord with section 19-15 of this chapter~~. ~~A certificate to construct shall be required prior to final approval of the subdivision plat.~~

(b) Inspection of public stormwater system installations shall be the responsibility of the ~~stormwater division~~ county. ~~Any subdivider of a subdivision shall obtain a certificate to construct stormwater system installations prior to either altering existing installations or building new installations.~~ Surety provided in accordance with section 19-72 shall not be released until approved by the ~~stormwater division~~ in accordance with section 19-72~~4~~(b).

Sec. 19-635. Fire protection.

Fire hydrants shall be installed in subdivisions at locations designated by the fire chief and the service authority at the time of an extension or construction of a public water system.

Sec. 19-646. Streetlights.

(a) The subdivider shall install streetlights as determined by the ~~director of engineering and resource protection~~ *director* and in accordance with *article II, division 7 of the zoning ordinance and the Streetlight standards P* policy, as approved by the governing body, in those subdivisions which require the construction of streets. The subdivider shall deposit with the agent one year's rent for the streetlight system prior to approval of the final plan. If the streets within the subdivision are not accepted by the transportation department prior to the end of the one-year billing period covered by the deposit, the subdivider shall compensate the county for any additional rental charges incurred prior to release of the subdivision surety.

(b) Streetlights, in subdivisions with private streets, shall be installed by the subdivider as determined by the ~~director of engineering and resource protection~~ *director* and in accordance with *article II, division 7 of the zoning ordinance and the Streetlight standards P* policy, as approved by the governing body. Such streetlights shall be maintained and all operating expenses paid by the homeowners' association or other legal entity responsible for such expenses. The establishment of a homeowners' association or other legal entity shall be demonstrated to the satisfaction of the county attorney.

Sec. 19-657. Off-site sewer, water, and drainage costs.

The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The county determines that such off-site improvements to sewer, water or drainage are necessitated at least in part by the construction or improvement of the subdivision.
- (2) The county or other appropriate authority has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions.
- (3) The subdivider's property is located within said designated area covered by such program.
- (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
- (5) The estimated water flow, sewage flow or stormwater runoff has been established for the designated area served by such program.

(b) The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

(c) Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that, in lieu of such payment, the county may permit the subdivider to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

Sec. 19-668. Off-site road improvements.

A subdivider may voluntarily contribute and the county may accept funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision.

Sec. 19-679. Dedication and reservation of land for public purposes.

(a) A subdivider may be required to dedicate or reserve land in the following ways:

(1) Up to a maximum of five percent of the land subdivided for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings and similar public or semipublic uses;

(2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the commission may require the dedication or reservation of necessary right-of-way, including right-of-way for turn lanes, drainage, sidewalks and bikeways, in order to preserve and protect the planned future right-of-way for such proposed street or highway.

The governing body shall not be required to compensate any owner for such land if the need for the land is substantially generated by the subdivision. No land shall be reserved in such manner that would render it unusable to the subdivider if not used for the intended public purpose. The subdivider may petition the

governing body to release the reservation of any land so reserved if not used for a proper purpose within a reasonable time.

(b) A subdivider that provides for the transfer of adequate and suitable land for parks and playgrounds to a subdivision homeowners' or a subdivision recreation association shall not be required to dedicate additional land for parks and playgrounds.

Sec. 19-6870. Establishment of homeowners association.

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including bonds when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and
- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

Sec. 19-6971. Entrance feature review.

The developer shall submit plans for all residential subdivision identification signs, supporting structures, and entrance features to be reviewed with the preliminary subdivision plans under the requirements of article II, division 3 of the zoning ordinance.

Sec. 19-7072. Stormwater management feature review.

Stormwater management features shall be screened in accordance with article II, division 4 of the zoning ordinance.

Sec. 19-713. Shared driveway requirements for minor subdivisions.

(a) For all minor subdivisions of three or more lots, ~~unless exempted below,~~ direct access from all lots to ~~an~~ *the* existing arterial road shall be limited to one shared driveway. ~~Such driveway shall be approved by the county engineer, however, at a minimum, in addition to the requirements found in section 19-32(c), said driveway shall be constructed of a paved surface at least ten feet wide and three inches deep. No such~~

~~subdivision shall be recorded until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:~~

- ~~(1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and~~
- ~~(2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.~~

This requirement shall not apply to developed lots within a proposed minor subdivision. However, as long as there are three or more other lots that are undeveloped, this requirement shall apply to those lots. Upon the request of the subdivider, and after finding that such waiver would not adversely affect public health, safety or welfare, the agent may waive this requirement for subdivisions inside the primary service area which are along local roads, as defined.

~~(b) The requirements in (a) above shall apply only to undeveloped lots with a proposed minor subdivision and shall not apply to any proposed lot that is greater than five acres in size.~~

(b) Such driveway shall have a paved surface at least ten feet wide consisting of two inches of pavement over four to six inches of stone aggregate. In addition, the shared driveway must meet all applicable transportation department requirements for the portion of the driveway that ties into the public road. A detail depicting the driveway specifications shall be included on the subdivision plat. An erosion and sediment control plan and land disturbance permit may be required for the shared driveway, as determined by the engineering and resource protection director.

(c) Such driveway shall be located within a shared access easement that is depicted on the subdivision plat.

(d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:

- (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and*
- (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.*

ARTICLE IV. PERFORMANCE ASSURANCES

Sec. 19-724. Installation of improvements and bonding.

(a) Prior to approval of the final plat, all publicly or privately maintained and operated improvements which are required by this chapter shall be completed at the expense of the subdivider. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required improvements by entering into an agreement with the county and furnishing to the county a certified check,

bond with surety satisfactory to the county, or a letter of credit in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the ~~director of~~ engineering and resource protection *director*. Such documents shall be submitted to the ~~director of~~ engineering and resource protection *director*. The form of the agreement and type of surety shall be to the satisfaction of and approved by the county attorney. The length of time in which the improvements are to be completed shall be determined by the ~~director of~~ engineering and resource protection *director*. If the improvements are not completed in a timely manner, the ~~director of~~ engineering and resource protection *director* shall proceed to complete the improvements by calling on the surety.

(b) Upon written request by the subdivider, the ~~director of~~ engineering and resource protection *director* shall make periodic partial releases of surety in a cumulative amount equal to no less than 80 percent of the original amount of the surety based upon the percentage of facilities completed and approved by the county, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least 30 percent of the facilities covered by any surety or after completion of more than 80 percent of said facilities. The ~~director of~~ engineering and resource protection *director* shall not be required to execute more than three periodic partial releases in any twelve-month period.

(c) Within 30 days after receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the ~~director of~~ engineering and resource protection *director* shall notify the subdivider of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures. "Written notice" shall consist of a letter from the subdivider to the ~~director of~~ engineering and resource protection *director* requesting reduction or release of the surety along with a set of as-built plans, if required, and a certificate of completion by a duly licensed engineer.

(d) If no action is taken by the ~~director of~~ engineering and resource protection *director* within the thirty-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail to the county administrator. The ~~director of~~ engineering and resource protection *director* shall act within ten working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider.

~~(e) Upon final completion and acceptance of said facilities, the director of engineering and resource protection or his designee shall release any remaining surety to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when said public facility is accepted by and taken over for operation and maintenance by the state agency, county government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance. Upon final completion of said facilities, the engineering and resource protection director shall release any remaining surety to the subdivider. For the purposes of final release, completion shall be deemed to mean either:~~

(1) Acceptance of the public facility for operation and maintenance by the state agency, county government department or agency or other public authority which is responsible for maintaining and operating such facility upon acceptance. This process only applies to those agencies that operate and maintain the applicable systems.

(2) *Review and approval of the facility's as-builts and construction certifications as required, and acceptable resolution of any field-related deficiencies as determined by the engineering and resource protection director.*

(f) *In instances of multifamily or apartment development that will not involve subdivision of land, required public improvements shall be guaranteed in accordance with section 24-8 and 24-42 of the zoning ordinance. In addition, in instances of conditions attached to a rezoning or amendment to a zoning map, improvements required by the conditions shall be guaranteed in a public improvement bond in accordance with section 24-17 of the zoning ordinance.*

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

SO-01-11SubdivOrd_ord

Unapproved Minutes of the November 7, 2012 Planning Commission Meeting

SO-0001-2011, Subdivision Ordinance

Ms. Cook stated as stage three of the Subdivision Ordinance process staff has prepared final ordinance language for the Planning Commission's consideration and recommendation. Included in the amendments to the Subdivision Ordinance are adjustments made to the on-site sewage disposal systems language, adjustments to the Family Subdivisions Provisions and general updates and clarifications in response to agency comments and frequently asked questions. She stated that this last category includes the changes discussed at the Policy Committee, September 4, 2012 meeting.

Ms. Cook stated that staff recommends the Planning Commission recommend approval of the attached revised Subdivision Ordinance to the BOS.

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

Mr. Krapf moved for approval of the changes to the Subdivision Ordinance.

In a unanimous voice vote, the report was approved (6-0; absent: Woods).

MEMORANDUM COVER

Subject: Support for a Regional Business Incubator to be Established Jointly by the Economic Development Authorities of James City County, York County, and the City of Williamsburg and Pledging Certain Future Tax Revenues in Support of the Incubator

Action Requested: Shall the Board approve the resolution in support of the regional business incubator?

Summary: The Economic Development Authorities of James City County, York County, and the City of Williamsburg have entered into a collaborative agreement for the joint operation of a regional business incubator. Building upon the success of James City County’s existing program, the regional approach will provide a larger pool of potential clients, expand available resources, and lower the overall cost of operation. Additionally, it is the desire of the participating authorities that the governing bodies of each of the jurisdictions agree that each locality will appropriate to its Economic Development Authority an amount equal to Business, Professional, and Occupational License (BPOL) taxes, local sales taxes, and taxes on machinery and tools and other business personal property (but not real estate taxes) received from any “graduating” business which locates within that locality for a period not to exceed five years. The EDA of that locality will then apply the proceeds to the cost of the incubator.

Staff recommends that the Board adopt the attached resolution supporting the establishment of a regional business incubator and the annual appropriations of specified taxes.

Fiscal Impact:

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Memorandum of Understanding

Agenda Item No.: J-1

Date: December 11, 2012

MEMORANDUM

DATE: December 11, 2012

TO: The Board of Supervisors

FROM: Russell C. Seymour, Director of Economic Development

SUBJECT: Support for a Regional Business Incubator to be Established Jointly by the Economic Development Authorities of James City County, York County, and the City of Williamsburg and Pledging Certain Future Tax Revenues in Support of the Incubator

The James City County Business and Technology Incubator, located at 5300 Palmer Lane, has been in operation in the County since 2006. In January 2011, the William and Mary Technology and Business Center was selected by the Economic Development Authority (EDA) to manage the facility and provide a comprehensive incubation program for its clients.

Building upon the success of the program and with a desire to expand its operation, the EDA of James City County has entered into a collaborative agreement with the EDAs of York County and the City of Williamsburg to jointly operate the business incubator. The incubator will continue to provide shared services for tenants such as a reception area, conference room, and kitchen at reasonable rents as a means of affording new small businesses a cost-effective environment in which to begin and grow. Additionally, the “incubator concept” includes opportunities for the tenants to network and share knowledge that is critical for business success. The regional approach will provide a larger pool of potential clients, expand available resources, and lower the overall cost of operation to participating localities.

The incubator will continue to be located at the James City County owned facility at 5300 Palmer Lane. Businesses eligible to operate within the incubator facility will be chosen by a selection committee to be established by the three EDAs. The incubator will be operated by a governing board comprised of two members from each of the three Authorities. Each of the Authorities will share equally in the cost of the operation of the incubator, with an estimated annual budget of \$103,500, which includes an annual \$70,000 management fee paid to the College of William and Mary and annual facility operating expenditures. It is anticipated that participating businesses will enter into lease terms of three years duration (although the Incubator Board may negotiate longer or shorter leases) and a business will be deemed “graduated” from the incubator either when its lease term expires, or at such earlier time as the business may choose to relocate. The desire is for businesses graduating from the incubator to locate and remain located in James City County, York County, or the City of Williamsburg for a period of at least five years. Any business failing to do so will be required to repay all or a portion of the amount of any subsidized rent or other costs incurred by the incubator and attributable to the business.

The incubator will be financed in part by rents received from the businesses. The first \$10,000 in rents received by the incubator in any fiscal year will be divided equally among the three participating authorities. Amounts received in excess of \$10,000 in any fiscal year will be split, with 50 percent being paid to the College of William and Mary as Manager and the remaining 50 percent being shared equally by the three participating authorities. Moreover, it is the desire of the participating authorities that the governing bodies of each of the jurisdictions agree that each locality will appropriate to its economic development authority an amount equal to Business, Professional, and Occupational License (BPOL) taxes, local sales taxes, and taxes on machinery and tools and other business personal property (but not real estate taxes) received from any “graduating” business which locates within that locality for a period not to exceed five years. The EDA of that

Support for a Regional Business Incubator to be Established Jointly by the Economic Development Authorities of James City County, York County, and the City of Williamsburg and Pledging Certain Future Tax Revenues in Support of the Incubator

December 11, 2012

Page 2

locality will then apply the proceeds to the total costs of the incubator. In the event that such amounts are not needed to fully fund the cost of the incubator's operation, the amounts required to be appropriated by each locality will be proportionately reduced, as there is no desire that the incubator receive more money from local appropriations than is necessary to keep the facility in operation.

As noted, current plans call for the incubator to remain located at the James City County owned facility at 5300 Palmer Lane. Future growth at this facility is possible, with the relocation of the Offices of Parks and Recreation.

Attached for your consideration is a proposed resolution which, if adopted, will pledge the Board's support for the incubator and resolve that appropriate amounts collected from taxes from a graduated business and located within the County shall be appropriated to the EDA to be used to support the incubator facility. Staff recommends approval of the resolution.


Russell C. Seymour

RCS/nb
RegIncubator_mem

Attachment

RESOLUTION

SUPPORT FOR A REGIONAL BUSINESS INCUBATOR TO BE ESTABLISHED JOINTLY BY
THE ECONOMIC DEVELOPMENT AUTHORITIES OF JAMES CITY COUNTY, YORK
COUNTY, AND THE CITY OF WILLIAMSBURG AND PLEDGING CERTAIN FUTURE TAX
REVENUES IN SUPPORT OF THE INCUBATOR

WHEREAS, the Economic Development Authorities (EDA) of James City County, York County, and the City of Williamsburg (the Authorities) have entered into a Memorandum of Understanding regarding the creation of a business incubator in a facility located in and owned by James City County; and

WHEREAS, it is the intent of the Authorities to provide a cost-effective business environment for new businesses to establish and locate within the facility pursuant to lease agreements with normal terms of three years, subject, however to negotiation; and

WHEREAS, the Board desires to support the cost of the operation of the incubator by future appropriations of all or a portion of business and professional occupancy license taxes, machinery and tools taxes, sales taxes, and business personal property taxes received from any business graduating from the incubator and locating and continuing to operate in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves and endorses the concept of the regional business incubator to be established by the Authorities outlined in the referenced Memorandum of Understanding.

BE IT FURTHER RESOLVED, that the Board, subject to annual appropriations, shall annually remit to the EDA of James City County an amount equal to any business and professional occupational license taxes, machinery, and tools taxes, sales taxes, and business personal property taxes (but not real estate taxes) received from any business which shall have graduated from the business incubator and thereafter located in James City County, such payments to continue for a maximum period of five fiscal years, plus any partial fiscal year should the business graduate from the incubator during the fiscal year, not to exceed, however, an amount necessary to fully fund the operation of the incubator in any fiscal year properly apportioned between the governing bodies of James City County, York County, and the City of Williamsburg.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

RegIncubator_res

MEMORANDUM OF UNDERSTANDING
REGARDING THE CREATION AND OPERATION OF
A REGIONAL BUSINESS INCUBATOR

THIS MEMORANDUM OF UNDERSTANDING is made as of this 8th day of October, 2012, by and between the ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA (EDA-JCC), the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF WILLIAMSBURG (EDA-WMSBG) and the ECONOMIC DEVELOPMENT AUTHORITY OF YORK COUNTY, VIRGINIA (EDA-YORK), collectively "the Parties" or individually a "Party", for the operation of a business incubator to provide startup opportunities for small businesses with incentives for the businesses to remain located in James City County, York County, or the City of Williamsburg (collectively "the localities" or individually a "locality") following graduation from the incubator. The Parties agree as follows:

1. Commencing the 1st day of January, 2013, the Parties will jointly operate a business incubator ("the incubator") to be located within the jurisdictional limits of James City County, York County, or the City of Williamsburg. Unless otherwise agreed by all Parties, the incubator will be located at a facility currently owned by James City County and located at 5300 Palmer Lane in James City County. If all Parties are in agreement, the incubator facility may be expanded at the Palmer Lane site provided arrangements are made for additional costs and expenses such as market value rent per square foot, furnishings, equipment and utilities.

2. The incubator will provide cost efficient opportunities for small businesses and startup companies to locate within the incubator and establish a foundation for

growth. The incubator will provide such cost saving opportunities as shared clerical services and conference rooms.

3. Businesses eligible to participate in the incubator shall be chosen by a client selection committee, utilizing criteria to be developed and agreed to by the Parties. The client selection committee shall consist of one (1) member of each Party, to be appointed by the Party, one (1) representative from each locality's office of economic development, and one (1) representative of the Incubator Manager ("the Manager").

4. The Parties shall establish a governing board consisting of six (6) individuals, with each Party appointing from its own membership two (2) individuals to serve on the board.

5. The Parties shall enter into a management agreement with a Manager to be selected by the governing board. The duties and compensation of the Manager shall be as set out in an agreement to be negotiated between the governing board and the Manager. The Parties agree and acknowledge that the College of William and Mary presently serves as Manager under an agreement expiring on June 30, 2013.

6. The Parties shall share equally in the cost of the operation of the incubator, and agree that One Hundred Three Thousand and Five Hundred Dollars (\$103,500.00) is a reasonable estimate for the current annual costs of the operation of the facility. The current cost of operation includes the \$70,000.00 management fee presently being paid to the College of William and Mary ("the College") as Manager, an annual rent of \$33,500.00 to be paid to EDA-JCC as rent for the facility (representing a rent of approximately \$14.00 per square foot), and costs of furnishings, equipment, and utilities. In the event this Agreement is commenced during a fiscal year (July 1 through June 30),

the parties equal share of the cost of the operation of the incubator shall be based on the proportion to the time remaining in the fiscal year.

7. The Parties shall equally share the first \$10,000, or proportionate share thereof depending on the commencement date of this Agreement, of incubator fees received during any fiscal year (July 1 through June 30). For any fiscal year in which the incubator fees received exceed \$10,000.00, 50% of such excess shall be paid to the College as Manager for the duration of the College's management agreement, and the remaining 50% shall be shared equally by the Parties in a proportionate share depending on the commencement date of this Agreement. Following the expiration of the management agreement with the College, the Parties shall share equally in all revenues in excess of costs of operation, such costs of operation to include any payments made to the Manager under the negotiated management agreement.

8. Prior to establishing a business location in the incubator facility, a business shall be required to agree in writing that, following "graduation" from the incubator facility, the business shall locate and remain located in either James City County, York County, or the City of Williamsburg, for a period of at least five (5) years. Failure to comply with this requirement shall invoke "claw back" provisions agreed to upon lease execution, whereby the business may be obligated to repay all or a portion of subsidized rent and other costs incurred by the incubator facility. No business shall be allowed to remain in the incubator facility for a period in excess of three (3) years unless the governing board shall agree to an extension of time. A business shall be deemed "graduated" from the incubator upon their departure either upon the expiration of the

lease term, or at such earlier time as the business shall choose to locate outside of the incubator facility.

9. During the time that any business operates from within the incubator facility, all local taxes, including business professional occupational license taxes, machinery and tools taxes, and sales taxes, shall be paid to the locality wherein the incubator facility is located. Following graduation from the incubator facility, such taxes shall be paid to the locality wherein the business relocates, and such locality shall appropriate and apply to the cost of the incubator operations an amount equal to the amounts received from such business for business professional occupational license taxes, sales taxes, and taxes on machinery and tools and other business personal property, but not real estate taxes for a period of five (5) fiscal years plus any partial fiscal year should the business graduate during a fiscal year. The amount so applied to incubator operations shall apply generally to costs of operation so as to equally reduce each locality's obligation to contribute to costs of operation. It is anticipated that the localities will approve a resolution setting forth the tax sharing formula contained herein and annually appropriate such funds as provided herein.

10. Following the graduation of any business from the incubator facility, any Party may attempt to induce the business to locate within its jurisdiction only by offering to the business those local non-discretionary incentive programs which the Party or the applicable locality makes available to businesses as of the date of this Memorandum of Understanding.

11. The EDA-JCC shall be the fiscal agent for the incubator.


12. Any Party may withdraw from this Memorandum of Understanding on June 30th of any calendar year provided that such Party gives at least 120 days prior written notice to the other Parties and the Manager. Any withdrawing party shall be responsible for its share of the costs and expenses and shall be entitled to its share of any income due to the operation of the incubator through June 30th. Thereafter, the remaining Parties may continue the operation of the incubator facility on such terms and conditions as they may agree.

13. The obligations of any Party hereto are contingent upon the appropriation by that Party of sums sufficient to enable it to perform its obligations hereunder.

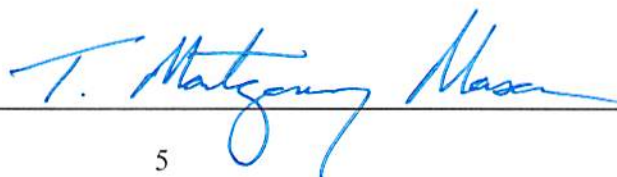
14. This Memorandum of Understanding is subject to the approval and annual appropriation by each locality's elected governing body. The failure of any locality to make such appropriations shall be deemed a withdrawal of that locality's Economic Development Authority, and the provisions of paragraph 12 shall apply.

WITNESS the following signatures:

ECONOMIC DEVELOPMENT AUTHORITY OF
JAMES CITY COUNTY, VIRGINIA

By 
Title Chairman

ECONOMIC DEVELOPMENT AUTHORITY OF THE
CITY OF WILLIAMSBURG, VIRGINIA

By 

Title Chairman

ECONOMIC DEVELOPMENT AUTHORITY OF
YORK COUNTY, VIRGINIA

By R. Anderson Moly

Title CHAIRMAN

MEMORANDUM COVER

Subject: 2013 Legislative Program

Action Requested: Shall the Board approve the resolution to adopt the 2013 Legislative Program?

Summary: The 2013 Legislative Program contains important issues that would benefit the County if adopted by the General Assembly at their 2013 session.

Staff recommends approval of the attached 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. 2013 Draft Legislative Program

Agenda Item No.:J-2

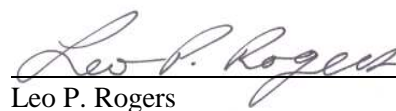
Date: December 11, 2012

MEMORANDUM

DATE: December 11, 2012
TO: The Board of Supervisors
FROM: Leo P. Rogers, County Attorney
SUBJECT: 2013 Legislative Program

Attached for your consideration is a resolution approving James City County's 2013 Legislative Program. Also attached is the 2013 Legislative Program

I recommend adoption of the attached resolution.


Leo P. Rogers

LPR/nb
13LegProg_mem

Attachments

RESOLUTION

2013 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2013 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its Legislative Program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2013 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2013 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

| | VOTES | | |
|-----------|------------|------------|----------------|
| | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> |
| MCGLENNON | _____ | _____ | _____ |
| JONES | _____ | _____ | _____ |
| KENNEDY | _____ | _____ | _____ |
| ICENHOUR | _____ | _____ | _____ |

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of December, 2012.

13LegProg_res

**JAMES CITY COUNTY
DRAFT 2013 LEGISLATIVE PROGRAM**

Part I. Legislation to be Introduced on Behalf of the County

1-1. PROTECT VIEWSHEDS OF HISTORIC AND SCENIC RIVERS

Amend Virginia Code § 10.1-419 (B) to provide that putting utility lines underwater is a reasonable alternative solution to be considered in planning for the use and development of water and related land resources which changes the character of a stream or waterway or destroys its historic, scenic or ecological values.

**JAMES CITY COUNTY
DRAFT 2013 LEGISLATIVE PROGRAM**

Part II. Position/Legislation Supported by the County

2-1. STATE FUNDING FOR TOURISM

The County urges the General Assembly to increase funding for the Virginia Tourism Corporation (“VTC”) to promote tourism in Virginia generally, and the Historic Triangle in particular.

2-2. TRANSPORTATION FUNDING

James City County urges the General Assembly to address critical transportation infrastructure needs. Transportation should be addressed as a statewide issue rather than a regional or local issue.

2-3 SUPPORT URBAN CRESCENT’S EFFORTS TO MAKE TRANSPORTATION FUNDING A PRIORITY

James City County supports the “Statement of Purpose” proposed by the localities of the Urban Crescent (Northern Virginia, Richmond area and Hampton Road) which asserts the need for further state investment in transportation infrastructure spending for all transportation modes.

2-4. MAINTENANCE OF NEW AND EXISTING SECONDARY ROADS

James City County opposes any legislation that would transfer to counties the responsibilities to construct, maintain or operate new or existing roads without adequate state funding.

2-5. APPLICATION OF TRANSIENT OCCUPANCY TAX TO TRAVEL COMPANIES AND INTERNET SALES

James City County supports a clarification of Virginia Code § 58.1-3819 et seq., to make sure that the transient occupancy tax applies to the entire amount charged for rooms by travel companies and on Internet sales regardless of any discounted rates paid by such companies for such rooms. This would provide equal taxing of room sales by Virginia businesses and Internet sales companies.

2-6. ENHANCE RAIL SERVICE ON THE PENINSULA AND TO RICHMOND

The County supports improving commuter rail system from Richmond through the Peninsula to connect urban centers for commuters and provide transportation alternatives for tourism.

2-7. BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING

James City County urges the General Assembly to: 1) adequately fund the Medicaid waiver program to reduce the waiting list of individuals and families now eligible for services; 2) provide services to children with serious emotional disorders; and 3) to cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

2-8. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT

James City County supports maintaining State funding for mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions.

2-9. TAX EQUITY BETWEEN CITIES AND COUNTIES

James City County supports equal taxing authority for cities and counties.

2-10. STATE FUNDING FOR PUBLIC EDUCATION, PRE-K, K-12 AND HIGHER EDUCATION

The County supports restoring the funding cuts made to pre-K and K-12 funding. In addition, the County supports restoring the funding cuts made to higher education which could cripple some of the most prestigious higher education institutions in the world, including the College of William & Mary.

2-11. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the State maintaining funding to public libraries to make sure that the State and the localities maintain their proportionate share of funding.

2-12. END LOCAL AID TO THE COMMONWEALTH

The County supports legislation that would end “local aid to the Commonwealth.”

2-13. NO NEW STATE MANDATES AND ELIMINATE OR ADEQUATELY FUND EXISTING STATE MANDATES

Given the difficult budget year faced by the Commonwealth and localities, James City County calls upon the General Assembly to oppose unfunded mandates and to reduce existing State mandates commensurate with any reduction in State funding to localities. This is consistent with Governor McDonald’s initiative to reduce imposing unfunded mandates on localities.

2-14. PROVIDE STATE FUNDING TO MITIGATE ENCROACHMENT OF AIRFIELD SURROUNDING JOINT BASE LANGLEY-FORT EUSTIS

James City County supports the initiative to provide state funding for the land acquisition program supporting mitigation of encroachment around Langley Air Force Base (now Joint Base Langley-Fort Eustis).

2-15. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE, THE VIRGINIA ASSOCIATION OF COUNTIES AND THE VIRGINIA COALITION OF HIGH GROWTH COMMUNITIES

James City County supports the legislative programs of the Virginia Municipal League, the Virginia Association of Counties and the Virginia Coalition of High Growth Communities.