

AGENDA
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
January 12, 2016
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Kaiden McKeoun and Kendal Smith, students at James River Elementary School and residents of the Roberts District

E. PRESENTATIONS

F. PUBLIC COMMENT - Until 7 p.m.

G. CONSENT CALENDAR

1. Minutes Adoption - December 8, 2015 Regular Meeting
2. Authorization for One Temporary Police Officer Overhire Position
3. Establishment of Full-Time Regular Senior Groundskeeper Position
4. Resolution to Declare the County of James City a Hybrid Entity for Purposes of the Health Insurance Portability and Accountability Act

H. PUBLIC HEARING(S)

1. Easement Approval-Sidewalk Extension, Saint George's Hundred
2. Case No. SUP-0005-2015. Clara Byrd Baker Elementary School Parking Addition and Improvements
3. SUP-0006-2015/Z-0004-2015 Williamsburg Landing Proffer and SUP Amendment

I. BOARD CONSIDERATION(S),

J. BOARD REQUESTS AND DIRECTIVES

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

L. PUBLIC COMMENT

M. CLOSED SESSION

N. ADJOURNMENT

1. Adjourn until 8:30 am on January 23, 2016 for the Board Retreat

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

FROM: Teresa Fellows, Administrative Coordinator

SUBJECT: Pledge Leader - Kaiden McKeoun and Kendal Smith, students at James River Elementary School and residents of the Roberts District

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 1:17 PM

ITEM SUMMARY

DATE: 1/12/2016
TO: The Board of Supervisors
FROM: Teresa Fellows, Administrative Coordinator
SUBJECT: Minutes Adoption - December 8, 2015 Regular Meeting

ATTACHMENTS:

	Description	Type
□	120815 Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 1:11 PM

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
December 8, 2015
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Berkeley District
John J. McGlennon, Roberts District
Kevin D. Onizuk, Vice-Chairman, Jamestown District
James G. Kennedy, Stonehouse District
Michael J. Hipple, Chairman, Powhatan District

Bryan J. Hill, County Administrator
Michelle M. Gowdy, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader – Isabella Kennedy, a 4th-grade honor student at Walsingham Academy and resident of the Stonehouse District.

A motion to amend the Agenda to allow the Public Comment to come before the Presentations was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

E. PUBLIC COMMENT - Until 7 p.m.

1. Ms. Marjorie Ponziani, 4852 Bristol Cir., addressed the Board thanking Ms. Jones for her years of service and voiced her concern regarding the Legislative Agenda.
2. Mr. Frank Polster, 420 Hempstead Rd., addressed the Board regarding the support for Stormwater Programs in its 2016 Legislative Agenda.
3. Mr. Ed Oyer, 139 Indian Cir., addressed the Board thanking Ms. Jones and Mr. Kennedy for their many years of service to the County.
4. Ms. Rosanne Reddin, 7400 Presidents Ct., addressed the Board regarding the roundabout proposed at the intersection of News and Centerville Roads.
5. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the Financial Statements presentation and voicing his concerns regarding the Legislative Agenda.
6. Ms. Barbara Henry, 141 Devon Rd., addressed the Board regarding an online check book register and thanked Mr. Kennedy and Ms. Jones for their service.
7. Mr. Jay Everson, 103 Branscome Blvd., addressed the Board thanking Ms. Jones and Mr. Kennedy for their service and addressed the notion of criminal backgrounds and employment with the County.

8. Mr. Joseph Swanenburg, 3026 The Pointe Dr., addressed the Board regarding the economic situation in the County.

F. PRESENTATIONS

1. Review of FY 2015 Financial Statements for James City County and James City Service Authority – Dixon Hughes Goodman, LLP

Ms. Leslie Roberts, representative of Dixon Hughes Goodman, LLP, addressed the Board giving an overview of the financial audit and financial statements that were included in the Agenda Packet.

2. VDOT Quarterly Report

Mr. Rossie Carroll, Williamsburg Residency Administrator, Virginia Department of Transportation (VDOT), addressed the Board giving an overview of the Quarterly Report included in the Agenda Packet.

Ms. Jones stated her strong opposition to the proposed roundabout at the intersection of News and Centerville Roads.

Mr. McGlennon requested that during the next paving cycle that Lake Powell Point be included.

Mr. Onizuk mentioned several projects and thanked Mr. Carroll for his assistance and efforts to work the County.

Mr. Kennedy thanked Mr. Carroll for all of his efforts over the years. He also questioned the progression of a fix for an area in his neighborhood that is sinking.

Mr. Hipple stated that he has heard several concerns from citizens about the proposed roundabout and has informed the citizens of VDOT's public hearing scheduled for December 16.

3. Presentation by Registrar

Mr. Jack Edwards, Secretary of the Electoral Board, informed the Board that Mr. A. J. Cole, general registrar, has resigned effective January 1. Mr. Edwards introduced Ms. Dianna Moorman who will be the General Registrar effective January 1.

4. Presentation by Communications

Director of Communications, Jody Puckett, addressed the Board and introduced the County's 2015 Annual Report in video format. She praised the work of the Communications staff and specifically the video crew that put the video together entirely in house.

5. 2015 Chairman's Awards

Mr. Hipple presented the 2015 Chairman Award for Staff to Mr. Randy Hisle, chief video engineer, for his outstanding work.

Mr. Hipple presented the 2015 Chairman Award for Citizen or Group to the Bruton Volunteer Fire Department for dedication and service to the community.

Mr. Hipple presented an additional 2015 Chairman Award to County Administrator Bryan Hill for his efforts in developing the strategic initiatives and leading the County to its AAA Bond Rating.

6. Recognition of Service - Ms. Jones and Mr. Kennedy

Mr. Hipple presented Ms. Jones with a token of appreciation for her years of dedicated service to the County.

Mr. Hipple presented Mr. Kennedy with a token of appreciation for his years of dedicated service to the County.

Mr. Hill read written comments by Mr. Jack Fraley which expounded upon the efforts of Mr. Kennedy while serving as a Supervisor.

G. CONSENT CALENDAR

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

1. Minutes Adoption - November 24, 2015 Regular Meeting
2. Contract Award - Recreation Center HVAC Replacement
3. Adoption of the James City County Emergency Operations Plan 2015

H. PUBLIC HEARING(S)

1. Adoption of the Mooretown Road Extended Corridor Study Report

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

Zoning Administrator Jason Purse addressed the Board giving an overview of the Staff Report included in the Agenda Packet.

Mr. Keith Lewis, Consultant with Vanasse Hangen Brustlin (VHB), gave a brief presentation and overview of the Mooretown Road Extended Corridor Study Report included in the Agenda Packet.

Mr. Onizuk questioned the design of the road when portions of the road farther down do not have similar landscaping and beautification elements.

Mr. Lewis stated that if/when the road was to be built, those landscape elements could be further refined to meet the scope of the final project.

Mr. McGlennon and Mr. Onizuk questioned the utilization of the land in the study and questioned whether or not York County was included in the study process since most of the economic impact would be in York County.

Mr. Lewis stated yes that York County was part of the study process and was involved in the technical committees as well as their economic development staff.

Ms. Jones stated that the original reason for extending Mooretown Road was for public safety, to provide ingress and egress throughout the County in the event of a major event weather and citizens needed to evacuate. She questioned what consideration the public safety component given during this study process. She also stated that none of the public

comments during the study seemed to support the recommendation, so which segment has the least impact on private properties.

Mr. Lewis stated that during the stakeholder meetings, emergency services personnel were consulted and they were very enthusiastic about the potential for mitigating traffic impacts during emergencies. The extension would allow emergency services to get around the County even if Interstate 64 was being used as an evacuation route.

Mr. Lewis stated that in regard to the question about which alternative has the least amount of impact on private property, that would be alternative one, which is the one that goes right through the middle.

General discussion ensued about the relative impacts to property and residents for each alternative route.

Mr. Kennedy stated that this project was originally brought forward for public safety reasons. In reality, this project will probably not be funded in our lifetime, so he does not have an issue with leaving all three alternatives on the table.

As there were no other questions for staff or the consultant, Mr. Hipple opened the Public Hearing.

1. Mr. Frank Polster, 420 Hempstead Rd., addressed the Board stating that he does not oppose the adoption of the study document, but it will have a cumulative impact on the County and should be considered within the context of the County as a whole.
2. Mr. Chris Henderson, 101 Keystone, addressed the Board stating his support for alternative Route 1 as it supports and preserves economic opportunity.
3. Mr. Wayne Moyer, 268 Peach St., addressed the Board stating that alternative Route 1 would run right through his property and is not sure that a four-lane road is warranted.
4. Mr. Jack Fowler, 109 Wilderness Rd., addressed the Board in opposition to the road extension stating that it is not warranted as Route 199 was built to alleviate traffic through the County.
5. Mr. Phillip Drinkwater, 255 Peach St., addressed the Board stating that the road extension would cut right through his property and negatively impact his family's business and is not warranted.
6. Mr. Joseph Swanenburg, 3026 The Pointe Dr., addressed the Board in opposition to the adoption of the study report as more development, more roads equals more traffic congestion.
7. Mr. Gary Massie, 8644 Merry Oaks Ln., addressed the Board stating that this is a safety project as it eliminates four at-grade railroad crossings. Protecting the railroad corridor and passenger corridor is important for future development.

As there were no other registered speakers, Mr. Hipple closed the Public Hearing.

Ms. Jones stated that she would support alternative one as it makes the most sense to her, but she recognizes that the citizens seemed to support Alternative 3. Impacts on property owners need to be taken into consideration heavily.

Mr. Hipple clarified that the action tonight is to adopt the study, not to endorse one particular route.

Mr. Purse stated that if the Board wanted to adopt the study without any recommendation, then it can certainly do that. That way the study document and all three alternative routes would stand on their own as a guiding document, without any recommendation for a particular route. He also clarified that all of the potential land uses along any of the routes would have to come before the Board for legislative action.

Mr. McGlennon expressed his concern over the report as there was widespread opposition to the road being built. He can accept the report, even without the recommendation, but he has an issue with adopting the report as that implies future action.

Mr. Onizuk stated that he is in general agreement with the other Board members. He believes that the study can move forward without a recommendation, but did acknowledge that there appears to be little public support.

General discussion ensued about the prioritization of road projects and getting funding for road projects from the state. The end result being that this project will probably not receive funding in the next 40 years or more.

Mr. Purse stated that VDOT would require that the study and the analysis be adopted by the Board, but a recommendation for a particular route is not necessary.

Mr. Onizuk clarified that adopting the study document basically accepts the findings of the study and adopts the analysis as a reference document, it puts this document in our library of references, but it does not move anything forward or endorses a particular route to be built.

Mr. Purse stated correct.

Mr. McGlennon and Mr. Onizuk agreed to adopt the reference document without endorsing a recommendation.

Mr. McGlennon asked that the motion reflect that the recommendation should be removed from the reference document.

2. LU-0002-2014 8491 Richmond Road (Taylor Farm) Land Use Designation Change

A motion to Postpone was made by Ms. Jones and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

Planner III, Ellen Cook addressed the Board stating that the applicant has requested that this case be postponed until the March 8 regular meeting.

I. BOARD CONSIDERATION(S)

1. Adoption of 2016 Legislative Program

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

Ms. Gowdy stated that this is the finalized Legislative Agenda as discussed at the previous Work Session.

General discussion ensued regarding the legislative program.

Ms. Jones expressed her desire to strike Subsection 3-11 and to remove the reference to VA High Growth Coalition in Subsection 3-16.

Mr. Hipple stated that Subsections 3-11 and 3-16 would be pulled for separate discussion and votes and requested a motion to move the adoption of the Legislative Agenda as a whole.

Mr. McGlennon made a motion to adopt the 2016 Legislative Agenda with the exception of Subsections 3-11 and 3-16.

General discussion ensued regarding Subsection 3-11, tax equity between cities and counties.

A motion to Remove Subsection 3-11 was made by Ms. Jones and the motion result was Failed.

AYES: 2 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, Onizuk Nays: McGlennon, Kennedy, Hipple

Significant discussion ensued regarding the legislative program of the VA High Growth Coalition.

A motion to Remove the reference to VA High Growth High Coalition in Subsection 3-16 was made by Ms. Jones and the motion result was Failed.

AYES: 2 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, Onizuk Nays: McGlennon, Kennedy, Hipple

2. Request for postponement of Skiffes Creek application

A motion to Approve was made by Ms. Jones and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

J. BOARD REQUESTS AND DIRECTIVES

The Board expressed its gratitude to Ms. Jones and Mr. Kennedy for their dedication and commitment to the community over their years of service.

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

Mr. Hill thanked the Communications Department for all of its hard work on putting together the first annual report in video format. He announced that the County offices would be closed December 24, 25 and January 1.

At 9:56 p.m., Mr. Hipple recessed the Board in order to conduct the Board of Directors meeting.

At 9:58 p.m., Mr. Hipple reconvened the Board of Supervisors.

L. PUBLIC COMMENT

1. Ms. Heather Cordasco, 13 Alexander Pl., addressed the Board thanking Ms. Jones for her years of service and dedication to the citizens and the community.

M. CLOSED SESSION

N. ADJOURNMENT

1. Adjourn until 4 p.m. on January 4, 2016, for the Organizational Meeting

A motion to Adjourn was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Jones, McGlennon, Onizuk, Kennedy, Hipple

At 10:02 p.m., Mr. Hipple adjourned the Board.

Bryan J. Hill
County Administrator

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

FROM: Bradley J. Rinehimer, Police Chief

SUBJECT: Authorization for One Temporary Police Officer Overhire Position

A James City County police officer received orders for military deployment from December 15, 2015 through September 18, 2016. The reduced staffing of patrol officers within the police department adversely affects service delivery. With the incumbent officer on deployment, his budgeted salary will be available to pay for one temporary police officer overhire position. If approved, the overhire position will remain in effect until the deployed officer returns and a police officer vacancy occurs, at which time the overhire will transition into the vacancy.

ATTACHMENTS:

	Description	Type
▣	memorandum	Cover Memo
▣	resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Police	Rinehimer, Bradley	Approved	12/7/2015 - 7:27 AM
Police	Rinehimer, Bradley	Approved	12/7/2015 - 7:27 AM
Publication Management	Burcham, Nan	Approved	12/8/2015 - 2:22 PM
Legal Review	Gowdy, Michelle	Approved	12/14/2015 - 4:21 PM
Board Secretary	Gilliam, Angela	Approved	12/15/2015 - 4:15 PM
Board Secretary	Kinsman, Adam	Approved	12/17/2015 - 10:09 AM
Board Secretary	Fellows, Teresa	Approved	12/30/2015 - 2:20 PM

M E M O R A N D U M

DATE: January 12, 2016

TO: The Board of Supervisors

FROM: Bradley J. Rinehimer, Police Chief

SUBJECT: Authorization for One Temporary Police Officer Overhire Position

A James City County Police Officer is militarily deployed from December 15, 2015 until September 18, 2016. The period of his absence is approximately nine months. Reduced staffing within the Police Department adversely affects service delivery, especially in Patrol. Financial & Management Services (FMS) confirmed that funding exists within the current Police Department budget to pay for a temporary full-time regular police officer overhire position through June 30, 2016. It is anticipated that there will be funding available in the FY 16 budget due to the absence of the incumbent officer for military deployment and turnover throughout the year.

When the employee returns to full-time employment In September 2016 and the Police Department is fully staffed, the overhire position will remain in effect until a Police Officer vacancy occurs, at which time the overhire will transition into the vacancy.

I recommend adoption of the attached resolution to create a temporary full-time regular Police Officer overhire position.

BJR/nb
TempPOOverhire-mem

Attachment

RESOLUTION

AUTHORIZATION FOR ONE TEMPORARY POLICE OFFICER OVERHIRE POSITION

WHEREAS, a James City County police officer has been militarily deployed from December 15, 2015 until September 18, 2016; and

WHEREAS, the reduced staffing of patrol officers within the Police Department adversely affects service delivery; and

WHEREAS, funds are available within the existing Police Department budget to create a temporary overhire position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one full-time regular Police Officer overhire position. The overhire will remain in effect until the deployed officer returns and a Police Officer vacancy occurs, at which time the overhire will transition into the vacancy.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

TempPOOverhire-res

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

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

SUBJECT: Establishment of Full-Time Regular Senior Groundskeeper Position

Grounds Maintenance staff includes some employees who were originally employed by the School Division and have remained school staff. While they are paid by the School Division, they are fully supervised by the Grounds Maintenance Division of General Services. Under a joint agreement with Schools, when a school employee retires, the new staff member is to be a County employee. This has taken place several times in the past.

This item requests the creation of a full-time regular Senior Groundskeeper position in General Services and the transfer of funds from Operating Contingency to General Services to cover the costs of the position.

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
General Services	Horne, John	Approved	12/14/2015 - 2:07 PM
Publication Management	Boles, Amy	Approved	12/15/2015 - 8:45 AM
Legal Review	Gowdy, Michelle	Approved	12/15/2015 - 9:12 AM
Board Secretary	Gilliam, Angela	Approved	12/16/2015 - 8:30 AM
Board Secretary	Kinsman, Adam	Approved	12/17/2015 - 10:09 AM
Board Secretary	Fellows, Teresa	Approved	12/30/2015 - 2:20 PM

M E M O R A N D U M

DATE: January 12, 2016

TO: The Board of Supervisors

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

SUBJECT: Establishment of a Full-Time Regular Senior Groundskeeper Position

For several years grounds maintenance at County school sites has taken place under an agreement with the school division that sets out responsibilities and procedures. All grounds maintenance activities are managed by the County General Services Department. When the agreement was initiated, several school grounds employees remained employees of the school division, but were assigned to General Services for management purposes. They typically work on school sites but are fully integrated into the Grounds Division staff. Many expenses attributable to work on school sites are included in a separate budget and are billed to schools on a monthly basis.

As part of the agreement, any school positions that become vacant are to be replaced with County employees. This has taken place on several occasions over the years. One additional school employee recently resigned. The attached resolution would authorize two actions. It would establish a new County position to allow filling the vacant position and transferring funds from Operating Contingency to 001-142-0110, Salaries, Full-Time Employees.

Staff recommends adoption of the attached resolution.

JTPH/ab
FTGrndsKeeperPos-mem

Attachment

RESOLUTION

ESTABLISHMENT OF A FULL-TIME REGULAR SENIOR GROUNDSKEEPER POSITION

WHEREAS, the James City County Department of General Services desires to provide outstanding grounds maintenance services to all County and Williamsburg-James City County (WJCC) school facilities; and

WHEREAS, a WJCC grounds employee has resigned and there is a continuing need for that position to provide the needed services; and

WHEREAS, the approved interagency agreement between James City County and WJCC schools requires that school positions be replaced by County positions as they become vacant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one full-time regular senior groundskeeper position, effective January 15, 2016. The Board also approves the transfer of \$55,459 from Operating Contingency to 001-142-0110.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

FTGrndsKeeper-res

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

FROM: Allison A. Kotula, Assistant County Attorney

SUBJECT: Resolution to Declare the County of James City a Hybrid Entity for Purposes of the Health Insurance Portability and Accountability Act

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Attorney	Gowdy, Michelle	Approved	12/14/2015 - 4:21 PM
Publication Management	Boles, Amy	Approved	12/14/2015 - 4:52 PM
Legal Review	Gowdy, Michelle	Approved	12/14/2015 - 4:55 PM
Board Secretary	Fellows, Teresa	Approved	12/15/2015 - 9:15 AM
Board Secretary	Kinsman, Adam	Approved	12/17/2015 - 10:11 AM
Board Secretary	Fellows, Teresa	Approved	12/30/2015 - 2:20 PM

M E M O R A N D U M

DATE: January 12, 2016

TO: The Board of Supervisors

FROM: Allison A. Kotula, Assistant County Attorney

SUBJECT: Resolution to Declare the County of James City a Hybrid Entity for Purposes of the Health Insurance Portability and Accountability Act

James City County is required to adhere to all applicable laws and regulations relating to data privacy and security including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder by the U.S. Department of Health and Human Services. Because departments of the County transmit or have access to protected health information, those departments are subject to more stringent HIPAA requirements. Other areas of the County perform non-covered entity functions and therefore are not subject to the most stringent HIPAA regulations. Designating the County as a hybrid entity for the purposes of HIPAA will simplify the County's compliance with regard to HIPAA regulations and will ensure that private health information is adequately protected within the County.

Attached for your consideration is a resolution designating the County has a hybrid entity for the purposes of HIPAA and identifying those departments that transmit, or have access to, protected health information.

Staff recommends the adoption of the attached resolution.

AAK/ab
HIPAAHybridEntity-mem

Attachment

RESOLUTION

A RESOLUTION TO DECLARE THE COUNTY OF JAMES CITY A HYBRID ENTITY

FOR PURPOSES OF HIPAA AND IDENTIFYING ITS HEALTH CARE COMPONENTS

WHEREAS, James City County and the James City County Board of Supervisors are committed to compliance with all applicable laws and regulations relating to data privacy and security including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (HIPAA Regulations); and

WHEREAS, the County is a covered entity for purposes of HIPAA because its Fire Department and Emergency Communications transmit protected health information (PHI) electronically for billing purposes, and County Administration, the Fire Department, Emergency Communications, the Human Resources Department, James City County Attorney's Office, James City Service Authority, Olde Towne Medical & Dental Center and the James City County Information Technology Department have access to this protected health information; and

WHEREAS, HIPAA Regulations allow for the designation of hybrid entities in order to segregate those portions of the County that perform covered entity functions from those that only perform non-covered entity functions; and

WHEREAS, such hybrid entity designation will simplify the County's compliance with HIPAA Regulations as only County Administration, the Fire Department, Emergency Communications, the Human Resources Department, James City County Attorney's Office, James City Service Authority, Olde Towne Medical & Dental Center and the James City County Information Technology Department will need to comply with the most complicated requirements; and

WHEREAS, the above-referenced departments can be adequately separated from the County's non-health care components for purposes of protecting PHI.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the County as a hybrid entity under HIPAA, pursuant to 45 CFR § 164.105.

BE IT FURTHER RESOLVED that the following are hereby designated as the health care components of the County's hybrid entity: County Administration, the Fire Department, Emergency Communications, the Human Resources Department, James City County Attorney's Office, James City Service Authority, Olde Towne Medical & Dental Center and the James City County Information Technology Department.

BE IT FURTHER RESOLVED that the County shall ensure that County Administration, the Fire Department, Emergency Communications, the Human Resources Department, James City County Attorney's Office, James City Service Authority, Olde Towne Medical & Dental

Center and the James City County Information Technology Department comply with HIPAA and all HIPAA Regulations applicable to any covered entity.

BE IT FURTHER RESOLVED that all other County departments or divisions not otherwise specified or designated as health care components are hereby designated as non-health care components. Health care components are not free to exchange PHI with non-health care components unless such disclosure is permitted under the Privacy Rule. Any person who performs duties for both health care components and non-health care components must not use or disclose PHI in a way that would be impermissible under HIPAA.

BE IT FURTHER RESOLVED that the County understands that this hybrid entity designation does not relieve the County of all obligations under HIPAA, as certain oversight, compliance and enforcement obligations remain.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

VOTES

AYE NAY ABSTAIN

MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

HIPAAHybridEntity-res

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

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

SUBJECT: Easement Approval-Sidewalk Extension, Saint George's Hundred

This item requests approval of an easement to allow the Saint George's Hundred Association to build a 75' section of sidewalk connecting Saint George's Hundred to Jamestown 100. A section of sidewalk already exists in Jamestown 100 and the new section would connect that sidewalk to pavement at Sabre Drive. Considerable bicycle and pedestrian traffic us using a dirt trail in the area already.

ATTACHMENTS:

	Description	Type
□	Memorandum	Cover Memo
□	Resolution	Resolution
□	map	Cover Memo
□	easement	Cover Memo
□	Attachment	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
General Services	Horne, John	Approved	12/14/2015 - 1:51 PM
Publication Management	Boles, Amy	Approved	12/15/2015 - 8:48 AM
Legal Review	Gowdy, Michelle	Approved	12/15/2015 - 9:07 AM
Board Secretary	Fellows, Teresa	Approved	12/15/2015 - 9:14 AM
Board Secretary	Kinsman, Adam	Approved	1/4/2016 - 2:50 PM
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 12:56 PM

M E M O R A N D U M

DATE: January 12, 2016

TO: The Board of Supervisors

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

SUBJECT: Easement Approval - Sidewalk Extension, St. George's Hundred

The St. George's Hundred Association desires to extend a 75-foot section of sidewalk connecting St. George's Hundred to Jamestown Hundred (see attached map). When Jamestown Hundred was developed in 2002 a section of pedestrian sidewalk was built to allow pedestrian traffic between the two neighborhoods through a section of common homeowners association (HOA) property. Within St. George's Hundred a 75-foot section was not built. Since that time considerable pedestrian and bicycle traffic has used a dirt trail to access the sidewalk section. The extension would connect the existing sidewalk to pavement at Sabre Drive.

The St. George's Hundred HOA applied for and has been granted a \$500 grant from the Good Neighbor Environment Matching Grant Program, administered by the Clean County Commission. That grant will fund about 40% of the cost, with the Association funding the remaining cost. However, in order to proceed the County must grant an easement over some unused road right-of-way owned by the County.

Attached is the easement language that would allow construction of the sidewalk extension and require that the HOA maintain the sidewalk.

Staff recommends adoption of the attached resolution.

JTPH/ab
EsmtAppStGeoHund-mem

Attachment

RESOLUTION

EASEMENT APPROVAL - SIDEWALK EXTENSION, ST. GEORGE’S HUNDRED

WHEREAS, the St. George’s Hundred homeowners association (HOA) wishes to extend a 75-foot section of sidewalk to connect to an existing sidewalk in Jamestown Hundred; and

WHEREAS, the sidewalk would improve pedestrian and bicycle access between the two neighborhoods; and

WHEREAS, in order for the sidewalk to be built an easement must be granted by the County allowing the sidewalk to be built and requiring maintenance of the sidewalk by the HOA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the granting of an easement for the above purposes.

Michael J. Hipple
Chairman, Board of Supervisors

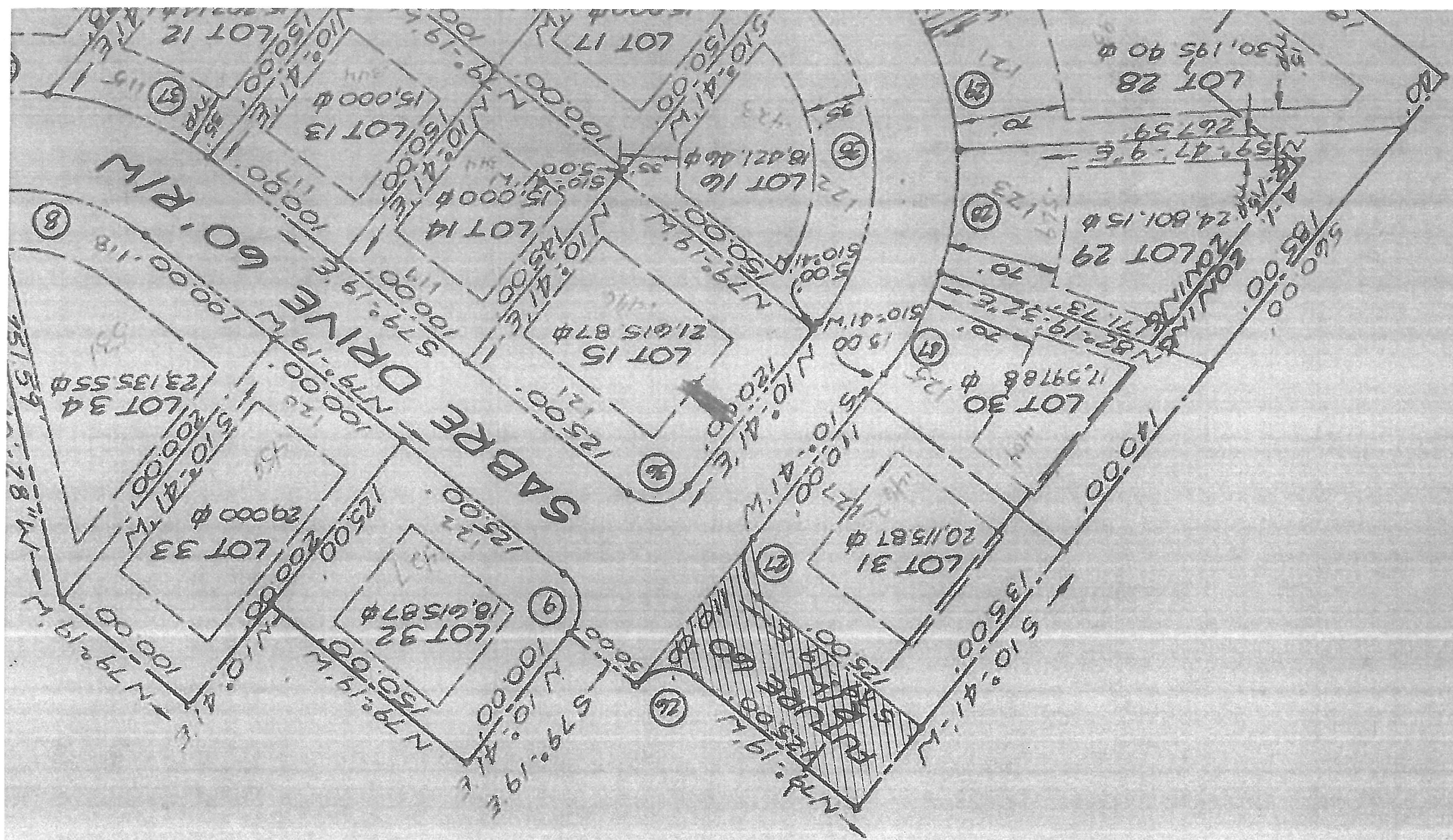
ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

EsmtAppStGeoHund-res



PURSUANT TO VIRGINIA CODE SECTION 58.1-811(C)(4), THIS DEED IS EXEMPT FROM TAXATION UNDER VIRGINIA CODE SECTION 58.1-802.

CONSIDERATION: \$1.00

THIS DEED OF EASEMENT is made this ___ day of _____, 2015, by and between the **COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as “GRANTOR;” and **THE ST. GEORGE’S HUNDRED ASSOCIATION, LTD.**, a Virginia non-stock corporation, hereinafter referred to as “GRANTEE,” whose mailing address is _____, Williamsburg, Virginia 23185.

WITNESSETH: That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant and convey unto the GRANTEE, and its successors and assigns, a permanent easement for the installation, maintenance, and/or removal of a sidewalk open to the public situated over, upon, and across the lands of the GRANTOR, said easement being shown as “FUTURE 60’ R/W” on a plat dated ____ Prepared by _____, titled “SAINT GEORGE’S HUNDRED SECTION III, BLOCK ‘B-1’” and recorded in Plat Book 40 at Page 41 (the “Easement”). The Easement is further shown as the hatched area on Exhibit A, which is attached to and made a part of this Deed of Easement.

The Easement is subject to all existing easements, rights-of-way, covenants, encumbrances and restrictions of record, and is conveyed subject to the following rights and covenants:

1. GRANTEE shall retain ownership of the sidewalk and all improvements constructed within the Easement.
2. GRANTEE shall not construct the sidewalk in a manner that negatively impacts access to any adjacent residential lot.

3. GRANTEE shall obtain all permits required for the construction of the sidewalk within the Easement.

4. GRANTEE shall maintain the Easement and the sidewalk within the Easement in a safe condition and shall be the sole party responsible for necessary repairs and improvements. GRANTOR shall not have any duty to maintain the Easement or the sidewalk; however, GRANTOR may elect to make repairs if required to protect the public health, safety, or welfare. If GRANTOR or its designee determines that repairs are necessary to protect the public health, safety, or welfare, GRANTOR shall give notice to GRANTEE that repairs are required. If GRANTEE does not make the necessary repairs within sixty (60) days, GRANTOR may make the necessary repairs and collect such amount from GRANTEE in the same manner that taxes are collected.

5. GRANTEE hereby indemnifies and holds GRANTOR harmless from any injuries or claims resulting from the construction of the sidewalk, or any conditions within the Easement or on the sidewalk.

WITNESS the following signatures and seals:

[SIGNATURE PAGES FOLLOW]

GRANTOR:

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____

Its: _____

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the jurisdiction
aforesaid do hereby certify that _____, on behalf of THE COUNTY OF
JAMES CITY, VIRGINIA, as its _____ whose name is signed to the foregoing
writing dated the _____ of _____, 2015, has acknowledged the same before
me in the jurisdiction aforesaid.

GIVEN under my hand this ____ day of _____, 2015.

Notary Public

My Commission expires:

APPROVED AS TO FORM:

County Attorney

GRANTEE:

THE ST. GEORGE'S HUNDRED
ASSOCIATION, LTD.

By: _____

Its: _____

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the jurisdiction
aforesaid do hereby certify that _____, on behalf of THE ST. GEORGE'S
HUNDRED ASSOCIATION, LTD., as its _____ whose name is signed to the
foregoing writing dated the _____ of _____, 2015, has acknowledged the
same before me in the jurisdiction aforesaid.

GIVEN under my hand this ____ day of _____, 2015.

Notary Public

My Commission expires:

Prepared by and return to:
Maxwell C. Hlavin
Assistant County Attorney
James City County
101-D Mounts Bay Road
Williamsburg, Virginia 23185



Jamestown Hundred

St George's Hundred

St Erics Turn


Robertson St

Reades Way

Sabre Dr

St Erics Turn

Arena St

 **Proposed Sidewalk**



1 inch = 75 feet
 0 30 60 Feet

James City County



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be.

Copyright James City County GIS Office 12/14/2015

M:\Departments\General_Services\John\St Georges Hundred_Jamestown Hundred.mxd by KAH

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

FROM: Jose-Ricardo L. Ribeiro, Senior Planner II

SUBJECT: Case No. SUP-0005-2015. Clara Byrd Baker Elementary School Parking Addition and Improvements

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Location Map	Exhibit
▣	Minutes	Minutes
▣	Master Plan	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/17/2015 - 8:58 AM
Development Management	Purse, Jason	Approved	12/18/2015 - 7:51 AM
Publication Management	Boles, Amy	Approved	12/18/2015 - 8:18 AM
Legal Review	Gowdy, Michelle	Approved	12/18/2015 - 9:57 AM
Board Secretary	Fellows, Teresa	Approved	12/30/2015 - 2:21 PM
Board Secretary	Kinsman, Adam	Approved	1/4/2016 - 2:52 PM
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 12:54 PM

Special Use Permit-0005-2015. Clara Byrd Baker Elementary School Parking Addition and Improvements

Staff Report for the January 12, 2016, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

November 4, 2015, 7:00 p.m. (deferred by the applicant)

December 2, 2015, 7:00 p.m.

Board of Supervisors:

January 12, 2016, 6:30 p.m.

SUMMARY FACTS

Applicant:

Mr. Paul Tschiderer of AES Consulting Engineers

Land Owner:

Williamsburg-James City County Public Schools (WJCC Schools)

Proposal:

A request to allow the construction of additional parking spaces, a reconfiguration of the existing parking area and other minor improvements to the site. If approved, this Special Use Permit (SUP) will also bring the existing school use into conformance with the zoning ordinance.

Location:

3131 Ironbound Rd.

Tax Map/Parcel:

4710100058

Parcel Size:

± 24 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 compatible with the surrounding zoning and development and consistent with the 2035 Comprehensive Plan Land Use Map. Staff recommends that the James City County Board of Supervisors approve this SUP application subject to the conditions listed in the attached resolution. Approval of this application will also bring the existing school use into conformance with the zoning ordinance.

Staff Contact:

Jose Ribeiro, Senior Planner II

Phone: 253-6890

PLANNING COMMISSION RECOMMENDATION

At its December 2, 2015 meeting, the Planning Commission recommended approval of this application by a vote of 6-0 (absent: Mr. O'Connor).

Proposed Changes Made Since the Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Paul Tschiderer of AES Consulting Engineers, has applied on behalf of WJCC Schools for an SUP to allow the reconfiguration and expansion of the parking area capacity from 101 to 152 parking spaces (an increase of 51 parking spaces, three of which will be Americans with Disabilities Act accessible spaces), drainage improvements and the construction of an internal sidewalk. According to the applicant, the proposed expansion of the parking lot is not triggered by an increase in traffic; rather, the expansion would better accommodate current parking needs, allowing vehicles parking in areas not improved for parking to park in areas specifically designed for this purpose.

The proposed increase in the number of parking spaces is consistent with WJCC Schools' plan to increase the availability of parking spaces at school sites to a range of 135 to 150 parking spaces. In 2010, a request to increase the parking spaces at D.J. Montague Elementary School from 87 to 140 parking spaces (SUP-0032-2010) was approved by the Board of Supervisors and in 2012, a request to increase the number of parking spaces at the Toano Middle School from 117 to 147 parking spaces (SUP-0012-2012) was also approved by the Board.

Clara Byrd Baker Elementary School did not require an SUP when it was opened in 1989; however, the school site was rezoned to Public Land's district in 2007, where schools are a specially permitted use. Though the school is a legally nonconforming use, an SUP is required for any expansion. Approval of this SUP will also bring the existing school use into conformance with the zoning ordinance and permit the referenced improvements to the site.

The property is located at 3131 Ironbound Rd. and zoned PL, Public Lands and designated by the 2035 Comprehensive Plan as Federal, State and County Land. Properties to west, east and south of the site are zoned R-8, Rural Residential and to the north, properties are zoned MU, Mixed Use and B-1, General Business. Ironbound Road is designated by the 2035 Comprehensive Plan as a Community Character Corridor and the school is located within the Five Forks Community Character Area.

PUBLIC IMPACTS

Engineering and Resource Protection

Watershed: Powhatan Creek

The Engineering and Resource Protection Division has reviewed this application and recommends approval. Based on the site's location in the Powhatan Creek watershed, this plan of development is subject to Special Stormwater Criteria (SSC), adopted by the Board of Supervisors on December 14, 2014. During the development plan review process, the applicant will need to provide additional information to demonstrate compliance with SSC regulations.

Public Utilities

The site is located within the Primary Service Area and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and recommends approval. The JCSA has requested that the applicant develop water conservation standards prior to development plan approval (SUP Condition No. 2).

Transportation

The Virginia Department of Transportation has reviewed this application and recommends approval. No additional vehicle trips are expected to be generated by the creation of additional parking spaces.

Traffic Counts:

The James City County/Williamsburg/York County Comprehensive Transportation Study (Regional Study) that was completed in March 2012 indicated that the most recent weekday volume for Ironbound Road from Jamestown Road to John Tyler Highway was 7,150 trips. This represents a current weekday PM peak hour Level of Service (LOS) of A-C for the corridor.

Projected Traffic Volume: On Ironbound Road from Jamestown Road to John Tyler Highway, the 2035 Comprehensive Plan projects 10,982 trips in 2035. This is in the category of acceptable and not anticipated to need improvement. The Regional Study notes that the PM peak hour LOS for the corridor is projected to still be at a LOS of A-C in 2034.

Staff Comments: Staff notes that the existing parking lot does not meet all current zoning ordinance requirements. The distances between landscape islands average more than 100 feet apart from each other (the zoning ordinance requires a maximum distance of 90 feet). Also, some of the landscape islands do not meet the current zoning ordinance regulations for dimensions. The applicant intends to bring the entire parking lot, including landscape islands, into conformance with the zoning ordinance.

Ironbound Road is addressed in both the Regional Bikeways Map and the Pedestrian Accommodations Master Plan. These plans identify the Ironbound Corridor for shoulder bike lanes and a sidewalk on both sides of the street. There is currently a sidewalk along the school's frontage but no bike lanes have been installed in this area. Given the narrowness of this segment of the Ironbound Road right-of-way, it may not be feasible to install the recommended bike lane and the applicant has proposed to install a multi-use path across the property. Staff has proposed a condition that will allow the planning director flexibility to continue to evaluate the preferred pedestrian accommodations through the site plan phase of the project (SUP Condition No. 3). Staff notes that a similar SUP condition regarding pedestrian accommodation was approved for the Williamsburg Unitarian Universalist Expansion (SUP-0017-2014).

COMPREHENSIVE PLAN

The site is designated by the 2035 Comprehensive Plan as Federal, State, and County Land. Land uses in this designation are publicly owned and include County offices and facilities and larger utility sites. Staff finds the proposed improvements to the school's parking area consistent with the Comprehensive Plan as these are accessory to a recommended land use. From a land use perspective, staff finds this project will have no impact on the local road system (no additional traffic generation) or adjacent properties. The new layout of the school's parking lot will increase public safety and add much needed additional parking areas. The proposed multi-use path will also be a benefit for the schools and the community as a whole as it provides for a safer means of alternative transportation.

STAFF RECOMMENDATION

Staff finds the proposed use to be compatible with the surrounding zoning and development and consistent with the 2035 Comprehensive Plan Land Use Map. Staff recommends that the James City County Board of Supervisors approve this SUP application subject to the conditions listed in the attached resolution. Approval of this application will also bring the existing school use into conformance with the zoning ordinance.

SUP-0005-2015CBBParking
JR/ab

Attachments:

1. Resolution
2. Location map
3. Unapproved Minutes of the December 2, 2015, Planning Commission Meeting
4. Master Plan titled "Clara Byrd Baker Elementary School Parking Lot Improvements" prepared by AES consulting Engineers and dated September 21, 2015

RESOLUTION

CASE NO. SUP-0005-2015. CLARA BYRD BAKER ELEMENTARY SCHOOL

PARKING ADDITION AND IMPROVEMENTS

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

WHEREAS, the property is located at 3131 Ironbound Rd. on land zoned PL, Public Lands, and can be further identified as James City County Real Estate Tax Map Parcel No. 4710100058 (the "Property"), as shown on a plan titled "Clara Byrd Baker Elementary School Parking Lot Improvements" dated September 21, 2015, prepared by AES Consulting Engineers (the "Master Plan"); and

WHEREAS, Mr. Paul Tschiderer, of AES Consulting Engineers (the "Applicant"), on behalf of the Williamsburg-James City County School Board (the "Owner"), has applied for an SUP to allow the construction of additional parking spaces, a reconfiguration of the existing parking area and other minor improvements to the Property; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and hearing conducted on Case No. SUP-0005-2015; and

WHEREAS, the Planning Commission, following its public hearing on December 2, 2015, recommended approval of this application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of SUP 0005-2015 as described herein with the conditions below.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, upon the issuance of SUP 0005-2015 also approves the existing school use, thereby bringing the school use into conformance with the County's zoning ordinance.

1. *Master Plan.* This SUP shall be valid for the existing school, construction of additional parking spaces, a reconfiguration of the existing parking and other minor improvements to the site located at 3131 Ironbound Rd. and further identified as James City County Real Estate Tax Map No. 4710100058 (the "Property"). Development of the site shall occur generally as shown on the master plan drawn by AES Consulting Engineers, entitled "Clara Byrd Baker Elementary School Parking Improvements W/JCC Public Schools" dated September 21, 2015, with only changes thereto that the director of planning 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 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. *Ironbound Road Pedestrian and Bike Improvements.* In accordance with the Regional Bikeways Map and Pedestrian Accommodation Master Plan, a shoulder bike lane and sidewalk shall be provided along the Property’s Ironbound Road frontage. However, this requirement may be waived or adjusted by the director of planning should the Owner demonstrate that existing pavement width or section, drainage or other engineering constraints would restrict the ability of the Owner to install the bike lane and sidewalk in a manner that would meet the Virginia Department of Transportation requirements. Such analysis shall be submitted prior to or concurrent with the initial site plan submission and shall address the provision of an alternative bike and pedestrian accommodation, such as an asphalt multi-use path constructed on the Property that would serve the community as well, if not better than, a shoulder bike and sidewalk. In the event that the director of planning disapproves the waiver, the Owner may appeal the decision to the Development Review Committee, which shall forward a recommendation to the Planning Commission. Pedestrian and bike accommodations shall be installed within 12 months from the date of approval of the site plan for the parking expansion/improvements. Upon written request this construction period may be extended to an additional 12 months by the director of planning.
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.

Michael J. Hipple
 Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
 Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

JCC-SUP-0005-2015

Clara Byrd Baker E.S. Parking Addition and Improvements



Copyright Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.

Unapproved Minutes of the December 2, 2015 Planning Commission Meeting

Case No. SUP-0005-2015, Clara Byrd Baker Elementary Additional Parking

Mr. José Ribeiro, Senior Planner, II, stated that Mr. Paul Tschiderer of AES Consulting Engineers, has applied on behalf of Williamsburg-James City County Schools for a Special Use Permit (SUP) to allow the reconfiguration and expansion of the parking area capacity from 101 to 152 parking spaces, drainage improvements and the construction of an internal sidewalk.

Mr. Ribeiro stated that Clara Byrd Baker did not require an SUP when it was opened in 1989; however, the school site was rezoned to Public Lands in 2007, where schools are a specially permitted use. Though the school is a legally nonconforming use, an SUP is required for any expansion. Approval of this SUP will also bring the existing school use into conformance with the zoning ordinance and permit necessary improvements to the site.

Mr. Ribeiro stated that the proposed expansion of the parking lot is not triggered by an increase in traffic; rather, the expansion would better accommodate current parking needs, allowing vehicles currently parking in areas not improved for parking to park in areas specifically designed for this purpose.

Mr. Ribeiro stated that the proposed increase in the number of parking spaces is consistent with WJCC schools plans to increase the availability of parking spaces at school sites to a range of 135 to 150 parking spaces. Mr. Ribeiro further stated that the Board of Supervisors has previously approved similar requests for D.J. Montague Elementary School and Toano Middle School.

Mr. Ribeiro stated that Staff finds the proposed use to be compatible with the surrounding zoning and development and consistent with the 2035 Comprehensive Plan Land Use Map. Mr. Ribeiro stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in the staff report.

Ms. Bledsoe opened the floor for questions from the Commission.

There were no questions.

Ms. Bledsoe stated that the public hearing was open and had been continued from the November 4, 2015 Planning Commission meeting.

As no one wished to speak, Ms. Bledsoe closed the public hearing.

Ms. Bledsoe called for disclosures from the Commissioners.

There were no disclosures.

Mr. Richardson moved to recommend approval of the application with the conditions in the staff report.

On a roll call vote the Commission voted to recommend approval of SUP-0005-2015, Clara Byrd Baker Elementary Additional Parking (6-0, Mr. O'Connor being absent).

ITEM SUMMARY

DATE: 1/12/2016

TO: The Board of Supervisors

FROM: Roberta Sulouff, Planner

SUBJECT: Case No. SUP-0006-2015/Rezoning-0004-2015. Williamsburg Landing Proffer and SUP Amendment

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Resolution	Resolution
▣	Location Map	Backup Material
▣	December 2 Planning Commission Minutes	Backup Material
▣	Exhibit titled "Williamsburg Landing Conceptual Plan" dated November 19, 2015 by RLPS Architects	Backup Material
▣	Proffer Agreement	Backup Material
▣	Adopted Resolution for Case No. SUP-0010-2014	Backup Material
▣	Adopted Proffers for Case No. Z-0002-2008	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	12/17/2015 - 4:02 PM
Development Management	Purse, Jason	Approved	12/18/2015 - 7:50 AM
Publication Management	Boles, Amy	Approved	12/18/2015 - 8:21 AM
Legal Review	Gowdy, Michelle	Approved	12/18/2015 - 10:14 AM
Board Secretary	Fellows, Teresa	Approved	12/30/2015 - 2:21 PM
Board Secretary	Kinsman, Adam	Approved	1/5/2016 - 5:13 PM
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 5:15 PM

SPECIAL USE PERMIT-0006-2015/REZONING-0004-2015. Williamsburg Landing Proffer and SUP Amendment

Staff Report for the January 12, 2016, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Board of Supervisors:

Building F Board Room; County Government Complex

December 2, 2015, 7:00 p.m.

January 12, 2016, 6:30 p.m.

SUMMARY FACTS

Applicant:

Mr. William Holt, Kaufman and Canoles, P. C.

Land Owner:

Williamsburg Landing, Inc.

Proposal:

To amend existing proffers and Special Use Permit (SUP) conditions to allow for an increase in assisted living units (from 100 allowed to 131) and a decrease in nursing units (from 100 allowed to 73). The request would result in a net increase of four units over the total number of units currently permitted onsite. The request also seeks to modify the design of previously approved facilities by combining three previously approved facilities into two buildings.

Location:

5560 Williamsburg Landing Dr.

Tax Map/Parcel No.:

4820100003

Parcel Size:

± 50 acres

Existing Zoning:

R-5, Multi-family Residential, with proffers

Proposed Zoning:

R-5, Multi-family Residential, with amended proffers

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application subject to the attached resolution and amended proffers.

Staff Contact:

Roberta Sulouff, Planner

Phone: 253-6783

PLANNING COMMISSION RECOMMENDATION

At its December 2, 2015 meeting, the Planning Commission recommended approval of this SUP and Rezoning application and the proposed conditions by a vote of 6-0 (Absent: Mr. O'Conner).

Proposed changes made since the Planning Commission meeting

None.

PROJECT DESCRIPTION

Mr. William Holt, of Kaufman and Canoles, P.C., has applied on behalf Williamsburg Landing, Inc. to amend existing SUP conditions and proffers. The request would allow for an increase in assisted living units (from 100 allowed to 131) and a decrease in nursing units (from 100 allowed to 73), resulting in a net increase of four units over the total number of units currently permitted onsite. The request also seeks to modify the design of previously approved facilities by combining three previously approved facilities into two buildings. The subject parcel is located at 5660 Williamsburg Landing Rd. and is zoned R-5, Multi-family Residential with proffers. An SUP is required for nursing homes and facilities for the residence and/or care of the aged in the R-5 zoning district.

PROJECT HISTORY

The subject parcel, along with the parcels to the south and east (5550 and 5700 Williamsburg Landing Rd., respectively) comprise the Williamsburg Landing continuing care retirement community.

In 1982, a portion of the Williamsburg Landing site was rezoned from A-2, Limited Agriculture, to R-5, Multi-family Residential. No proffers were part of this case, which approved nursing home facilities, facilities for residence and/or care of the aged and offices. In 1984 four acres were incorporated into the R-5 zoning district. In 1991, a portion of the site was rezoned from R-8 to PUD-R to allow a 60-unit single-family development. Rezoning cases in 1993, 1995, 2001, and 2008 added property to the site, introduced proffers, and approved single-family, nursing facilities for residence and/or care of the aged, assisted living units and independent living units in the overall development, with caps being established and amended. The most recently approved proffers and SUP conditions, associated with Case Nos. Z-02-08/SUP-18-08, allow for a total of 100 nursing units, 100 assisted living units and 87 independent units on the property. The applicant received SUP extensions for the commencement of construction in 2011 under Case No. SUP-05-11 and again in 2014 under Case No. SUP-10-14.

Williamsburg Landing Approved/Proposed Unit Caps

Unit Type	Original 2001 Caps	2008 Amended Caps	2015 Proposed Caps
Independent Living Unit	100	87	87
Assisted Living Unit	90	100	131
Nursing Unit	90	100	73
Total	280	287	291

Previous SUP Conditions and Proffers Amended By the Approval of This Proposal

The approval of this application would amend and restate the adopted conditions and voluntary proffers of Case Nos. Z-02-08 and SUP-10-14. Please see the listed SUP conditions and attached proffer agreement for full amended and restated conditions and proffers. The only changes to conditions and proffers are as follows:

- *Proffer Condition No. 2* amended to allow for a total of 291 units on site, consisting of a mix of nursing, assisted living and independent living units, with a maximum of 87 independent living units allowed on site.
- *SUP Condition No. 1* amended to reference the updated exhibit name.
- *SUP Condition No. 3* updated to reflect adjusted unit number references (see above).

SURROUNDING ZONING AND DEVELOPMENT

Williamsburg Landing is located along Williamsburg Landing Road and is bordered by Lake Powell Road to the west, Brookwood Drive to the northwest, Route 199 to the north and College Creek to the east. Adjacent properties are zoned R-8, Rural Residential and R-2, General Residential. Some adjacent properties and pieces of Williamsburg Landing (not the subject parcel) are within the Airport Approach Overlay District. Given the proximity of the subject parcel to the City of Williamsburg, staff contacted the planning director in that locality for review of this application. Staff from the City stated that they have no concerns or comments regarding this proposal.

PUBLIC IMPACTS

Environmental

Watershed: College Creek

Staff Comments: The Engineering and Resource Protection (ERP) Division has reviewed the proposal and concurs with the conditions as proposed below and attached. ERP staff did request additional information to be included on the plan for clarification at the development plan phase, and has also suggested that the applicant consider developing a turf management plan for the site. Staff has communicated these requests to the applicant.

Public Utilities

This project is within the Primary Service Area (PSA) and is served by public water and sewer. Conditions and proffers were added in 2008 to address water conservation standards and per unit cash contributions. Neither staff nor the applicant has suggested any changes to those conditions and proffers.

Staff Comments: The James City Service Authority has reviewed the proposal and concurs with conditions as proposed below.

Transportation

Staff Comments: Staff finds that the proposed changes will generate approximately 18 additional vehicle trips per day with limited impact to the local road system. Vehicular access to the site will be through Williamsburg Landing Drive. The Virginia Department of Transportation staff has also reviewed this application and concurs with this analysis.

COMPREHENSIVE PLAN

The subject property is designated Low Density Residential (LDR) on the 2035 Comprehensive Plan Land Use Map and is located inside the PSA. Single-family homes, multi-family units and retirement and care facilities/communities are all recommended uses in LDR areas, provided that development:

- Complements residential character of the surrounding area;
- Has traffic, noise and lighting impacts similar to surrounding uses;
- Is generally located on collector or arterial roads at intersections; and
- Provides adequate screening and buffering to protect the character of nearby residential areas.

Additionally, the Comprehensive Plan recommends a maximum gross density of four units per acre in LDR areas. As this application does not propose an increase in independent dwelling units and only proposes changes that are entirely internal to the Williamsburg Landing community and which will modify previously approved plans, staff finds the above criteria met and the proposal to be consistent with the Comprehensive Plan and Land Use Map.

RECOMMENDATION

Staff finds the proposal to be compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application subject to the attached resolution and amended proffers.

RS/nb

SUP06-15WLndgProfSUPAmend

Attachments:

1. Resolution
2. Location Map
3. Unapproved Minutes of the December 2, 2015, Planning Commission Meeting
4. Exhibit titled "Williamsburg Landing Conceptual Plan" dated November 19, 2015, by RLPS Architects
5. Proffer Agreement
6. Adopted Resolution for Case No. SUP-0010-2014
7. Adopted Proffers for Case No. Z-0002-2008

RESOLUTION

CASE NO. SUP-0006-2015/Z-0004-2015 WILLIAMSBURG LANDING EXPANSION

SPECIAL USE PERMIT AND PROFFER AMENDMENT; AMENDMENT AND

RESTATEMENT OF CASE NO. SUP-0010-2014

- WHEREAS, the Board of Supervisors of James City County, Virginia (the “Board”) has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, Williamsburg Landing, Inc. owns a parcel of property located at 5560 Williamsburg Landing Dr. on land zoned R-5, Multi-family Residential with proffers, further identified as James City County Real Estate Tax Map Parcel No. 4820100003 (the “Property”), as shown on the exhibit titled “Williamsburg Landing Conceptual Plan” dated November 19, 2015, prepared by RLPS Architects (the “Exhibit”); and
- WHEREAS, on January 13, 2009, the Board approved SUP-0018-2008 and Z-0002-2008, and accepted voluntary proffers which allowed for a total of 287 on-site units to be built on the Property, comprised of no more than 100 nursing units, 100 assisted living units and 87 independent living units; and
- WHEREAS, on September 13, 2014, the Board approved SUP-0010-2014, restating and amending the conditions associated with SUP-0018-2008; and
- WHEREAS, Mr. William Holt, of Kaufman and Canoles (the “Applicant”), on behalf of Williamsburg Landing, Inc. (the “Owner”), has applied to amend the conditions of SUP-0010-2014 to allow for four additional living units on the Property, with no increase in the number of independent living units and no change in the overall density of the site; and to alter the previously approved site design, as approved under SUP-0018-2008/Z-0002-2008; and to amend the adopted, voluntary proffers associated with Z-0002-2008, to allow for the same increase in living units and changes to the approved site design; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Cases SUP-0006-2015 and Z-0004-2015; and
- WHEREAS, the Planning Commission, following its public hearing on December 2, 2015, recommended approval of this application by a vote of 6-0; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds this request to be consistent with the 2035 Comprehensive Plan Land Use designation for this site.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0004-2015 described herein and accepts the voluntary proffers (the “Amended Proffers”).

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing and consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of SUP No. 0006-2015 as described herein with the following conditions, which amend, restate and supersede the conditions of SUP-0010-2014:

1. *Master Plan.* This SUP shall be valid for the proposed development (the “Project”), existing buildings and accessory structures and other minor improvements on properties located at 5560 Williamsburg Landing Dr. and further identified as James City County Real Estate Tax Map Parcel No. 4820100003 (the “Property”). Development of the Property shall be generally in accordance with the plan entitled “Williamsburg Landing Conceptual Plan” dated November 19, 2015, and prepared by RLPS Architects (the “Exhibit”) with such minor changes as the planning director, or his designee, determines do not change the basic concept or character of the development. In the event the planning director finds that the proposed change alters the basic concept or character of the development the applicant may appeal the planning director’s determination to the Development Review Committee.
2. *Commencement.* If construction has not commenced on the Project within 36 months from the issuance of the SUP, it shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundations.
3. *Permitted Living Units and Limits.* This SUP shall be limited to the following specially permitted uses:
 - Single-family dwellings
 - Nursing homes and facilities for the residence and/or care of the aged.

These specially permitted uses are in addition to those generally permitted uses specified in Proffer No. 1 of the Amended Proffers. The aggregate number of generally and specially permitted living units on the Property shall not exceed 291, including all independent living units, assisted living units and skilled nursing units; however, no more than 87 independent living units shall be allowed in such total.

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

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

VOTES

AYE NAY ABSTAIN

MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

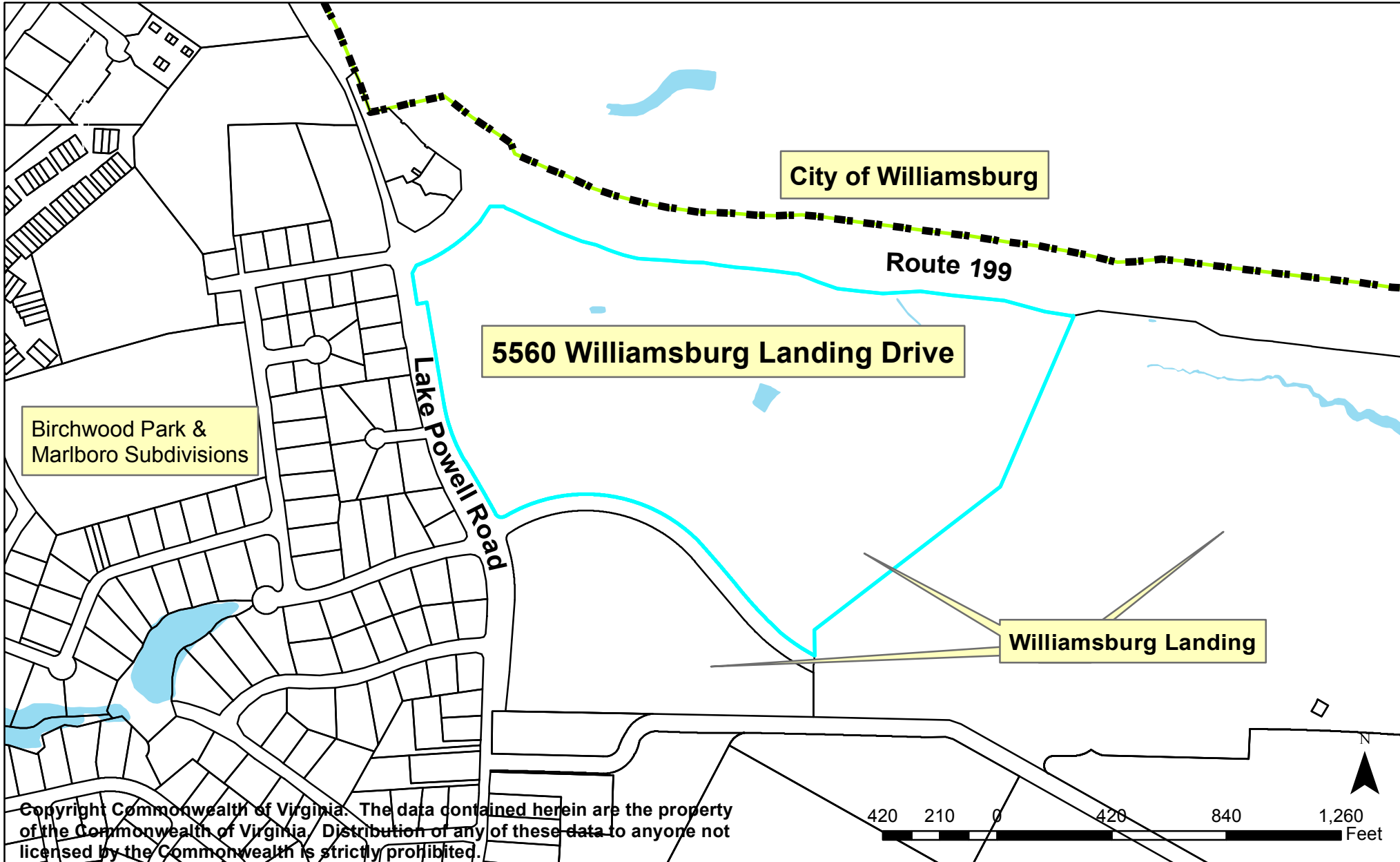
Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of January, 2016.

SUP06-15-Z04-15-res

JCC-SUP-0006-2015/Z-0004-2015

Williamsburg Landing Proffer & SUP Amendment



Copyright Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.

Unapproved Minutes of the December 2, 2015 Planning Commission Meeting

Case No. Z-0004-2015/SUP-0006-2015, Williamsburg Landing Proffer and SUP Amendment

Ms. Roberta Sulouff, Planner, stated that Mr. William Holt, of Kaufman and Canoles, P.C., has applied on behalf Williamsburg Landing, Inc. to amend existing SUP conditions and proffers. Ms. Sulouff stated that the request would allow for a net increase of four assisted living units over the total number of units currently permitted onsite. Ms. Sulouff further stated that the request also seeks to modify the design of previously approved facilities by combining three previously approved facilities into two buildings. Ms. Sulouff stated that the subject parcel is located at 5660 Williamsburg Landing Road and is zoned R-5, Multifamily Residential with proffers. Ms. Sulouff stated that under current proffer conditions, Board approval is required for any increase in living units and for any request to significantly alter the layout of the buildings as shown on the adopted master plan.

Ms. Sulouff stated that the subject parcel, along with the parcels to the south and east (5550 and 5700 Williamsburg Landing Road, respectively) comprise the Williamsburg Landing continuing care retirement community (CCRC).

Ms. Sulouff stated that in 1982, a portion of the Williamsburg Landing site was rezoned from A-1, Limited Agriculture, to R-5, Multifamily Residential without proffers. Ms. Sulouff further stated that the most recently approved proffers and SUP conditions, adopted in 2008, allow for a total of 100 nursing units, 100 assisted living units, and 87 independent units on the property, capping the total aggregate at 287. Ms. Sulouff stated that the applicant's request would shift the bulk of units to assisted living with no change to the assisted living units. Ms. Sulouff stated that the request would have few impacts other than those already approved under previous legislative cases and would result in a decrease in the amount of disturbed area, potentially reducing impacts anticipated in earlier cases.

Ms. Sulouff stated that staff finds the proposal to be compatible with surrounding zoning and development and consistent with the 2035 Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of these applications to the Board of Supervisors.

Ms. Bledsoe opened the floor for questions from the Commission.

There were no questions.

Ms. Bledsoe opened the public hearing.

Mr. Will Holt, Kaufman & Canoles, PC, 4801 Courthouse Street, stated that he represented the applicant and introduced the representative from Williamsburg Landing who were in attendance including Paul Gerhardt, General Counsel, Steve Montgomery, CEO, and Ben Puckett, Chief Operating Officer. Mr. Holt noted that he would be happy to answer questions from the Commission.

Mr. Krapf inquired about where the trend was heading regarding the demand for assisted living over nursing care.

Mr. Ben Puckett, Chief Operating Officer, Williamsburg Landing, stated that assisted living is an attractive alternative to skilled nursing care and the proposed change reflects what appears to be the right mix of facilities for the community.

Mr. Krapf inquired whether it seemed that people were remaining healthy longer.

Mr. Puckett stated that the preference is to remain in the least restrictive setting for as long as possible.

As no one else wished to speak, Ms. Bledsoe closed the public hearing.

Ms. Bledsoe called for disclosures from the Commissioners.

There were no disclosures.

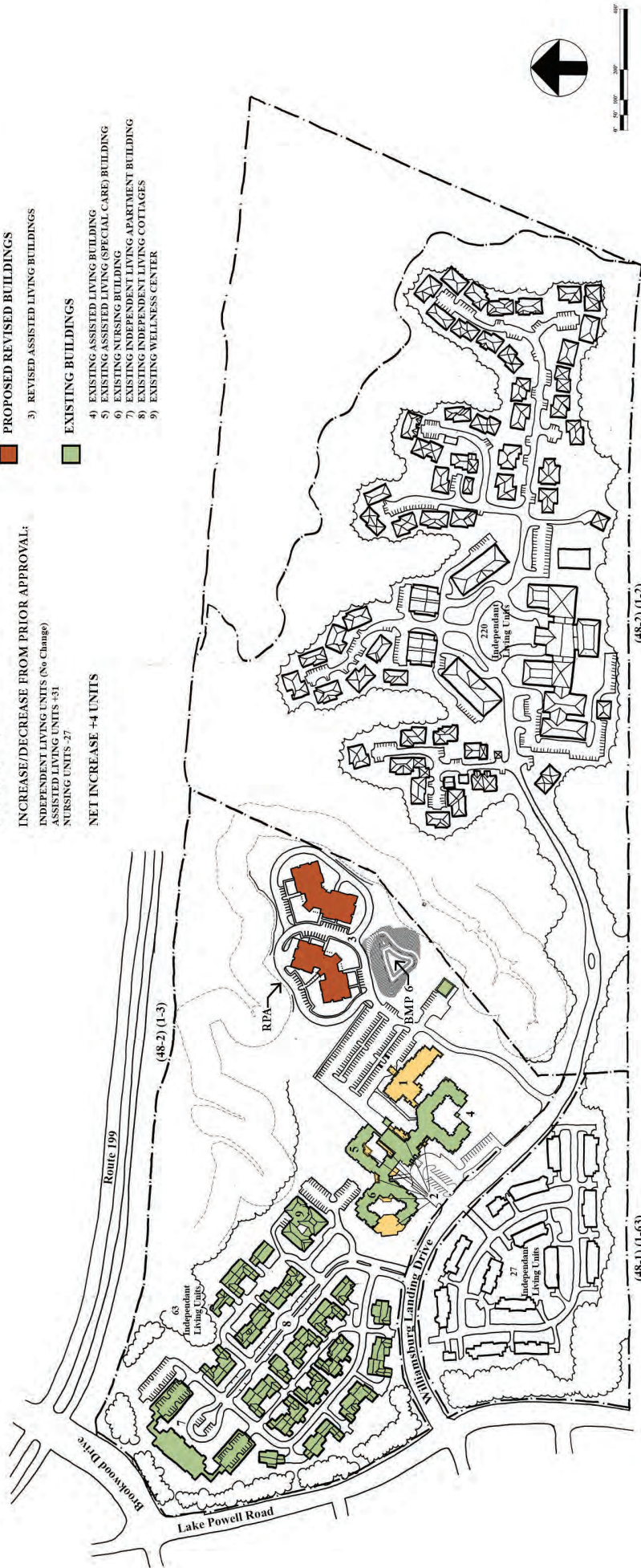
Mr. George Drummond moved to recommend approval of the application with the conditions in the staff report.

On a roll call vote the Commission voted to recommend approval of Z-0004-2015/SUP-0006-2015, Williamsburg Landing Proffer and SUP Amendment (6-0, Mr. O'Connor being absent).

LEGEND - Parcel (48-2) (1-3)

- PREVIOUSLY APPROVED LAND DEVELOPMENT**
- 1) ASSISTED LIVING BUILDING EXPANSION & ADDITIONS
 - 2) NURSING ADDITIONS
- PROPOSED REVISED BUILDINGS**
- 3) REVISED ASSISTED LIVING BUILDINGS
- EXISTING BUILDINGS**
- 4) EXISTING ASSISTED LIVING BUILDING
 - 5) EXISTING ASSISTED LIVING (SPECIAL CARE) BUILDING
 - 6) EXISTING NURSING BUILDING
 - 7) EXISTING INDEPENDENT LIVING APARTMENT BUILDING
 - 8) EXISTING INDEPENDENT LIVING COTTAGES
 - 9) EXISTING WELLNESS CENTER

- TOTAL UNITS PROPOSED: 291**
- INDEPENDENT LIVING UNITS 87
 - ASSISTED LIVING UNITS 151
 - NURSING UNITS 72
- INCREASE/DECREASE FROM PRIOR APPROVAL:**
- INDEPENDENT LIVING UNITS (No Change)
 - ASSISTED LIVING UNITS +31
 - NURSING UNITS -27
- NET INCREASE +44 UNITS**



WILLIAMSBURG LANDING
 CONCEPTUAL PLAN
 NOVEMBER 19, 2015



Prepared by/Return to:
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, Virginia 23188

Parcel No. 4820100003

PROFFER AMENDMENT

Applicable to Tax Parcel No. 4820100003

THIS PROFFER AMENDMENT ("Amendment") is made this 17th day of December, 2015, by and between **WILLIAMSBURG LANDING, INC.**, a Virginia non-stock non-profit corporation, and/or its successors and assigns (collectively "WLI") (to be indexed as grantor), and **THE COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("County") (to be indexed as grantee), provides as follows:

RECITALS:

R-1. WLI is the owner of certain real property in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof (the "Property").

R-2. The Property is subject to that certain Amended and Restated Proffer Agreement (the "Existing Proffers") dated November 20, 2008 and of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as Instrument No. 090005028.

R-3. The Property is subject to that certain special use permit dated November 12, 2014 and identified as SUP-0010-2014 (the "Existing SUP").

R-4. WLI has made application to the County pursuant to County Case Nos. Z-0004-2015 and SUP-0006-2015 (the "Applications") to amend the Existing Proffers and Existing SUP with regard to the specific number of each unit type permitted to be constructed on the Property.

R-5. The provisions of the James City County Zoning Ordinance, Section 24-1, *et seq.* (the "Zoning Ordinance"), may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, WLI, in furtherance of the above-described application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2303 *et seq.* of the Code of Virginia, as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

NOW, THEREFORE, for and in consideration of the approval of the Applications set forth above by the County Board of Supervisors, and pursuant to Section 15.2-2303, *et seq.*, of the Virginia Code and Section 24-16 of the Zoning Ordinance, it is agreed that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. **Amendment of Existing Proffers.** Condition No. 2 of the Existing Proffers is hereby amended and restated in its entirety as follows:

The aggregate number of generally and specially permitted living units on the Property, including all independent living units, assisted living units, and skilled nursing facility (nursing home) units, shall not exceed a total of Two Hundred Ninety-One (291), including no more than Eighty-Seven (87) independent living units in such total.

2. **Effect of this Amendment.** As amended by this Amendment, the Existing Proffers are hereby ratified and confirmed and all other terms of the Existing Proffers shall remain in full force and effect.

3. **Delegation of Subsequent Approvals.** The County Board of Supervisors by accepting this Amendment is exercising its legislative function. While this Amendment and the Existing Proffers provide for subsequent approvals by the County or by its duly authorized designees appointed by the County, such subsequent approvals by any duly authorized designee of the County shall not include the exercise of any legislative function.

4. **Severability.** In the event that any clause, sentence, paragraph, section or subsection of this Amendment or the Existing Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency 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 thereof 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 provision hereof.

5. **Successors and Assigns.** This Amendment and the Existing Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

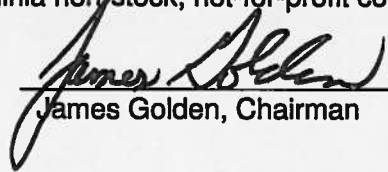
[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

[SIGNATURE PAGE TO PROFFER AMENDMENT]

WITNESS the following signatures, thereunto duly authorized:

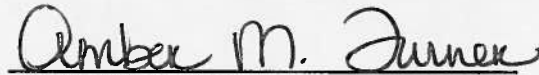
WILLIAMSBURG LANDING, INC.
a Virginia non-stock, not-for-profit corporation

By:


James Golden, Chairman

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 17th day of December, 2015 by James Golden as Chairman of the Board of Directors of Williamsburg Landing, Inc., a Virginia non-stock, not-for-profit corporation, on its behalf.


NOTARY PUBLIC

My commission expires: 12/31/2018

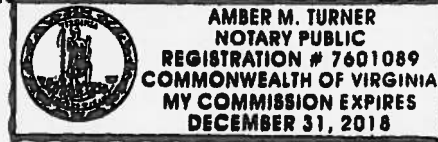


EXHIBIT A

All that certain lot, piece or parcel of land with improvements thereon and appurtenances thereto belonging, lying and being in Jamestown District, James City County, Virginia, containing 50.0107 acres, more or less as shown on plat prepared by Landmark Design Group and entitled "BOUNDARY LINE ADJUSTMENT PLAT OF THE PROPERTY OF WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, JAMESTOWN DISTRICT, COMMONWEALTH OF VIRGINIA", dated June 27, 2002 and revised March 31, 2003, a copy of which is recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 91, page 34.

RESOLUTION

CASE NO. SUP-0010-2014. WILLIAMSBURG LANDING

CONSTRUCTION COMMENCEMENT EXTENSION

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

WHEREAS, Mr. Paul Gerhardt has applied to amend the SUP conditions for Case No. SUP-0005-2011 to allow for a 36-month extension to the construction time limit that is currently set to expire in January 2015; and

WHEREAS, the extension of the construction commencement condition will be valid through January 2018; and

WHEREAS, the extension will allow for additional time to construct the previously approved 100-bed nursing home facility, 100 assisted living units, and 87 independent units; and

WHEREAS, the property is located at 5560 Williamsburg Landing Drive, is zoned R-5, Multi-family Residential, and can be further identified as James City County Real Estate Tax Map/Parcel No. 4820100003; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0010-2014; and

WHEREAS, the Planning Commission, following its public hearing on October 1, 2014, voted 6-0 to recommend approval of Case No. SUP-0010-2014; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby approve Application No. SUP-0010-2014, as described herein, pursuant to the following conditions:

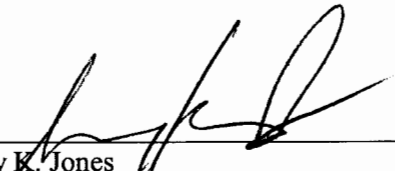
1. Development of the site shall be generally in accordance with the master plan entitled "Williamsburg Landing Conceptual Plan" and dated November 7, 2008, as determined by the Director of Planning. Minor changes may be permitted by the Director of Planning, as long as they do not change the basic concept or character of the development.
2. If construction has not commenced on the project by January 15, 2018, the SUP shall become void. Commencement of construction shall be defined as both obtaining permits for building construction and installation of footings and/or foundations.

3. This SUP shall be limited to the following specially permitted uses:

- a. Single-family dwellings
- b. Nursing homes and facilities for the residence and/or care of the aged

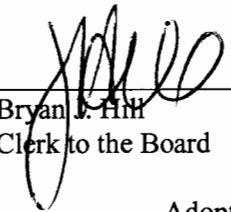
These specially permitted uses are in addition to those generally permitted uses specified in Proffer No. 1 of the Amended Proffers associated with Z-0002-2008. Nursing home facilities shall be limited to one 100-bed nursing home. Assisted living units shall be limited to 100 units. Independent units shall be limited to 87 units.

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



 Mary K. Jones
 Chairman, Board of Supervisors

ATTEST:



 Bryan J. Hill
 Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
KENNEDY	<u>X</u>	___	___
HIPPLE	<u>X</u>	___	___
MCGLENNON	<u>X</u>	___	___
ONIZUK	<u>X</u>	___	___
JONES	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of November, 2014.

SUP0010-14WmsbgLanding-res

**AMENDED AND RESTATED
PROFFER AGREEMENT**

THIS AMENDED AND RESTATED PROFFER AGREEMENT is made as of the 20th day of November, 2008, by WILLIAMSBURG LANDING, INC., a Virginia non-profit, non-stock corporation ("WLI"), together with its respective successors and assigns.

RECITALS

A. WLI is the owner of certain real property located in James City County, Virginia ("the Property") more particularly described as follows:

ALL that certain lot, piece or parcel of land with improvements thereon and appurtenances thereto belonging, lying and being in Jamestown District, James City County, Virginia, containing 50.0107 acres, more or less as shown on plat prepared by Landmark Design Group and entitled "BOUNDARY LINE ADJUSTMENT PLAT OF THE PROPERTY OF WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, JAMESTOWN DISTRICT, COMMONWEALTH OF VIRGINIA", dated June 27, 2002 and revised March 31, 2003, a copy of which is recorded in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 91, page 34.

B. The existing proffers applicable to the Property are dated October 18, 2001 and recorded on March 5, 2002 as Instrument Number 020005864 ("the Existing Proffers"). The existing special use permit applicable to the Property is dated December 11, 2001 and identified by James City County (the "County") as Case No. SUP 19-01 ("the Existing SUP").

C. WLI has submitted this Amended and Restated Proffer Agreement in connection with an application for rezoning of the Property identified as James City County Case No. Z-0002-2008 (the "Application") and the amendment of the Existing SUP.

D. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Property.

E. WLI desires to offer to James City County certain conditions on the development of the Property not generally applicable to land zoned Multi-Family Residential District (R-5) for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

F. Upon the approval of the Application and acceptance of this Amended and Restated Proffer Agreement and the amendment of the Existing SUP, all prior proffers on the Property including but not limited to the Existing Proffers in favor of James City County shall become null and void.

NOW, THEREFORE, for and in consideration of the approval of this Application and acceptance by the County of this amended and restated proffer agreement and the approval of the amendment to the Existing SUP, WLI agrees that it will meet and comply with all of the following conditions in developing the Property. In the event both of the Application and the amendment to the Existing Special Use Permit are not granted by the County, these amended and restated proffers shall thereupon become null and void.

CONDITIONS

1. The use of the Property shall be limited to accessory buildings or structures, apartments, community recreation facilities, off street parking, accessory restaurants, retail shops associated with community recreation facilities, signs, single-family dwellings contained within a cluster development, two-family dwellings, townhouses, three-family dwellings all of which are to be used as facilities for the residence and/or care of the aged; and, with the special use permit, single-family dwellings, nursing homes and facilities for the residence and/or care of the aged.

2. The aggregate number of generally and specifically permitted living units over and above the sum of one hundred (100) nursing beds and one hundred (100) assisted living units shall not exceed eighty-seven (87) dwelling units.

3. No entrance(s), except temporary construction entrances approved by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the Property. The entrance(s) to the Property shall be limited to entrances from Williamsburg Landing Drive.

4. All internal roads within the Property shall be private roads constructed to Virginia Department of Transportation construction standards (but not design standards – i.e. width, curvature, etc.) and accordingly said roads shall be maintained by WLI.

5. If not previously conducted, a Phase I Archaeological Study for the area to be disturbed on the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase

I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resources Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

6. No building on the Property shall be erected closer than 100 feet to the existing right-of-way of Lake Powell Road, Brookwood Drive and/or Route 199. Areas between buildings and these roads shall be left in their existing natural wooded states, except for utility crossings, construction road entrances, signs and storm water management facilities each of which must be approved by the Development Review Committee of James City County Planning Commission. Notwithstanding the aforesaid, dead, diseased or dying trees or trees weakened by age, storm or other injury and dead, diseased or dying shrubbery and noxious weeds may be removed.

7. No building on the Property shall exceed three (3) stories in height.

8. To the extent not previously paid, a contribution shall be made to the James City Service Authority ("JCSA") in the amount of Five Hundred Dollars (\$500.00) for each independent living unit, assisted living unit and nursing bed not previously approved pursuant to the Existing Proffers and the Existing SUP (the "Per Unit Contribution"). The JCSA shall make these monies available for development of water supply alternatives, the need for which is generated by the development of the Property. In the event the monies are not used by the JCSA for the purpose designated within ten years from the date of receipt by the JCSA, the amounts

not used shall be used at the discretion of the Board of Directors of the JCSA for any other project in the JCSA's capital improvement plan, the need for which is generated by the development of the Property.

A. Such contributions shall be payable for each of the additional assisted living units and the additional nursing beds developed within the Property at the time of final site plan approval by the County for any particular assisted living unit or bed or any grouping, phase or section of assisted living units or beds.

B. The Per Unit Contribution(s) paid in each year shall be adjusted annually beginning January 1, 2003 to reflect any increase or decrease for the preceding year in the Marshall & Swift Building Cost Index (the "MSI"). In no event shall the Per Unit Contribution be adjusted to a sum less than Five Hundred Dollars (\$500.00) per additional assisted living unit and nursing bed. The adjustment shall be made using Section 98, Comparative Cost Multipliers, Regional City Averages of the MSI. In the event a substantial change is made in the method of establishing the MSI, then the Per Unit Contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing MSI. In the event that the MSI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the MSI, approved in advance by the County Manager of Financial Management Services, shall be relied upon in establishing an inflationary factor for purposes of increasing the Per Unit Contribution to approximate the rate of annual inflation in the County.

9. WLI shall be responsible for developing and enforcing water conservation standards applicable to the Property, which standards shall be submitted to and approved by James City Service Authority ("JCSA") in accordance with the Water Conservation Guidelines

adopted by the County Board of Supervisors on November 27, 2007. The standards shall address, but not be limited to, such water conservation measures as limitations on the use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances all in an effort to promote water conservation and to eliminate the use of public water resources. The standards shall be submitted to and reviewed by the County Attorney for general consistency with this proffer and shall be approved by the JCSA prior to final development plan approval.

10. WLI shall be responsible for installing Special Stormwater Criteria ("SSC") measures in accordance with the Special Stormwater Criteria Application Matrix shown in Table SSC-1 and the Menu of Special Stormwater Criteria Practices shown in Table SSC-2 of the Special Stormwater Criteria in James City County, Virginia, as adopted by the County Board of Supervisors on December 14, 2004. WLI shall demonstrate the application of SSC on development plans for the Property, which SSC application shall be approved by the County's Environmental Division Director prior to final development plan approval. This Proffer shall not apply to development plans approved prior to the date of the acceptance of these Proffers.

11. These Proffers shall supersede, amend and restate in their entirety the Existing Proffers, which are hereafter null, void and of no further effect.

12. If any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary on the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency 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 thereof, directly involved in the controversy in which the judgement 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 the Owner or to any other government agency, person or circumstance.

WITNESS the following signature, thereunto duly authorized:

[SIGNATURES ARE LOCATED ON THE FOLLOWING PAGE]

WILLIAMSBURG LANDING, INC., a Virginia non-profit, non-stock corporation

By: SH Montgomery (SEAL)
President/CEO

STATE OF VIRGINIA

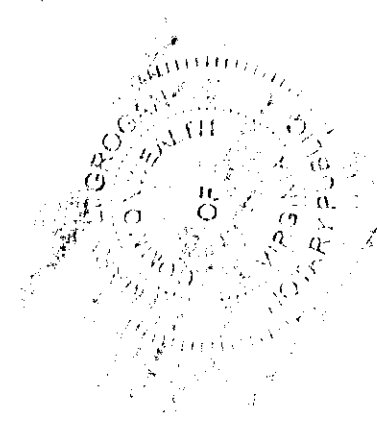
CITY/COUNTY OF James City to wit:

The foregoing instrument was acknowledged before me this 20th day of November, 2008, by STEPHEN H. MONTGOMERY, President/CEO of WILLIAMSBURG LANDING, INC., a Virginia non-stock, non-profit corporation, its agent in its behalf first duly authorized.

Mary L Hogan
NOTARY PUBLIC

My commission expires: 8-31-2011 notary id 183219

WMB\6206531\3



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 18 Feb 09
at 8:54 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.
STATE TAX LOCAL TAX ADDITIONAL TAX

\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B Woolridge Clerk

ITEM SUMMARY

DATE: 1/12/2016
TO: The Board of Supervisors
FROM: Bryan J. Hill, County Administrator
SUBJECT: County Administrator's Report

ATTACHMENTS:

	Description	Type
□	Report	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 1:21 PM

MEMORANDUM

DATE: January 12, 2016
TO: The Board of Supervisors
FROM: Bryan J. Hill, County Administrator
SUBJECT: County Administrator's Report

The following is a summary of activities that took place December 1, 2015 through January 5, 2016:

December 1, 2015 (Tuesday)

- Met in Fire Administration

December 2, 2015 (Wednesday)

- Met with IRM staff to preview new County website
- Met with Communications staff; video shoot
- Attended Virginia Economic Summit with Chairman Michael Hipple
- Met with Angie Gilliam, human resources director
- Met with Diana Hutchens, community services director
- Met with video crew to preview JCC Annual Report

December 7, 2015 (Monday)

- Met Zachary Prince, Rawls Byrd 4th-grade student
- Met with Sue Mellen, financial management services director
- Met with Patrick Page, IRM director, Russell Seymour, economic development director, Adam Kinsman, assistant county administrator

December 8, 2015 (Tuesday)

- Met with Jenni Tomes, treasurer
- Met with John Carnifax, parks and recreation director
- Attended Hotel and Motel Association event
- Met with Doug Powell, JCSA manager and Michelle Gowdy, county attorney

December 9, 2015 (Wednesday)

- Met with Communications staff, BOS recap video shoot
- Met with George Drummond, Planning Commission
- Met with David Rose, Davenport & Company, LLC senior vice president
- Met with Executive Leadership Team

December 10, 2015 (Thursday)

- Met with Rebecca Vinroot, social services deputy director
- Met with Sue Mellen, FMS director and Patrick Page, IRM director
- Attended staff Holiday Luncheon

December 14, 2015 (Monday)

- Attended new supervisors training; met with department directors, Sue Sadler and Ruth Larson
- Met with Chairman Michael Hipple and Kevin Page

December 15, 2015 (Tuesday)

- Attended Police recognition breakfast
- Met with Fran Geissler, stormwater director
- Met with Paul Holt, planning director
- Met with supervisor John McGlennon and Jimmy Curtis
- Conference call with Congressman Wittman

December 16, 2015 (Wednesday)

- Attended Virginia Peninsula Regional Jail meeting
- Met with John Horne, general services director
- Met with Dick Atkinson, President of Fernbrook HOA; drainage matters

December 17, 2015 (Thursday)

- Met with John Horne, general services director

December 18, 2015 (Friday)

- Attended coffee with County Administrator staff event
- Met with Marvin Collins, Williamsburg city manager

December 21, 2015 (Monday)

- Attended Historic Triangle Collaborative meeting
- Met with Dominion Virginia Power
- Met with Jamie Jackson, WATA deputy director
- Met with Ty Hodges, WYDaily reporter
- Met with Angie Gilliam, human resources director

December 22, 2015 (Tuesday)

- Met with Thomas Tingle, Guernsey Tingle Architects president
- Met with John Carnifax, parks and recreation director
- Attended WPPP meeting

December 23, 2015 (Wednesday)

- Met with Ryan Ashe, fire chief and Terry Hall, emergency communications chief, York County
- Met with John Horne, general services director
- Attended JSCA luncheon
- Met with Diana Hutchens, community services director

December 28, 2015 (Monday)

- Met with Delegate Monty Mason
- Met with Sue Mellen, financial and management services director
- Met with Angie Gilliam, human resources director

December 30, 2015 (Wednesday)

- Attended meeting at Quarterpath
- Met with supervisor John McGlennon
- Conference call with Clarion

December 31, 2015 (Thursday)

- Met with Randy Hisle, chief video engineer

BJH/nb/ab

CAReport011216-mem

ITEM SUMMARY

DATE: 1/12/2016
TO: The Board of Supervisors
FROM: Teresa Fellows, Administrative Coordinator
SUBJECT: Adjourn until 8:30 am on January 23, 2016 for the Board Retreat

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	1/5/2016 - 1:19 PM