

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF JANUARY 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. MOMENT OF SILENCE

Mr. Goodson requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE - Joy Ingram, a third-grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Gerald Johnson, 4513 Wimbledon Way, commented on funding for stormwater management needs.

2. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Citizens Coalition (J4C), commented on the recent staff reorganization in the County.

3. Mr. Ed Oyer, 139 Indian Circle, commented on home values and incentives; taxes; Surry transportation; Matoaka Elementary School site issues; and the Hampton Roads Transportation Authority.

4. Mr. William Geib, 104 Alwoodley, on behalf of J4Cs, commented on the Zoning Ordinance amendment to Section 24-283.

5. Mr. Carlton Stockton, 3201 Fowlers Lake Road, commented on the reorganization of staff in the County.

6. Mr. Wayne Nunn, 238 Loch Haven, commented on problems with management in the County.

E. CONSENT CALENDAR

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

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

1. Dedication of Streets in Peleg's Point Section 5

RESOLUTION

DEDICATION OF A STREET IN PELEG'S POINT SECTION 5

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

WHEREAS, the Resident Engineer for the Virginia Department of Transportation (VDOT) advised the Board that the street meets the requirements established by the Subdivision Street Requirements of VDOT; and

WHEREAS, the County and VDOT entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

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

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

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for VDOT.

2. Williamsburg Community Health Foundation Grant Award - \$10,023

RESOLUTION

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT AWARD - \$10,023

WHEREAS, the Williamsburg Community Health Foundation has awarded James City County Police Department a grant in the amount of \$10,023; and

WHEREAS, the funds will be used for the purchase and installation of an upgraded telephone system at the Law Enforcement Center (LEC); and

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

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

Revenue:

WCHF – LEC Telephone Upgrade \$10,023

Expenditure:

WCHF – LEC Telephone Upgrade \$10,023

F. PUBLIC HEARINGS

1. Pre-Budget Public Hearing – FY 2009-2010

Ms. Sue Mellen, Assistant Manager of Financial Management Services, stated that this public hearing would open the floor for comments from the public on the FY 2009-2010 budget. She stated that no Board action was requested at this time. She stated the next meeting regarding the budget would be the Board's Budget Retreat on January 12, 2008, and then there would be another public hearing once a proposed budget was drafted at the second meeting in April.

Mr. Goodson opened the Public Hearing.

1. Mr. John Schmerfeld, 172 Red Oak Landing Road, on behalf of the Friends of Powhatan Creek, requested that the stormwater utility be maintained in the County's budget to help protect streams from harmful runoff.
2. Ms. Sarah Kadec, 3504 Hunters Ridge, requested that the stormwater utility be maintained to protect watersheds from flooding and requested consideration of a flood-control fund.
3. Mr. Randy Chambers, City of Williamsburg, read a letter from a colleague addressing problems with stormwater based on inadequate stormwater retention ponds. He noted reasons to maintain the stormwater utility to encourage better, more efficient stormwater management.
4. Mr. Abbitt Woodall, 1455 Richmond Road, on behalf of Housing Partnerships, requested funds in the upcoming budget for his organization to provide housing opportunities for low-income residents.
5. Mr. Will Barnes, 3505 Frances Berkeley, commented on reduced convenience center hours and stated that this would lead to more littering.
6. Mr. Ed Oyer, 139 Indian Circle, commented on prioritization of the Budget.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. Wanner stated that the County Administrator produces the proposed budget at the end of March, followed by public hearings and three budget work sessions. He stated the budget should be adopted at the first Board meeting in May.

2. Case No. SUP-0034-2007. Hill Family Subdivision

Mr. Luke Vinciguerra, Planner, stated Mr. James Hill has applied for a Special Use Permit (SUP) to allow a family subdivision generating one lot less than three acres in size in an A-1, General Agricultural

District, located at 100 Skillman Drive. The proposed subdivision would create a new one-acre parcel to be conveyed to the owner's son. The parent lot would be reduced in size from about 10 acres to nine acres.

Staff found the proposal to be consistent with the surrounding zoning and development and Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the application with the conditions listed in the resolution.

Mr. Goodson asked if this subdivision could be allowed for a three-acre lot, but required more conditions due to the reduced lot size.

Mr. Vinciguerra stated it would be allowed administratively as a three-acre lot, but the process would remain the same aside from Board action.

Mr. McGlennon stated that if the subdivision were accepted, the parent parcel would be nine acres, which could be subdivided three times.

Mr. Vinciguerra stated this as correct.

Mr. Goodson opened the public hearing.

As no one wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. Kennedy made a motion to approve.

Mr. McGlennon stated that on the same street, a previous family subdivision was turned down due to a potential further administrative subdivision. He stated that subdivisions have been turned down since the parcel had been purchased with the intent to subdivide, which is not the case in this matter. He felt that there was an alternative to this kind of family subdivision and stated his discomfort.

Mr. Icenhour asked the applicant why he chose to subdivide into a one-acre lot rather than the by-right three-acre lot and asked what his long-term intent was.

Mr. James Hill, 100 Skillman Drive, stated the property belonged to his parents and he wished to keep the greenspace open for agricultural purposes.

Mr. McGlennon asked how to cite the subdivision on the property.

Mr. Hill indicated on a map the location of the potential parcel. He stated he would like to create an access to Skillman Drive and a gravel access to connect the two properties, with most of the traffic coming from Barnes Road.

Mr. Goodson stated his discomfort with subdividing the subdivided parcel from the 1970s.

Mr. McGlennon stated that he felt it would alleviate some discomfort if the subdivided parcel could be enlarged in order to protect the remaining parcel from being subdivided again into three additional parcels by-right.

Mr. Goodson asked the County Attorney if this matter needed to be deferred.

Mr. Rogers stated that this item could be amended by the Board at the meeting.

Mr. McGlennon stated that this would not need to be done at this meeting, but he would like to hear from the applicant if this would be agreeable.

Mr. Goodson stated that the application created a 1.1-acre lot.

Mr. McGlennon asked if this would be in conflict with his intentions.

Mr. Hill stated that would be agreeable.

Mr. McGlennon asked to defer action on this in order to bring this item back with the revision to the parcel size.

Mr. Goodson asked if it would cause a problem to delay this action until the next Board meeting.

Mr. Hill stated it would not.

Mr. Wanner stated this item would be deferred to January 22, 2008.

3. Case No. SUP-0029-2007/MP-0009-2007. Freedom Park Master Plan Amendment

4. Case No. SUP-0031-2007. Jolly Pond Utility Extension

5. Case No. SUP-0030-2007.W-JCC 4th Middle School/9th Elementary School

Ms. Leanne Reidenbach, Planner, stated that the presentation would address the three items simultaneously. She stated Mr. John Carnifax of James City County Parks and Recreation has applied for an amendment to the existing Freedom Park SUP and Master Plan to remove approximately 90 acres in order to accommodate a proposed combined public middle and elementary school and associated fields. Other minor changes in the location of facilities are proposed, including the relocation of some hiking trails, additional mountain biking trails, relocation of the entrance and parking lot off Jolly Pond Road, and the grouping of sport courts. All these uses were approved under the original SUP and are only being moved. The property is located at 5537 Centerville Road and can be further identified as James City County Real Estate Tax Map No. 3010100009. The area to be removed is on the southeast side of Jolly Pond Road and is approximately 1,000 feet west of Jolly Pond's intersection with Cranston's Mill Pond Road.

Ms. Reidenbach stated Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County for an SUP to allow for the extension of approximately 13,146 linear feet of 4-inch sanitary sewer force main through Freedom Park from existing services located within the Forest Glen subdivision and 2,280 linear feet of 12-inch waterline from existing services located at the intersection of Jolly Pond Road and Cranston's Mill Pond Road to serve the proposed joint Williamsburg-James City County (W-JCC) 9th elementary school and 4th middle school site. The site is located on a portion of 5537 Centerville Road, which is located on the southeast side of Jolly Pond Road, and is approximately 1,000 feet west of Jolly Pond Road's intersection with Cranston's Mill Pond Road. It can further be identified as James City County Real Estate Tax Map No. 3010100009.

Ms. Reidenbach stated Mr. Small has also applied on behalf of James City County for an SUP to allow for a joint elementary and middle school, parking, and athletic fields, on approximately 90 acres of land on a parcel zoned PL, Public Land. The parcel is located on a portion of 5537 Centerville Road, which is located on the southeast side of Jolly Pond Road and is approximately 1,000 feet west of Jolly Pond Road's intersection with Cranston's Mill Pond Road. It can further be identified as James City County Real Estate Tax Map No.

3010100009. The site is shown in the Comprehensive Plan as Park, Public, or Semi-Public Open Space.

Staff found the proposals, with conditions, to be generally consistent with surrounding land uses, and because it is a public use, generally consistent with the Comprehensive Plan.

Staff recommended the Board of Supervisors approve the applications.

Mr. Goodson stated there was an alternate resolution also available.

Mr. Goodson opened the public hearing.

1. Mr. Gerald Johnson, 4513 Wimbledon Way, asked about rest facilities in Freedom Park. Ms. Reidenbach stated that the park would be able to hook into the sewer line and provide rest facilities.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. McGlennon commented on the traffic issues of having the school open and functioning before signalization was in place. He asked if the traffic generated from the schools was required for the signalization request or if this could be submitted before the opening of the schools.

Ms. Reidenbach stated that in conversations with the Virginia Department of Transportation (VDOT), she understood that actual traffic generation numbers were needed and with the predicted numbers a signal would be warranted, but VDOT was not comfortable enough to install the signal until the schools open.

Mr. McGlennon asked about the process for evaluating the roundabout option.

Ms. Reidenbach stated that VDOT has a roundabout committee that will give a presentation in the next week to school staff, which would be the first step in the process of determining if this would be a viable option for school traffic.

Mr. McGlennon asked if there was adequate right-of-way for the construction of the roundabout.

Ms. Reidenbach stated that this was not definite at the time.

Mr. Goodson asked about the funding of the traffic signal if it were put in a year later.

Mr. McDonald stated the timing of the traffic signal would not impact the cost of installation.

Mr. Wanner stated it was part of the package as a project cost. He stated the roundabout was a cheaper alternative to signalization.

Mr. McGlennon stated he would like to see the development of this option as it might improve traffic on that road. He stated it would have to be in place by the time the school opened.

Mr. Wanner stated that an interim solution was being investigated for traffic direction by James City County Police at the intersection.

Mr. Icenhour stated he was not enthusiastic about having a roundabout, but he felt it would help to control traffic. He stated he felt there was a double standard with the processes VDOT uses to determine signalization in this case as opposed to other rezonings. He stated he was reluctant to wait until the school was opened to install the signal.

Mr. Icenhour stated the schools' SUP is a land use decision and the SUP refers to a specific master plan. He stated that the master plan could change based on current discussions involving the use of geothermal heating and cooling. He stated if the master plan was adopted and the School Board later revised it, another public hearing would need to be held to adopt the revised master plan. He asked that the SUP for the 4th Middle and 9th Elementary Schools be deferred until February 26, 2008, to allow for the School Board to revise the master plan if needed. He asked for the public hearing to remain open through February 26, 2008. He stated school officials agreed that postponing action until February 26 would allow ample time to review and revise the plan if necessary without causing unnecessary delay.

Mr. Icenhour made a motion to adopt the resolution for the Freedom Park Master Plan Amendment.

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

RESOLUTION

CASE NO. SUP-0029-2007/MP-0009-2007. FREEDOM PARK MASTER PLAN AMENDMENT

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

WHEREAS, Mr. John Carnifax of James City County Parks and Recreation has applied for an amendment to the existing Freedom Park Special Use Permit and Master Plan to remove approximately 90 acres in order to accommodate a proposed combined public middle and elementary school and associated fields; and

WHEREAS, the area to be removed is shown on the master plan, entitled "Freedom Park Master Plan" drawn by Julia Vea and dated September 14, 2007; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 5, 2007, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of Special Use Permit No. 0029-2007 and Master Plan No. 0009-2007 as described herein with the following conditions:

1. Development of the site shall be generally in accordance with the Freedom Park Master Plan dated September 14, 2007, with such minor changes as the Development Review Committee determines do not change the basic concept or character of the development.
2. Prior to issuance of a land disturbance permit for any portion of the site, the applicant shall provide written evidence to the County which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined

by the Planning Director or his designee.

3. A minimum 150-foot buffer shall be maintained along all property lines of the park site. That buffer shall remain undisturbed with the exception of breaks for roadways and pedestrian connections, utilities, and walking, hiking, and biking trails. Other uses not previously listed which are specifically approved by the Development Review Committee may also be permitted within the buffer.
4. All road improvements recommended by a traffic study conducted by Buchart-Horn, Inc., in January 2000 and kept in the Freedom Park Master Plan file shall be constructed in accordance with development plans approved by the Virginia Department of Transportation (VDOT).
5. The applicant shall submit a traffic impact study to the County within three years of the date of approval of SUP-0011-2004 (approved July 27, 2004), unless a study is required by VDOT prior to that date. VDOT shall have the authority to delay requiring the traffic study to be submitted beyond the three-year time period if construction of the proposed facilities at Freedom Park occurs at a slower pace than expected.
6. The applicant shall conduct a perennial stream evaluation and receive approval from the Environmental Director prior to preliminary site plan approval being granted for any of the following uses proposed for the site: Historical areas 1, 2, and 3; Active recreation area; "Hotwater Lake" as shown; and the Environmental Education Center. If perennial streams are present on the site, a 100-foot buffer will be required around them and any wetlands contiguous and connected by surface flow to the stream.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mr. Icenhour made a motion to adopt the resolution for the Jolly Pond Utility Extension.

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

RESOLUTION

CASE NO. SUP-0031-2007. JOLLY POND UTILITY EXTENSION

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

WHEREAS, Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County, for an SUP to allow for the extension of approximately 13,146 linear feet of 4-inch sanitary sewer force main through Freedom Park from existing services located within the Forest Glen subdivision and 2,280 linear feet of 12-inch waterline from existing services located at the intersection of Jolly Pond Road and Cranston's Mill Pond Road to serve the proposed joint Williamsburg-James City County 9th elementary school and 4th middle school site; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 5, 2007, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of Special Use Permit No. 0030-2007 as described herein with the following conditions:

1. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, as determined by the Director of Planning or his designee, seedlings shall be planted and shall be shown on a reforestation or re-vegetation plan to be approved by the Director of Planning. This plan shall be submitted as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee, within two years of the initial clearing of the easement. It shall be the responsibility of W-JCC Schools to secure the necessary means to plant any temporary construction easements after the easements revert back to the property owner.
2. A Phase I Archaeological Study for the disturbed areas associated with the sewer force main extension shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.
3. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections of the 9th Elementary School/4th Middle School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of January 8, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.

4. No connections shall be made to the sanitary sewer force main which would serve any property located outside the PSA except for connections of the 9th Elementary School/4th Middle School project, existing structures located on property outside the PSA adjacent to the proposed main, and connections necessary to serve approved facilities shown on the Freedom Park Master Plan as amended. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's Office as of January 8, 2008, that is vacant, outside the PSA and adjacent to the main, one single equivalent residential connection shall be permitted.
5. For water and sewer main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property.
6. The final location of the waterline and force main and all construction related activity shall avoid previously undisturbed areas of the RPA and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterlines and force mains shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed, except as approved by the Director of the Environmental Division.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.
8. A Land Disturbing Permit shall be obtained within 24 months from the date of the issuance of this special use permit, or this special use permit shall be void.

Mr. Wanner stated that the public hearing for the 9th Elementary and 4th Middle Schools would be readvertised since the public hearing had been closed.

Ms. Jones stated her support for Mr. Icenhour requesting deferral and stated she would like to allow the opportunity for the schools to be more efficient.

Mr. McGlennon stated that this deferral date would also allow the Board to meet with the School Board and the City Council in a joint meeting to further discuss these issues. He stated he was surprised to see the information coming from the architect suggesting that geothermal heating and cooling was not more economical when the architect from Warhill High School indicated that the payback would be approximately eight years due to fuel cost savings. He stated that he looked forward to clarifying these issues.

6. Case No. SUP-0032-2007. 7761 Richmond Road – John Deere Dealership

Mr. Jose Ribeiro, Planner, stated Mr. James Peters of AES Consulting Engineers has applied on behalf of Fleet Brothers of Williamsburg, Inc. for an SUP to allow an additional 8,000 square feet of building area. This along with the existing 7,800-square-foot retail structure would provide a total of 15,800 square feet of commercial/storage area. The property is located at 7761 Richmond Road, further identified as Parcel No. 1240100045, consisting of 4.69 acres. The property is zoned B-1, General Business, and is designated by the Comprehensive Plan as Mixed Use.

Staff found the proposed 8,000-square-foot addition generally consistent with the surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on December 5, 2007, the Planning Commission voted 6-0 to recommend approval of this application.

Staff recommended approval of the application.

Mr. Goodson opened the public hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, gave background on the applicant and an overview of the project. He described the site, the products to be sold, and the design of the building. He stated that the applicant agreed with the conditions and requested approval.

Mr. McGlennon asked for an explanation about the parking discrepancy.

Mr. Geddy stated that he felt that 51 parking spaces were required. He stated this was determined for the indoor retail area. He stated for the equipment sales, approximately 16 spaces were determined based on the applicant's experience with his current parking lot and other stores. He stated there are 71 spaces provided, and he stated that the question comes in due to the parking spaces required based on the outdoor display area, and he stated he felt that this does not accurately display the parking needs of this particular business.

Mr. McGlennon asked if there were comparable establishments to display this.

Mr. Geddy stated that the best example would be the applicant's existing store on Airport Road.

Mr. McGlennon stated this was a good use for the parcel and it will have more visibility, and the customer base will be expanding.

Mr. Geddy stated that the business would be expanding for the feed and supply portion of the store, which uses the normal parking calculations.

Mr. McGlennon stated the parking spaces were conventional, but he expected there to be larger vehicles.

Mr. Geddy stated the primary vehicles would be pickup trucks or SUVs.

Mr. Kennedy stated that he has visited the applicant's other business and there seemed to be no parking problems, and he did not see any parking problems with the new facility. He asked if some of the outdoor display area could be eliminated to accommodate additional parking.

Mr. Geddy stated that was agreeable.

Mr. Goodson stated he was familiar with the business and many of these sales are made out of the office and the dealer delivers the equipment.

Mr. Fleet stated parking in the back would be where larger vehicles would be located.

Mr. McGlennon stated he did not want to increase impervious cover, but he did not want to create a problem of insufficient parking.

Mr. Kennedy stated there was a nursery located here previously that sold shrubbery on the same facility and additional parking was not necessary.

2. Mr. Bruce Abbott, 4478 Centerville Road, requested approval of the application. He stated this would be more convenient for customers and an asset to the community.

3. Mr. Ed Oyer, 139 Indian Circle, stated Mr. Fleet's business provided convenience and stated he had never had difficulty finding parking when he visited the business. He requested approval of the application.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Ms. Jones stated that there were two master plans before the Board with no formal recommendation on Master Plan B. She asked that Mr. Fraley give some guidance on these master plans.

Mr. Fraley stated some Planning Commissioners explained concerns about the additional 2,500 square feet of space and the viewshed and parking. He stated he posed his questions to the applicant about the viewshed and he was satisfied with the enhanced landscaping. He stated that it was not voted on because there was no master plan in front of the Planning Commission. He stated this was minimally a more intense use. He said it would not gain anything by sending the matter back to the Planning Commission.

Mr. Icenhour stated the resolution references Master Plan A and has received a recommendation from the Planning Commission with no recommendation on Master Plan B because this was not available to the Planning Commission. He stated he would like to have had a recommendation from the Planning Commission on Master Plan B. He stated he did not want to set a precedent, though he is in favor of the facility. He asked how to deal with these issues.

Mr. Fraley stated that the Board often sees a different plan, but usually it is greatly enhanced. He stated in this case the Planning Commission did not know that there was going to be another master plan, so there was no reason to make a recommendation. He stated he would be concerned if the Board's action would be undermining that of the Planning Commission, but in this matter he felt this was not a concern.

Ms. Jones asked if this matter would go through the Development Review Committee (DRC).

Mr. Sowers stated the parking issue would.

Mr. Icenhour stated that there were two resolutions and two master plans, and each of the resolutions cites a master plan. He stated the resolution does not specify which master plan is being concerned.

Mr. Rogers stated that the master plan may be specified in the resolution to make it clearer.

Mr. Ribeiro stated that there were two resolutions and the only difference was the square footage of the building addition.

Mr. Icenhour stated that the binding master plan was referenced in the first condition and asked which one was being referenced.

Mr. Goodson asked to have the motion specify Plan B.

Mr. Icenhour stated he valued input from the Planning Commission and he was reluctant toward substitute changes beyond the consideration of the Commissioners. He stated the applicant only asked for 8,000 square feet, but to allow for flexibility, staff requested 8,500 square feet. He asked that agreement should be made ahead of time to provide consistency.

Mr. Kennedy made a motion to adopt the alternate resolution requesting 8,000 square feet with Master Plan B.

Mr. McGlennon asked that the Board refer the item back to the Planning Commission. He stated he did not have a problem with the use, but he stated concern with the message being portrayed. He stated he felt that because things came in late, evaluation time was reduced. He stated he did not want this to be recurring, especially with significant changes coming after the Planning Commission.

Mr. Kennedy stated that he has spoken with Mr. Fleet and he stated there were financial issues pertaining to this, and he stated he agreed with the request from Mr. Fleet for the outdoor display area. He stated he would normally ask that the case be referred back to the Planning Commission, but in this circumstance he requested that the Board move forward.

Mr. McGlennon stated he accepted the decision of the Board in this regard and he stated he had great esteem for the applicant and the business, but this was a permanent decision and it is important to evaluate.

Mr. Goodson asked for a vote to refer the item back to the Planning Commission.

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

Mr. Goodson stated the motion on the floor was to approve the alternate resolution specifying Master Plan B.

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

RESOLUTION

CASE NO. SUP-0032-2007. 7761 RICHMOND ROAD - JOHN DEERE DEALERSHIP

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

WHEREAS, Mr. James Peters has applied on behalf of Fleet Brothers of Williamsburg, Inc. for a special use permit to allow the expansion of the existing building by 8,000 square feet and to allow vehicle and trailer sales and services on the site; and

WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers, dated June 1, 2007, (the "Master Plan") and entitled " Master Plan B for Special Use Permit for Fleet Brothers of Williamsburg"; and

WHEREAS, the property is located at 7761 Richmond Road on land zoned B-1, General Business District, and can be further identified as Parcel No. (1-45) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission, following its public hearing on December 5, 2007, voted 6-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0032-2007 as described herein with the following conditions:

1. **Master Plan:** This Special Use Permit (the "SUP") shall be valid for the construction of an 8,000-square-foot expansion in addition to the existing two buildings on the below-described property for a total of 18,000 square feet. This SUP shall also permit the sales and services of vehicles and trailers (with major repair limited to a fully enclosed building) on the property located at 7761 Richmond Road and also identified as James City County Tax Parcel Number 12401100045 (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Master Plan B for A Special Use Permit For Fleet Brothers of Williamsburg, Inc.", prepared by AES Consulting Engineers and dated June 1, 2007 and revised on November 26, 2007 (the "Master Plan"), with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. **Spill Prevention and Control Plan:** Prior to final site plan approval, a spill prevention and containment plan which addresses chemical handling including but not limited to fertilizers, pesticides, herbicides, the proposed diesel fueling container solvents, oil, and gasoline, shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval.
3. **BMP Discharge:** Overflows from the proposed BMP(s) shall discharge to a roadside (i.e., Richmond Road and or Bush Springs Road) ditch and shall not be conveyed to the adjacent parcel located west of the Property (identified as James City County Tax Parcel Number 1240100047) without an off-site drainage easement. If overflows from the BMP(s) cannot be made to discharge into a roadside ditch and/or off-site drainage easements cannot be secured, the infiltration BMP must be designed to treat and retain all runoff from the proposed improvements ensuring zero surface discharge from said improvements. Said BMP(s) design must be reviewed and approved by the Environmental Director prior to final site plan approval.
4. **Water Conservation:** The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA) prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the "Impoundments") may be used for irrigating common areas on the Property (the "Irrigation"). In no circumstances shall the "JCSA" public water supply be used for irrigation, except as otherwise provided by this condition. If the Owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing,

approve shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.

6. **Architectural Review:** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review and approval. The purpose of this condition is to ensure that the existing and proposed structures on the Property are uniform and compatible in terms of design, materials, and colors, are designed for minimal visual impact, and are compatible with other structures in Toano.
7. **Fencing:** All proposed fencing which is either designed for security and/or ornamental purposes shall be submitted to the Planning Director or his designee for review and approval prior to final site plan approval.
8. **Wood Frame Barn:** The existing 2,200-square-foot wood frame barn shall remain on the Property and its outside character (i.e., building material, colors, and scale) shall remain unchanged except as provided herein. Any changes to the outside character of the barn shall be submitted to the Planning Director or his designee for review and approval.
9. Exterior **Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed **20 feet in height** unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
10. **Dumpsters:** All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval.
11. **Noise Abatement:** No exterior loudspeaker system shall be used on the Property.
12. **Buffer:** A variable 50-to-80-foot-wide landscape buffer area shall be provided along the eastern perimeter of the Property from the rear of the Property line to the existing asphalt entrance road. Landscaping activities within this area may include select clearing, clean up and removal of noxious weeds, vines and additional landscaping, all as approved by the Planning Director. Within the 35-foot transitional buffer, existing vegetation may be removed with the prior approval of the Planning Director and shall be supplemented with additional plantings at 125 percent above ordinance of either size or quantity requirements. A Planting Removal Plan shall be approved by the Planning Director or his designee prior to final site plan approval.
13. **Landscaping:** A minimum of three landscape islands located within the northern parking area of the Property shall be provided along Richmond Road. Further, unpaved areas located within the 50-foot front setback of the Property shall be landscaped in accordance with the requirements set forth by Section 24-96 of the zoning ordinance except that plantings shall be 125 percent above ordinance size requirements. The landscape islands shall be included in the landscape plan and any additional landscaping shall be approved by the Planning Director or his designee prior to final site plan approval.

14. **JCSA Utility Easements:** Unless previously recorded on this property, a JCSA utility easement shall be dedicated at locations along Route 60 and Bush Springs Road where existing JCSA utilities are within 10 feet of the right-of-way line.
15. **Outdoor Display Areas:** No vehicles, equipment, or garden materials for sale on the Property shall be displayed in areas which are not specifically indicated on the Master Plan as "outdoor display area". Further, the types of outdoor displayed item(s) and their respective location(s) on the Property shall be bound by the Master Plan.
16. **Commencement of Use:** Use of the property as described in this SUP shall commence within 36 months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business with regular business hours and/or obtaining permits for building construction and installation of footings and foundations.
17. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

7. Ordinance to Amend James City County Code Chapter 23, Chesapeake Bay Preservation

Mr. Goodson stated per his request, the Board has for consideration an ordinance amendment that deletes the previously adopted amendment to Chapter 23, Chesapeake Bay Preservation Ordinance Section 23-9b.11 He stated at the December 11, 2007, Board of Supervisors meeting. Staff proposed an amendment to establish buffers to RMA with a 50-foot buffer for intermittent streams and non-RPA wetlands, and a 175-foot buffer along creek mainstem with approved watershed master plans and a 25-foot buffer beginning at the edge of the 75-foot buffer. He stated regarding the adoption, the majority of the Board members expressed concerns that the language in the amendment did not meet the Board's direction for variable-width buffers and concerns were expressed for notification of landowners. A deferral was denied. He requested the Board approve the ordinance that removes the previously adopted Section 23-9b.11 and staff will not begin enforcing the amendments and the property owners will not be affected until staff has done the proper research and actions directed at the previous Board meeting. He asked staff to make a presentation at a Board work session on the findings for more clarity and flexibility.

Mr. McGlennon asked if the amendment was to delete the entire Section 23-9b.11 and asked about the first portion involving a 50-foot buffer for intermittent streams and non-RPA wetlands. He stated he did not feel there was any conflict about the language of this portion. He asked if this was being removed intentionally or if this was included as part of the larger portion.

Mr. Goodson stated this was included as part of the concern for lack of or late public notice. He stated the Board has not had a work session on how the 50-foot buffer would affect property owners by-right. He said it was only discussed as Board policy.

Mr. McGlennon stated he understood staff brought this ordinance forward based on the discussion of this item at a work session.

Mr. Goodson stated he would like the Board to consider this request as is.

Mr. Goodson opened the public hearing.

1. Mr. Gerald Johnson, 4513 Wimbledon Way, on behalf of the Historic Route 5 Association, commented that Best Management Practices (BMPs) have been ineffective. He stated that these buffers have been determined to be effective in reducing runoff and erosion and improving groundwater.

2. Mr. John Haldeman 1597 Founder's Hill North, on behalf of J4Cs, stated that the J4Cs were pleased with the amendments that were passed and requested that the ordinance amendment not be approved.

3. Mr. Timmons Roberts, 121 Chanco Road, stated scientific support for streamside forested buffers on water quality and reduction of flooding, including buffer width and the value of buffers on intermittent streams. He stated that faculty at the College of William and Mary has stated that this is one of the most important issues facing the region environmentally. He requested that the buffers be maintained.

4. Mr. Mac Mestayer, 105 Gilley Dr, requested that the ordinance be retained to maintain the health of the Chesapeake Bay and watersheds.

5. Mr. Terence Elkins, 105 Lothian, stated there was a large quantity of scientific data that supports maintaining the buffer requirements to protect groundwater, reduce erosion, and reduce flooding. He requested the Board retain the ordinance.

6. Ms. Kensett Teller, 126 Lake Drive, stated she would like the ordinance to be retained as passed in December 2007 to protect groundwater and reduce flooding.

7. Mr. John Schmerfeld, on behalf of the Friends of Powhatan Creek, 172 Red Oak Landing Road, stated that his organization would like a deferral on this item. He stated that stream buffers are critical, but time was needed to evaluate the amount of buffer that should be required.

8. Mr. Ralph Goldstein, 240 West Tazewell's Way, stated that he and his family owns property that is affected by the ordinance that was previously adopted by the Board at its December meeting. He stated he was not aware of the action taken by the Board when he received his property owners' notification. He stated the restrictions imposed by the ordinance were drastic. He stated his support for the amendment to delete the amendments made in December 2007.

9. Ms. Barbara Brink, 3005 Travis Close, stated she did not understand why the Board would like to rescind the actions from December 2007.

10. Ms. Mary Delaney Smallwood, 1102 London Company Way, stated her community has had flooding and drainage situations and this has been an issue for many years. She stated support for any actions that would help to prevent increased flooding and drainage problems in the County.

11. Mr. Bruce Abbott, 4478 Centerville Road, stated his disagreement with imposing buffers on property owners that do not contribute to the pollution without compensation. He requested approval of the ordinance amendment.

12. Mr. Wayne Nunn, 238 Loch Haven, stated that he was an affected property owner and that he received no notification to speak to this matter. He requested that the ordinance amendment be approved.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. Goodson made a motion to adopt the ordinance amendment.

Ms. Jones stated in December 2007, this item was passed and every Board member that supported the ordinance felt it needed work. She stated the Planning Commission supported the flexibility and variable-width buffer for the Environmental Division and the landowner. She stated her support for the motion to rescind the previously adopted ordinance. She asked that this matter be revisited to provide flexibility. She asked that the Policy Committee of the Planning Commission to look at the matter and allow the public more opportunity to be in the process.

Mr. Icenhour asked Mr. Rogers about the legality of the public notice and the actions taken by the Board.

Mr. Rogers stated that the legal requirements of the ordinance adoption were met, and the Board requirement for notice to landowners was in question.

Mr. Icenhour stated that he felt it was implied that the Board was not within its legal rights to take action on December 11, 2007, and he stated he did not feel this was correct.

Mr. Rogers stated this was correct.

Mr. Icenhour stated that if the Board wants to do more to notify citizens, then that should be done, but he felt it was within legal requirements. He also asked to look at the impact on parcels of property. He stated that there were 42 parcels that were on the mainstem and Mr. Goodson requested a deferral for notification, which he supported. He asked for a commitment to a timeline and no one was willing to make the commitment and the item was passed with a minor amendment. He stated at this point, if the properties were to be rezoned, the buffer would be enforced. He stated in the 42 cases, these property owners would be dealing with the buffer if a rezoning was sought. He stated those property owners' current development rights should be grandfathered. He stated that by-right capability is not diminished for a majority of the parcels, but he felt that all properties should be protected. He recommended that the ordinance be maintained and have the Board adopt an amendment to the grandfathering rules with the potential for future amendments for the ordinance if necessary.

Mr. Goodson stated the problem would be the language of the amendment was not provided to the property owners and others to ensure that it would adequately protect the rights. He stated there would be a work session on this item. Mr. Goodson stated he did not accept the substitute motion.

Mr. Icenhour asked Mr. Rogers for the appropriate action of which motion took priority.

Mr. Rogers stated that the substitute motion did not take priority over the previous motion.

Mr. Kennedy stated this matter has been discussed many times and he was disappointed with the lack of notification. He stated he disagreed with taking property from property owners without compensation. He stated buffers were important and the item should be discussed in the future. He asked to keep the process moving forward and collaborate efforts. He stated his support for rescinding the ordinance.

Mr. McGlennon stated there have been extensive discussions of this item over a number of years and a set of recommendations were adopted in principle and as action items. He stated this should not have been a surprise that this was the County's intention. He stated there were flaws in the wording and not as full of a final notification, but he stated he did not agree with Ms. Jones's assertion that this was a bad ordinance. He stated the ordinance needed minor revisions. He requested the ordinance remain in place until revisions could be made. He stated that if the ordinance was rescinded, it sends a message of conflict since there seemed to be a consensus that buffers were needed, but they would not be kept in place. He stated there was a real benefit to be gained. He stated if there was an action that could be taken to protect the rights of property owners or if

these property owners would like to discuss with the County conservation easements or the purchase of easements, those things can be done. He stated the Board has a responsibility to recognize that lack of attention streams has negatively affected citizens. He stated this needs to be recognized as a serious issue. He stated rescinding these protections would send a very bad message. He asked for a short and clear calendar for the reconsideration of this ordinance.

Mr. McGlennon stated that if the ordinance is repealed, he will be requesting the floor.

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

Mr. McGlennon made a motion that the Board address the issue of the buffers in the February work session.

Mr. Goodson stated he thought the March work session would be more appropriate to allow staff time to collect information.

Ms. Jones asked about referring the item to the Policy Committee.

Mr. McGlennon stated he would welcome that feedback.

Mr. Fraley stated the Policy Committee could address it and have it to the Planning Commission at its February meeting and then back to the Board.

Mr. Goodson stated that staff can work with that timetable.

Mr. Fraley stated the Policy Committee would bring it to the Planning Commission at the February meeting, and since it would not require a public hearing, it would fit within the time frame. He stated his preference was that the revised ordinance be available for consideration by June 30.

Mr. Goodson stated the motion is to include this in the February 26, 2008, work session.

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

G. PUBLIC COMMENT - None

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated the Board should recess to January 12, 2008, at 12 p.m. for a Budget Retreat in the Work Session Room. He requested that the appointment of Mr. Kennedy to the Williamsburg Area Destination Marketing Committee be validated as it was not announced at the Organizational Meeting. He stated the next regular Board meeting would be on January 22, 2008, with work sessions with the Business Climate Task Force, Economic Development Authority, and the Newport News Water Works. He stated there were two appointments to the Historical Commission that may be handled in an open session. He stated a tentative agenda for work sessions was provided in the Reading File, and this could be amended as necessary.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson requested a motion for the appointments to the Historical Commission.

Mr. McGlennon made a motion to appoint Ms. Nina Shutt Costello and Mr. Daniel Lovelace to the Historical Commission and Mr. Kennedy to the Williamsburg Area Destination Marketing Committee.

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

Mr. Icenhour requested a work session be included on January 22, 2008, for the R-4 Zoning Ordinance Amendment to Section 24-283. He stated this matter was not attributed to a land use case and he noted that he did not prejudge this or any case. He stated he would like to remedy problems that he finds and bring forward a better result.

Mr. Goodson stated the County Attorney already has an interpretation of that and he would send a memorandum on the interpretation.

Mr. Icenhour stated he felt that members of the development community would provide an opinion.

Mr. Goodson stated that this provided a difficult situation on what members should be invited.

Mr. Icenhour stated that written copies could be submitted in advance.

Mr. McGlennon stated he felt the purpose of the work session would be to discuss the issue on what the Board felt it addressed and what it should address. He stated he did not need to worry who should be invited aside from staff.

Mr. Kennedy raised concern that the Business Climate Task Force would also be presenting its findings that afternoon and other lengthy issues that may not allow the required time.

Mr. Wanner stated that the schedule could be rearranged and the County Administrator's evaluation would take place following the meeting.

Mr. Icenhour stated he would like to move forward on this item and this would allow the new Board members to be brought up to date.

Mr. Kennedy stated he would like to be aware of all the information. He asked Mr. Rogers to send the information he had by email.

Mr. Goodson stated he would like to see a list of occasions where this has been used in the past in order to know what impact change would have.

J. RECESS to 12 p.m. on January 12, 2008

Mr. McGlennon made a motion to recess.

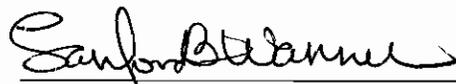
Mr. Goodson reminded the public that this meeting was a retreat, but the meeting would be televised and encouraged the public to come out or watch the meeting on Channel 48. He stated this meeting would present valuable information on how the budget is formed.

Mr. Goodson allowed Mr. Wayne Nunn to speak to the public.

Mr. Wayne Nunn encouraged citizens to tour Spring Swamp in the Yarmouth Creek watershed and to call for scheduling.

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

At 10:32 p.m. Mr. Goodson recessed the Board to January 12, 2008, at 12 p.m. in the Building F Work Session Room for a Board of Supervisors Budget Retreat.



Sanford B. Wanner
Clerk to the Board

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JAN 8 2008

ORDINANCE NO. 183A-5BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 23-9, PERFORMANCE STANDARDS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 23, Chesapeake Bay Preservation, is hereby amended and reordained by amending Section 23-9, Performance standards.

Chapter 23. Chesapeake Bay Preservation

Section 23-9. Performance standards.

(a) *Purpose and intent.* The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most efficient in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters and infiltrates stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces increases of stormwater runoff.

The purpose and intent of these requirements is also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice; achieve a ten percent reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more water quality best management practices; and achieve a 40 percent reduction in nonpoint source pollution from agricultural and silvicultural uses.

(b) *General performance standards:*

- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 - a. In accordance with an approved plan of development, the limits of clearing and/or grading shall be clearly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with subsection (2)b. below.
 - b. Impervious cover shall not exceed 60 percent of the site unless it can be demonstrated that the project will have the same impact on water quality as the project would have if it were 60 percent impervious. Demonstration of equivalent water quality will be through compliance with guidelines developed by the manager. For projects with an approved stormwater master

plan, compliance with this impervious cover provision can be demonstrated on a project basis rather than an individual site basis. However, in no case shall impervious cover exceed the limits established in section 24-9(c)(4) of the zoning ordinance.

- c. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the manager.
- (2) Existing vegetation shall be preserved to the maximum extent practicable, consistent with the use or development permitted by an approved plan of development.
 - a. Existing trees over 12 inches in diameter at breast height shall be preserved except in impervious areas and as necessary to accommodate site grading. Upon approval by the manager, diseased trees or trees weakened by age, storm, fire or other injury may be removed; provided, that when such removal results in a 20 percent or greater reduction in existing tree canopy, a sufficient number of trees with a 1-½ inch caliper shall be planted to restore the full canopy.
 - b. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved unless otherwise approved on the clearing plan. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris or fill shall not be allowed within the area protected by the barrier.
 - (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development permitted.
 - (4) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a plan of development review process conducted in accordance with section 23-10 of this chapter.
 - (5) Any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, and septic tanks and drainfields shall comply with the requirements of chapter 8 of this Code.
 - (6) All on-site sewage disposal systems not requiring a NPDES permit shall be pumped out at least once every five years. However, in lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage disposal systems can submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.
 - (7) A reserve sewage disposal site, with a capacity at least equal to that of the primary recorded prior to August 6, 1990, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board until the structure is served by public sewer.
 - (8) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that are consistent with the water quality protection provisions (4 VAC 3-20-71 et seq.) of the

Virginia Stormwater Management Regulations (4 VAC 3-20). This consistency shall be demonstrated by compliance with the criteria and BMP facilities contained in the latest version of the James City County Guidelines for Design and Construction of Stormwater Management BMPs. In addition, increases in the quantity of stormwater runoff resulting from development or redevelopment shall be addressed by the requirements of chapter 8 of the County Code.

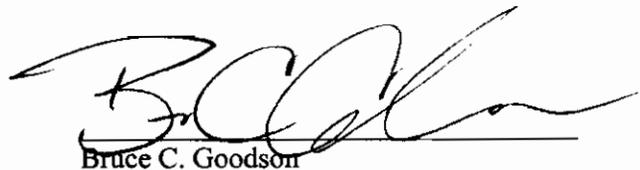
- a. If compliance for a development is based in whole or part on the use of existing downstream onsite or offsite structural BMPs, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The manager may require a review of both the original design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter;
- (9) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and county laws and regulations shall be obtained and evidence of such submitted to the manager. For those projects where no wetlands are proposed to be impacted or where the impacts do not require written authorization, documentation shall be submitted to the manager by a qualified wetlands professional attesting that the wetlands permitting process has been completed and no further documentation is necessary from the regulatory agencies.
- (10) All lands upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this chapter. Plans of development or water quality impact assessments are not required for activities on agricultural lands except for land disturbing activities not related to food and/or fiber production.
- ~~(11) For any development or redevelopment, certain RMA's shall be protected as follows:~~
- ~~a. Intermittent streams and non RPA wetlands shall have a 50 foot buffer. The 50 foot buffer shall begin from the edge of the resource.~~
 - ~~b. In addition to the RPA buffer, a 175 foot buffer shall be imposed along creek mainstems with a watershed management plan which has been approved by the Board of Supervisors. The 175 foot buffer shall begin at the edge of the RPA buffer. The 175 foot buffer may be reduced to a minimum of 75 feet in the event the topographical divide is less than 175 feet from the RPA buffer or site characteristics otherwise adequately protecting water quality as determined by the environmental manager. For the purposes of this section, topographical divide shall mean the high point in terrain, topography or elevation, otherwise known as a ridge line, by which a drainage area is defined, delineated or where there exists an origin of sheet flow.~~
- ~~There shall be no encroachments into the 175 foot buffer except for the following:~~
- ~~1. Stormwater management facilities;~~
 - ~~2. Passive recreational facilities, such as boardwalks, trails, and pathways; and~~
 - ~~3. Public utilities, railroads, public roads and related facilities, provided said utilities, railroads, public roads and related facilities meet the conditions and requirements as set forth in sections 23-13(a)(1) and 23-13(a)(2) of this chapter.~~

~~e. A 25 foot buffer shall begin at the edge of the 175 foot buffer. The following items shall be prohibited from the 25 foot buffer, unless determined otherwise by the manager:~~

- ~~1. Septic tanks;~~
- ~~2. Primary or reserve septic fields; and~~
- ~~3. Impervious cover.~~

~~This section shall not apply to the following:~~

- ~~1. Lots or parcels created pursuant to and in accordance with section 19-17 of the county code.~~
- ~~2. Single family residences, and/or manufactured homes on a permanent foundation, on a lot or parcel recorded prior to January 1, 2008.~~



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
ICENHOUR	NAY
MCGLENNON	NAY
JONES	AYE
KENNEDY	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of January, 2008.