

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF FEBRUARY 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, Absent
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. Kennedy requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE - Hamed Barbarji, a fourth-grade student at D.J. Montague Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. John Rhein, 3505 Hunters Ridge, gave information about the National Federation of the Blind (NFB), Greater Williamsburg chapter, and noted State legislation that affects the blind and independent voting abilities for the blind. He noted the NFB Williamsburg chapter's regular meeting at the Williamsburg/James City County Community Center at 1 p.m. on the third Saturday of the month.

2. Ms. Deborah Kratter, 113 Long Point, on behalf of the James City County Citizens' Coalition (J4C), commented on controlled growth and the initiating resolution to amend the Zoning Ordinance amendment.

3. Mr. Ed Oyer, 139 Indian Circle, commented on disapproval of the Hampton Roads Transportation Authority; commended the Police Department on the execution of funeral processions; status of an unmaintained property on Indian Circle; fees and taxes in the County; water tables in Virginia; property values in the County; and conflicts of interest in relation to the Hampton Roads Transportation Authority.

4. Mr. Brian Oyer, 925 Barnes Road, commented on the Hampton Roads Transportation Authority and additional taxes and fees; the environmental studies at the airport site; Greenspace Master Plan study; and the Hill Family Subdivision.

E. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the Consent Calendar, including the amendment to the minutes.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

1. Minutes – January 22, 2008, Regular Meeting
2. Virginia Department of Criminal Justice Services – Grant Award- \$5,000

RESOLUTION

VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES – GRANT AWARD - \$5,000

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a Law Enforcement Terrorism Prevention Program (LETPP) grant in the amount of \$5,000; and

WHEREAS, the funds will be used for the purchase of personal protective equipment for officers; 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:

| | |
|--------------|----------------|
| DCJS - LETPP | <u>\$5,000</u> |
|--------------|----------------|

Expenditure:

| | |
|--------------|----------------|
| DCJS - LETPP | <u>\$5,000</u> |
|--------------|----------------|

3. FY 2009 Virginia Department of Rail and Public Transportation Grant Application

RESOLUTION

FY 2009 VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

GRANT APPLICATION

WHEREAS, the Commonwealth of Virginia has made funds available for public transportation; and

WHEREAS, the Board of Supervisors is desirous of securing said funds in support of the Williamsburg Area Transport Company's operations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute and file the application to the Virginia Department of Rail and Public Transportation (VDRPT) of the Commonwealth of Virginia for a grant of State public transportation matching assistance under Section 58.1-638(A) (4) of the Code of Virginia. The amount requested for State and Federal assistance is \$1,639,235 to assist in eligible project expenses. The County Administrator shall be authorized to accept grant funds awarded and to furnish the VDRPT documents and other information as may be required for processing this grant request.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, certifies that the funds shall be used in accordance with the requirements of Section 58.1-638(A)(4) of the Code of Virginia and that James City County may be subject to audit by the VDRPT and the State Auditor of Public Accounts.

F. PUBLIC HEARINGS

1. Case No. Z-0007-2007/MP-0005-2007/SUP-0020-2007. Powhatan Terrace

Mr. Bill Porter, Development Manager, stated the applicant has requested a deferral for this case until February 26, 2008. He stated staff concurred with the deferral request.

Mr. Kennedy opened the public hearing.

As no one wished to speak to this matter, Mr. Kennedy continued the public hearing to February 26, 2008.

2. Case No. Z-0005-2007. 112 Ingram Road

Mr. Jose Ribeiro, Planner, stated Mr. Scott Evans of Scott Evans Contracting, LLC has applied to rezone a parcel of 0.37 acres located at 112 Ingram Road from R-8, Rural Residential, to B-1, General Business, with proffers. Properties located to the north, east, and west of the site and south, across Ingram Road, are zoned B-1, General Business, and designated Mixed-Use by the 2003 Comprehensive Plan. This site fronts on Ingram Road and it is located within the Five Forks area of James City County and therefore subject to the Primary Principles for the Five Forks Area Study adopted by the James City County Board of Supervisors on September 28, 2004.

Staff found that with the submitted proffers, the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses, the land use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation, and the Primary Principles for Five Forks Area of James City County.

At its meeting on January 9, 2008, the Planning Commission recommended approval by a vote of 5-0, with two absentees.

Staff recommended approval of the application.

Mr. Icenhour asked if Ingram Road connects to John Tyler Highway.

Mr. Ribeiro stated the road ends before connecting to John Tyler Highway.

Mr. Icenhour asked if there was any plan to connect to John Tyler Highway.

Mr. Ribeiro stated he was unaware of any plan to connect.

Mr. Icenhour asked if all the surrounding property was zoned B-1.

Mr. Ribeiro stated this parcel was the only property in the area that was not zoned B-1.

Mr. Icenhour asked if there was a structure on the property.

Mr. Ribeiro stated there was one structure on the site.

Mr. Icenhour asked if the surrounding areas were undeveloped.

Mr. Ribeiro stated that all but one parcel adjacent to the property was developed.

Mr. Kennedy opened the public hearing.

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

Mr. Icenhour made a motion to adopt the resolution.

RESOLUTION

CASE NO. Z-0005-2007. INGRAM ROAD

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0005-2007; and

WHEREAS, Mr. Scott Evans has applied to rezone his property located at 112 Ingram Road further identified as James City County Real Estate Tax Map No. 4710100023 (the "Property") from R-8, Rural Residential, to B-1, General Business, to allow the construction of a 1,440- square-foot two-story office building with a 520-square-foot attached garage; and

WHEREAS, the Property is designated Mixed Use on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on January 9, 2008, the Planning Commission recommended approval of the application by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0005-2007as described herein and accept the voluntary proffers.

RESOLUTION

CASE NO. Z-0005-2007. INGRAM ROAD

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0005-2007; and

WHEREAS, Mr. Scott Evans has applied to rezone his property located at 112 Ingram Road further identified as James City County Real Estate Tax Map No. 4710100023 (the "Property") from R-8, Rural Residential, to B-1, General Business, to allow the construction of a 1,440- square-foot two-story office building with a 520-square-foot attached garage; and

WHEREAS, the Property is designated Mixed Use on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on January 9, 2008, the Planning Commission recommended approval of the application by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0005-2007 as described herein and accept the voluntary proffers.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

4. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic – Parking Regulation

Ms. Jennifer Lyttle, Assistant County Attorney stated that the proposed ordinance amends Section 13-36 of the County Code by authorizing the County Administrator or his designee to regulate parking on roads in the State secondary system of highways. She stated that Section 46.2-1222 of the *Virginia Code* provides specific authorization for James City County to regulate parking on secondary roads. Currently, the County Code only authorizes the County Administrator to regulate parking on County property and County-maintained roads. Ms. Lyttle stated there has been a growing concern throughout the County regarding residential neighborhoods being used as parking areas for adjacent schools and shopping centers, all-day parking along the secondary roads fronting business establishments, and other areas of the County where unregulated parking impacts adjacent properties. She indicated that by allowing the County Administrator to set parking regulations for secondary roads, the County can better address parking concerns throughout the County.

Staff recommended adoption of the ordinance amendment.

Mr. Kennedy opened the public hearing.

1. Mr. Greg Davis, Kaufman and Canoles, on behalf of New Town Association, stated his client supports the ordinance amendment to allow for time-limit parking in New Town. He stated that this would encourage all-day parking to take place away from in-and-out parking in front of businesses.

2. Mr. Roy Coker, 3905 St. Eric's Turn, stated his support on behalf of the Jamestown Hundred community members and homeowner's association. He stated his community supports the ordinance amendment to deter high school students from parking on the roads in the subdivision, causing difficulties for homeowners.

3. Ms. Trena Meeske, 3231 Reade's Way, stated support for the ordinance amendment based on the parking issue in the community related to high school students.

4. Mr. R.J. Blazer, 104 Canterbury Place, stated support for the ordinance amendment based on parking issues related to Prime Outlets.

5. Mr. Ed Oyer, 139 Indian Circle, stated his support for the ordinance amendment and commented that he would like to see it applied to all secondary roads, including Indian Circle and Plantation Road.

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

Mr. McGlennon asked staff for clarification that this ordinance permits parking enforcement in areas that are determined to be areas of concern.

Ms. Lyttle stated this was correct and that some locations such as the areas near Prime Outlets and Jamestown Hundred were already being evaluated for parking enforcement.

Mr. McGlennon stated that specific criteria would need to be determined to assign parking enforcement.

Ms. Lyttle stated that was correct and that there was also a need for signage placed on designated roads to indicate parking regulation.

Mr. McGlennon asked the range of fees for violations.

Ms. Lyttle stated that County Code already sets the traffic violation fees and noted that it was minimal. She stated that repeated offenses would lead to higher fines.

Mr. McGlennon asked if the appeal to State legislature to increase fines for traffic enforcement would affect the range of these fines.

Mr. Rogers stated the change in legislation would change the Code to allow for the use of the civil process, which results in higher fines rather than restricting the County to its current use of the traffic summons process.

Mr. McGlennon asked if the Police Chief felt the Police force could adequately enforce regulations.

Chief Emmett Harmon stated that the actual locations would determine the effectiveness. He indicated that areas such as Prime Outlets would be seasonal, and residential areas would need to be evaluated for enforcement, particularly areas being regulated during school hours.

Ms. Jones thanked Ms. Lyttle and staff for work on the ordinance amendment and responsiveness to the community. She thanked the citizens of Jamestown Hundred for moving forward on this issue.

Ms. Jones made a motion to adopt the ordinance.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

4. Case No. Z-0014-2007/MP-0011-2007. Chestnut Grove Proffer and Master Plan Amendment.

Mr. David German, Planner, stated Mr. Joel Almquist of Health-E-Communities Enterprises has applied to amend the approved and adopted proffers and master plan for the Chestnut Grove Townhouse project located at 104 Wisteria Garden Drive on a property identified as Tax Map Parcel Number 5910100024. The parcel consists of 9.018 acres, is zoned R-5 (Multi-Family Residential), with Proffers and is designated as Moderate-Density Residential by the Comprehensive Plan. The original proffers and master plan were adopted as a part of Rezoning Z-0002-2007, Master Plan MP-0003-2007, approved for this property by the Board of Supervisors on June 12, 2007.

Staff found that the proposed changes to the adopted proffers and master plan would not materially alter the character, quality, or general design of the Chestnut Grove project, nor would these changes adversely affect the County or the citizens thereof. The proposed changes seek only to relocate and reshape the Low Impact Development (LID) features of the project, in an attempt to make them more effective and efficient, and to correct existing wording in the proffers that incorrectly describes how adjustments to the cash proffer contributions should be carried out using the Marshall and Swift Index. The proposed changes are not contrary to the James City County Zoning or Subdivision Ordinances, nor are they in conflict with the 2003 Comprehensive Plan.

At its meeting on February 6, 2008, the Planning Commission recommended approval by a vote of 7 to 0.

Staff recommended approval of the application.

Mr. Icenhour stated the map depicting the LID feature changes was helpful.

Mr. Kennedy opened the public hearing.

1. Mr. Joel Almquist, Health-E-Community Enterprises, stated between the site plan stage to the master plan development stage, once curb and gutter streets were installed, they would not be effective, and maintaining the same amount of square footage and relocating them, more effectively treating water, change to the proffer regarding financial matters was a minor issue.

2. Mr. Ed Oyer, 139 Indian Circle, stated he did not know if the right-turn lane would be incorporated and that he was not aware of the turn lane being addressed initially.

Mr. Almquist stated in the proffers restriping and additional left-turn lane if required by VDOT and it is shown in the site plan.

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

Mr. McGlennon made a motion to adopt the resolution.

Ms. Jones asked if this item was fast-tracked as prescribed by the Comprehensive Plan.

Mr. Porter stated this was fast-tracked in terms of advertising between the Planning Commission and the Board of Supervisors meetings.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

RESOLUTION

CASE NO. Z-0014-2007/MP-0011-2007. CHESTNUT GROVE PROFFER AND MASTER PLAN AMENDMENT

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0014-2007/MP-0011-2007, with Master Plan, for amending the previously approved (under Z-0002-2007/MP-0003-2007) Master Plan and Proffers for the Chestnut Grove project; and

WHEREAS, the Planning Commission of James City County, following its public hearing on February 6, 2008, recommended approval by a vote of 7 to 0; and

WHEREAS, the property affected by this amendment is located at 104 Wisteria Garden Drive and can be further identified as James City County Real Estate Tax Parcel ID No. 5910100024.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. Z-0014-2007/MP-0011-2007 and accept the revised voluntary proffers.

Mr. Kennedy recognized Mr. Tony Obadal in attendance on behalf of the Planning Commission.

G. BOARD CONSIDERATIONS

1. Acquisition of Real Property from Green Mount Associates, LLC for Route 60 Relocation

Ms. Jennifer Lyttle, Assistant County Attorney, stated that on September 29, 2006, the County/State Administration Agreement was executed to locally administer the Route 60 East Relocation Project (Rt. 60 Project) financed by the Federal Highway Administrator and the Virginia Department of Transportation (VDOT). The Rt. 60 Project, located in the Roberts District and the Lee Hall area of James City County and Newport News, has been a top priority of James City County for more than ten years. The Rt. 60 Project provides for two lanes of travel in each direction, separated by a grass median with curb and gutter, and multiuse path. These improvements will make the road safer for residents and more convenient for businesses located in that area. On July 2, 2007, the County began the process of acquiring right-of-way property for the Rt. 60 Project by purchasing approximately 12 acres from Green Mount Associates, LLC (Green Mount). Since additional acreage from Green Mount is needed for the Rt. 60 Project, the Board authorized staff to negotiate for the additional acreage on September 11, 2007. Green Mount has agreed to sell approximately 1.9933 acres for \$99,665 to the County in furtherance of the Rt. 60 Project. The portion of the land to be acquired by the County is needed in advance of the design for the Rt. 60 Project in order to expedite the design and utility relocation for the future road improvements based on the approved alignment by the Commonwealth Transportation Board known as "Alignment A." To move forward with the Rt. 60 Project, staff recommends approval of the attached resolution authorizing the acquisition of property from Green Mount in furtherance of the Rt. 60 Project.

Mr. McGlennon asked if the value of the land would remain in the event that the project did not move forward.

Mr. Rogers stated there was an agreement that in the event that the project did not go forward, Green Mount Associates, LLC would purchase the land back from the County for that amount plus Consumer Price Index (CPI).

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

RESOLUTION

ACQUISITION OF REAL PROPERTY FROM GREEN MOUNT ASSOCIATES, LLC,

ROUTE 60 RELOCATION

WHEREAS, Green Mount Associates, LLC (Green Mount) currently owns a certain real property identified as James City County Tax Parcel Nos. 6010100009 and 6010100009B, more commonly known as 9201 Pocahontas Trail and 9225 Pocahontas Trail (collectively, the ASite@); and

WHEREAS, in furtherance of the County's initiative to expand and relocate Route 60, beginning from Blow Flats Road and connecting to the City of Newport News at Skiffe's Creek, there is a proposed real estate purchase agreement to convey to James City County approximately 1.9933 (the "Property") of the Site, generally shown as AArea Hereby Conveyed To James City County As Right Of Way For Public Street Purposes, Area = 1.9933 AC." on that certain plat entitled "Re-Subdivision Of Lot 1A & Lot 1B Property Of Green Mount Associates, L.L.C., Roberts District, James City County, Virginia", dated October 30, 2007 and prepared by LandMark Design Group (the "Plat"); and

WHEREAS, the purchase price for the Property is \$50,000 per acre, being a total purchase price of \$99,665; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Property for the purpose of expanding Route 60.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute any and all documents necessary to acquire the 1.9933 acres as generally shown on the Plat for the purpose of expanding Route 60.

2. Case No. ZO-0011-2007. R-4 (Residential Planned Community) Ordinance Amendment-Initiating Resolution

Mr. David German, Planner, stated that at the Board of Supervisors meetings of October 23, 2007, and November 13, 2007, staff presented an Initiating Resolution to the Board instructing staff to prepare and present language to revise Sections 24-275 and 24-283 of the Zoning Ordinance. He said after deliberation at these two meetings, the Board elected to further discuss the two sections of the Zoning Ordinance and the

proposed resolution to amend these sections, at its January 22, 2008, Work Session. At this Work Session, the Board instructed staff to bring forth the Initiating Resolution to the February 12, 2008, Board meeting for further consideration. Staff recommended adoption of the resolution to initiate consideration of an amendment to Sections 24-275 and 24-283 of the Zoning Ordinance to clarify and fully define the language found in these two sections. Staff requested direction from the Board to simply clarify the language to explicitly follow past practices with these sections.

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

RESOLUTION

ZO-0011-2007. R-4 (RESIDENTIAL PLANNED COMMUNITY) ORDINANCE AMENDMENT -

INITIATING RESOLUTION

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2286 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending the language of Sections 24-275 and 24-283 of Article V. Districts, Division 5. Residential Planned Community District, R-4, by amending the provisions and procedures relating to the 400-acre requirement for proposed residential planned communities found in these Sections. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on parking issues due to single-family homes that house extended families.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the reappointment for the Purchase of Development Rights Committee be handled during Board Requests and Directives. He stated when the Board completes its business, it should recess to February 19, 2008, at 11 a.m. for a joint meeting with the Williamsburg City Council and the Williamsburg-James City County School Board. He stated the next regular meeting would take place on

February 26, 2008, and noted that County offices would be closed on February 18, 2008, in observance of President's Day.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour stated he attended a meeting of the Season's Trace Homeowners Association and stated one of the issues was extensive flooding at its single entrance. He stated that there was concern about emergency response during the event of a hurricane or other weather events. He stated Fire Chief Luton has examined three alternate entrances, and the neighborhood was interested in the short connectivity into Warhill High School to provide for an alternate access in the event of an emergency. He asked that staff evaluate this and provide information.

Mr. Wanner stated that an evaluation would be done involving Chief Luton, the Development Manager, the General Services Manager, VDOT, and the school system.

Mr. McGlennon made a motion to reappoint Dr. Martin C. Mathes to a three-year term on the Purchase of Development Rights Committee.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

Mr. McGlennon stated in response to Mr. Brian Oyer's comments that he opposed the Hill Family Subdivision in that Mr. Hill indicated that it would not be a problem to prevent further subdivision of that property. Mr. McGlennon explained that regardless of the land's current owner, the decisions made on that land hold to it in perpetuity. He stated that further subdivision of the property on Skillman Drive could provide problems for the community in the future. He stated he supported that application and recommended the change in parcel size with the concurrence of Mr. Hill.

Mr. McGlennon noted that he attended the Comprehensive Plan Survey Press Conference. He commended the survey to the public to show the current mood of the public. He stated that the presenters from the firms involved expressed concern about the pace of residential and commercial development, and indicated that individual questions and volunteered responses were surprising. He stated that the survey results were posted on the County website.

He also stated that at the last meeting a closed session was held, and he later read accounts in the newspaper from the closed session that attributed comments to him that were not accurate. He was concerned that there was discussion about the closed session material apparently by someone on the Board which implicated a partisan bias in his vote against Mr. Chris Henderson for a Planning Commission appointment. He stated his surprise and disappointment, and noted that the comments were misrepresented. He stated he did not comment in open session why he voted the way he did. He disclosed that he voted against this appointment because the voters had voted Mr. Henderson down in his bid for the Board of Supervisors and he felt that appointing him to the Planning Commission was going against the wishes of the electorate. He stated there was no partisan reasoning behind his vote. Mr. McGlennon indicated that he had asked the Board members to remain cognizant of the voters' voices.

K. RECESS to 11 a.m. on February 19, 2008.

Mr. McGlennon made a motion to recess.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy. (4). NAY: (0).

At 8:03 Mr. Kennedy recessed the Board to February 19, 2008, at 11 a.m.


Sanford B. Wanner
Clerk to the Board

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ADOPTED

FEB 12 2008

ORDINANCE NO. 66A-61

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA. BY AMENDING ARTICLE III. STOPPING, STANDING, AND PARKING, SECTION 13-36, COUNTY ADMINISTRATOR AUTHORIZED TO REGULATE PARKING AND TO ERECT SIGNS, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Article III, Stopping, Standing, and Parking, Section 13-36, County administrator authorized to regulate parking and to erect signs, etc.

Chapter 13. Motor Vehicles and Traffic

Article III. Stopping, Standing, and Parking*

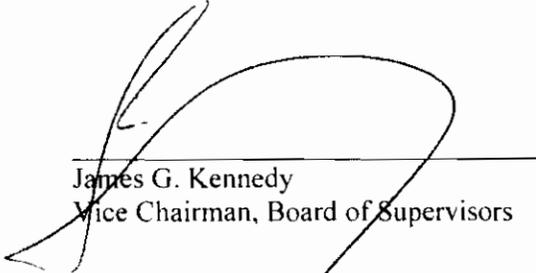
Sec. 13-36. County administrator authorized to regulate parking and to erect signs, etc.

The county administrator *or his designee* may classify vehicles, *and restrict or prohibit parking* with reference to parking upon county-owned property, **and** county-maintained roads and streets, *and roads part of the state secondary system within the county*, and may designate the time, place and manner such vehicles may be allowed to park thereon; and he may make and enforce such additional rules and regulations as parking conditions may require. When any parking regulation is established, pursuant to this section, the county administrator shall cause to be erected appropriate signs or markers so that an ordinarily observant person, who may be affected by such regulations, will be aware of such regulation.

When any regulation is made pursuant to this section and when appropriate signs or markers have been erected as required by this section, it shall be unlawful for any person to violate any such regulation.

State law reference – Authority of county to enact this section. Code of Va., §§ **46.2-1220**, 46.2-1221, **46.2-1222**

*** State law reference** – Authority of county with regard to regulation of abandoned vehicles and parking. Code of Va., § 46.2-1200 et seq.



James G. Kennedy
Vice Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk of the Board

| <u>SUPERVISOR</u> | <u>VOTE</u> |
|-------------------|-------------|
| ICENHOUR | AYE |
| MCGLENNON | AYE |
| JONES | AYE |
| KENNEDY | AYE |
| GOODSON | ABSENT |

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of February, 2008.

080005511

AMENDED
PROFFERS
FOR
CHESTNUT GROVE
JANUARY 15, 2008

✓ Return to: James City County Attorneys Office, 101-C Mounts Bay Road, Williamsburg, VA 231285.

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AMENDED PROFFERS

THESE PROFFERS are made this 15th day of January, 2008, by Chestnut Grove Development, L.L.C. (the "Owner").

RECITALS

WHEREAS, Owner is the record title owner of land located in James City County, Virginia, with an address of 104 Wisteria Garden Drive, Williamsburg, Virginia, and being Tax Parcel 5910100024 (the "Property");

WHEREAS, Owner previously applied to rezone the Property from LB and R-8 to R-5, Multifamily Residential District, with Proffers, which said proffers were recorded as instrument #070017684 in the Clerk's office dated May 15, 2007, hereinafter called the "Proffers";

WHEREAS, Owner previously submitted to the County a Master Plan entitled "Master Plan of Chestnut Grove" prepared by AES Consulting Engineers, dated the 16th day of March, 2007 (Revised on the 20th day of April, 2007) (the "Master Plan"), for the Property in accordance with the County Zoning Ordinance; and

WHEREAS, Owner now desires to amend the Proffers to change the placement of the LID features on the Property and to correct the language of the Marshall and Swift adjustments.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and the James City County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested

amendment is not granted by the County, the original Proffers shall remain in full force and effect.

CONDITIONS

1. **Master Plan.** The Property shall be subdivided and developed generally as shown on sheets 3 and 5 of the Master Plan prepared by AES Consulting Engineers, titled "Master Plan of Chestnut Grove," identified as Project Number 9428, and dated April 20, 2007 and as shown on sheets 1, 2, and 4 of the Master Plan prepared by LandTech Resources, Inc, titled "Master Plan Amendment for Chestnut Grove," identified as Project Number 07-313, and dated November 26, 2007 (the applicable pages are collectively referred to hereinafter as the "Master Plan"). Only minor deviations from this Master Plan, which do not change the basic concept or character of the development, shall be permitted, and must receive prior approval from the Development Review Committee.

2. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with the conditions and application. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management, BMPs, recreation areas, private road and parking areas ("Reserve"), and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the

Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. Developer shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize Association dues during that period so as to not adversely affect purchaser's ability to qualify for a home mortgage.

At the time Developer's maintenance obligation under this Section ends, there shall be at least \$5,400.00 in the Reserve and Developer shall supply evidence of the mechanism to secure the same to the Director of Planning. In addition to said funds, at each closing prior to HOA conveyance, each new homeowner shall pay \$150.00 per unit to be deposited in said reserve account.

3. **Water Conservation.** Water conservation standards shall be submitted to and approved by the James City Service Authority and Developer and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as prohibitions on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan approval, and shall be installed by owner.

4. **Affordable Housing (Proposition 20/20).** A minimum of 20% (8 townhouses) of the townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$135,000.00 subject to adjustment as set forth herein. A second deed of trust shall be assigned unto the James City County Office of Housing

and Community Development for the difference of the appraised value of the townhouse and the net sales price paid by the purchaser of the townhouse, which shall be reflected on a settlement statement for review prior to closing. This deed of trust shall, subject to the request of James City County Office of Housing and Community Development, be assigned to James City County at the time of closing, utilizing appropriate approved procedures and identifying the net sales price paid by the purchaser of the townhouse for the 8 townhouses sold through James City County for \$135,000.00 or less ("Affordable Units"). The second deed of trust will be prepared so as to provide the Purchaser a 15 year loan, forgivable during the 15 year term, in such form as approved by the Office of Housing and Community Development, the County Attorney, and the Virginia Housing Development Authority.

A minimum of 20% (8 townhouses) of the townhouse dwelling units shall be reserved and offered for a net sale price to buyer at or below \$165,000.00, subject to adjustment as set forth herein ("Restricted Units"). A second deed of trust will be prepared so as to provide the Purchaser a 5-year forgivable loan over the 5-year term, in such a form as approved by the Office of Housing and Community Development and the County Attorney. The second deed of trust may be held by the County or a third party nonprofit agency at the discretion of the developer. If the second deed of trust is held by a party other than the County, the deed of trust shall include such terms as to permit the County to monitor and administer the enforcement of the terms of the note. Such terms shall be approved in advance by the Office of Housing and Community Development and the County Attorney.

The maximum prices set forth herein shall be adjusted semi-annually, on January 1st and July 1st of each year, by increasing such prices by the Marshall and Swift Building

Costs Index, Section 98. Comparative Cost Multipliers, Regional City Averages for the period from January 1, 2008, until July 1st or January 1st to reflect any increase or decrease for the preceding period in the Marshall and Swift Building Costs Index of the adjusting year. In no event shall the prices be adjusted to a sum less than the initial "Affordable" or "Restricted" prices. The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Developer shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

5. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to or with the initial Site Plan submission for this property. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic

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

6. **Landscape Buffers and Requirements.**

a.) ***Route 60 Landscape Buffer:*** There shall be a 50 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of the right-of-way and extending from the southern property boundary to the entrance median. There shall also be a 150 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of the right-of-way and extending from the entrance median to the northwestern property boundary. Prior to the County being obligated to grant final site plan approval for the Property, a landscaping plan for the 50 foot and 150 foot landscape buffers along the Route 60 frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval by the Director of Planning. The landscaping plan shall include additional trees and shrubs at the quantity and mixture required by Section 24-04 of the James City County Zoning Ordinance, and that are sized at 125% of what is required in the Ordinance, to supplement the existing trees and shrubs in the buffer.

b.) ***Preservation of Existing Trees and Shrubs; Installation of Landscaping:*** Prior to the submission of a site plan for review by the County, the Developer shall meet onsite with the Landscape Planner of the Planning Division to

identify existing trees and groups of trees that shall be protected and preserved in the setback, perimeter buffer, and open space areas of the property during clearing and construction, and included on the landscaping plan submitted as permanent trees for the property. The trees, shrubs, and other plants shown in the approved landscaping plan shall be either (i) planted on the Property or (ii) bonded in a form satisfactory to the County Attorney prior to issuance of any building permits for the project. The buffers, setbacks, and open space areas shall be exclusive of any lots or units and shall be undisturbed, except for the landscaping proffered herein and, with the approval of the Director of Planning, utilities, the entrance as shown generally on the Master Plan, the pedestrian trail proffered hereby, sidewalk connections, recreation amenities, lighting, entrance features and signs.

c.) ***Perimeter Landscape Buffer:*** Wherever the 35' Perimeter Landscape Buffer abuts an LB zoned property, it shall be planted at the quantity and mixture required by Section 24-94 of the James City County Zoning Ordinance, with trees and shrubs that are sized at 125% of what is required in the Ordinance, to supplement the existing trees and shrubs in the buffer.

d.) ***Adjacent to Building Landscape Requirements:*** The landscaping plan shall reflect that 50% of the Adjacent-to-Building Landscaping is comprised of evergreen plantings.

7. **Entrance and Emergency Ingress and Egress.** There shall be only one entrance into the Property from Pocahontas Trail (Route 60). This entrance shall have one exiting lane and one entering lane. In addition thereto, there shall be a 14 foot gravel base, grass covered, emergency ingress and egress, with a knock down barrier (bollards) such as to prevent regular traffic use thereof. Said emergency access to be constructed in

accordance with the Master Plan, and with the approval of James City County Fire Department.

8. **Turf Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office (“VCEO”) or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soils tests and to develop, based upon the results of the soils tests, customized nutrient management plans (the “Plans”) for all common areas within the Property and each individual townhouse lot platted within the Property. The Plans shall be submitted to the County’s Environmental Director for his review and approval prior to the issuance of the eleventh certificate of occupancy for any townhouse unit on the Property. Upon approval, the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Developer or Association shall provide a copy of the applicable Plan made for the individual townhouse lots to the initial purchaser thereof. Within twelve months after issuance of the certificate of occupancy for the final townhouse on the Property, and every three years thereafter, a turf nutrient management information seminar shall be provided by the Association and conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

9. **Sidewalk Connections and Construction.** There shall be two sidewalk connections from the internal sidewalks in the development to the existing sidewalk adjacent to Route 60, generally as shown on the Master Plan. Sidewalks may be installed in phases as residential units are constructed. All sidewalk connections and internal

sidewalks associated with a particular building or phase of the development shall be completed or bonded in a form acceptable to the County Attorney prior to the issuance of any building permits for that building or phase.

10. **Sidewalk Design.** The design of all sidewalks shall be subject to the approval of the Director of Planning as part of the final approval of the site plan submitted for the Property, to ensure adequate sidewalk placement and width to provide for pedestrian circulation.

11. **Pedestrian Trail.** There shall be a paved walking trail at least six feet in width installed on the Property, generally as shown on the Master Plan. The trail shall be located to avoid mature or specimen trees identified on the Landscape Plan (see Proffer #6), and otherwise where reasonably feasible, and the exact location and design of the trail shall be approved by the Director of Planning. (The trail shall be constructed or bonded in a form acceptable to the County Attorney prior to issuance of any building permits for the Property.)

12. **Private Streets.** The private streets and parking areas in the development shall be constructed in accordance with applicable James City County standards for private streets. All streets and parking areas shall be curb-and-gutter construction. All construction plans and cross-sections for streets and parking areas are subject to the review and approval of the County Engineer.

13. **Architectural Elevations.** The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the proposed Typical Townhouse Elevations, as submitted in the appendix of the "Community Impact Statement for Chestnut Grove Rezoning Application," prepared for and by Health-E Community Enterprises of Virginia, Inc., as determined by the Director of Planning.

14. **Cash Contributions for Community Impacts.** The project shall consist of no more than forty townhouse units, eight of which will be “Affordable,” eight of which will be “Restricted,” and twenty-four of which will be sold at market rates. Cash contributions to offset the fiscal community impacts of these units will be as follows:

(a) A contribution of \$650.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County’s capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$350.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County’s capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

(c) The contribution of \$1300.00 for each dwelling unit other than an Affordable Unit or Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County’s capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(d) A contribution of \$700.00 for each dwelling unit other than an Affordable Unit or Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, school uses, off-site road improvements, future water needs, library uses, and public use sites. No contributions shall be required for the affordable housing units.

(e) The contributions described above, unless otherwise specified, shall be payable prior to final approval of the site plan for each unit.

(f) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2008, to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Costs Index (the "Index"). In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The per unit contribution amount shall consist of the amount set forth in the above paragraphs, plus any adjustment as included in the Marshall Swift Building Cost Index ("Index") if payment is rendered on or after January 1, 2008. Section 98, Comparative Cost Multipliers, Regional City Averages of the Index shall be used when adjusting these amounts. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for the purpose of increasing the per unit contribution to approximate the rate of annual inflation in the County.

15. **Energy Efficient Homes.** All the townhouses shall be certified by a HERS rater to meet or exceed the Energy Star Certification. Each ENERGY STAR qualified new home must achieve a HERS score of at least 86. A copy of the HERS Energy Star Certification for each unit, once available, shall be provided to the Director of Planning.

16. **Recreation.**

(a) The following recreational facilities shall be provided: (i) approximately .45 acres to include one playground (tot lot) with playground equipment for five to six activities; (ii) approximately .26 miles of trails/paths. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Director of Planning.

(b) Developer shall pay a cash contribution of \$2,889 to be adjusted using the Marshall Swift Index yearly, beginning January 1, 2008, and again on the first day of each successive year, until paid in accordance with the Parks and Recreation Master Plan Proffer Guidelines.

(c) The recreational facilities and cash contribution proffered under this Section shall be installed or bonded in a form satisfactory to the County Attorney (or paid, in the case of the cash contributions) prior to the issuance of the 30th building permit for any townhouse unit on the Property.

17. **Bike Lanes.** Developer agrees to preserve the right-of-way area along the Route 60 frontage of the Property for the designation of a four foot wide bike lane, and agrees to not install any new underground or above ground utilities within such areas that may, as determined by the Director of Planning, prevent the construction of a bike lane.

18. **Route 60 Entrance.** At its sole cost and at the direction and approval of VDOT, the Developer shall stripe, delineate and/or mark the Route 60 roadway at the entrance of the Property.

19. **Low Impact Design (“LID”) Features.** The Developer shall install the following LID features as defined in the James City County Special Stormwater Criteria Practices Manual (the “SSCP”) and as generally shown on the Master Plan.

1. LID 1 – Bioretention Basin (SSCP #12) approx. 1500 sq/ft
2. LID 2 – Dry Swale (SSCP # 21) approx. 1000 sq/ft
3. LID 3 – Dry Swale (SSCP # 21) approx. 2700 sq/ft
4. LID 4 – Dry Swale (SSCP # 21) approx. 3400 sq/ft
5. LID 5 – Dry Swale (SSCP # 21) approx. 900 sq/ft
6. LID 6 – Dry Swale (SSCP # 21) approx. 2100 sq/ft

The LID features shall be bonded or installed prior to the issuance of the first building permit in conjunction with the stormwater retention basin sequence of construction as approved by the Director of the Environmental Division.

20. **JCSA Utility Easement.** The Developer shall record a 20-foot JCSA Utility Easement from the location of the proposed sanitary sewer main on the Property to the property located at 8792 Pocahontas Trail. The final location of the JCSA Utility Easement shall be determined by the JCSA and the Developer prior to final site plan approval.

21. **Green Building/Sustainable Materials.** The developer shall incorporate the use of “green” building practices and materials in each unit in the development as follows: paints low in volatile organic compounds (“VOC”), carpets certified by the Carpet and Rug Institute to be free of formaldehyde, low VOC sub-flooring, built-in dehumidifiers, transfer grills in each bedroom for balanced heating and cooling, value engineered framing, engineered lumber, and cellulose insulation. These items shall be

shown on the architectural drawings for each unit, and shall be approved as part of the building permit review and inspection process.

WITNESS the following signatures:

CHESTNUT GROVE DEVELOPMENT, L.L.C.

By: *Michael B. Ware*
Michael B. Ware, Manager

COMMONWEALTH OF VIRGINIA
CITY OF NEWPORT NEWS, to wit:

The foregoing instrument was acknowledged this 15th day of January, 2008,
by Michael B. Ware, Managing Member of Chestnut Grove Development, L.L.C.

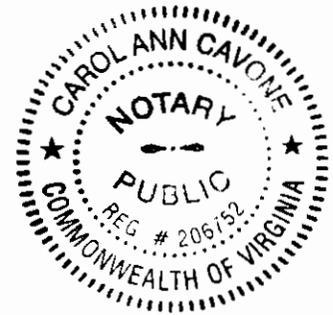
Carol Ann Cavone
Notary Public

My commission expires: 11-30-2010

Prepared by:

Michael B. Ware, Esq.
JONES, BLECHMAN, WOLTZ & KELLY, P.C.
701 Town Center Drive, Suite 800 (23606)
P.O. Box 12888
Newport News, VA 23612-2888
(757) 873-8076

(423132)



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 25 Feb 08
at 9:53 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

080 007401

Tax Map No (47-1) (1-23)

112 INGRAM ROAD OFFICE BUILDING
PROFFERS

These proffers are made as of this 25th day of January, 2008 by EVANS DEVELOPMENT CORPORATION, (together with its successors and assigns, the "Owner")

RECITALS

- A. Owner is the Owner of a tract or parcel of land located in James City County, Virginia containing approximately 0.37 acres and being James City County Real Estate Tax Parcel (47-1) (1-23) and further described in " Attachment A" ("the Property"). The Property is now zoned R-8, Rural Residential.
- B. Owner has applied to rezone the Property from R-8, Rural Residential, to B-1, General Business, with proffers.
- C. Buyer has submitted to the County a Conceptual Plan entitled "Conceptual Site Plan" prepared by Walters Land Surveying, LTD, dated 8/15/07. ("the Plan")
- D. Owner desires to offer the County certain conditions on the development of the Property not generally applicable to land zoned B-1. Therefore, and in consideration of the approval by the Board of Supervisors of the rezoning, and pursuant to Section 15.2-2303. et seq. of the Code of Virginia, 1950, as amended, and Section 24-15, of the Zoning Ordinance, owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be void.

CONDITIONS

1. Uses and Conceptual Plan. The Property shall be put to one or more of the following possible uses: business, governmental, contractor's and professional offices and accessory uses thereto as defined in the James City County Zoning Ordinance. All other otherwise permissible uses shall be prohibited. The Property shall be developed generally in accordance with the Plan, with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Architecture. The office building on the Property shall be developed in an architectural design and color scheme generally consistent with the rendering revised November 9, 2007 made by DeBlasio Design and Architects and as shown in the Plan and consistent with the architectural standards set forth in the Primary Principles for Five Forks Area of James City County, adopted by the Board of Supervisors on September 28, 2004. Said design shall be approved by the Planning Director prior to final site plan approval.
3. Landscaping. An enhanced landscaping plan shall be provided to the Planning Director for approval prior to final site plan approval. This plan shall provide enhanced landscaping along the entire road frontage of the property. ("Enhanced landscaping" shall be defined as 125 percent of the zoning ordinance landscape size requirements)
4. Entrance. An entrance constructed in accordance with applicable VDOT standards shall be installed prior to issuance of any Certificate of Occupancy.
5. Intersection Improvements. A cash contribution of \$443.00 shall be made to the County prior to final site plan approval in order to mitigate traffic impacts resulting, in part, from the physical development and operation of the Property. The County shall use these funds towards the construction of intersection improvements to the Ironbound Road/John Tyler Highway intersection as detailed in section I.1 of the Primary Principles for Five Forks Area of James City County, adopted by the Board of Supervisors on September 28, 2004 or toward pedestrian improvements at said intersection.

6. Water Conservation. The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation 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.

7. Irrigation: In the design phase, the developer and designing engineer shall include 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 James City Service Authority (the "JCSA") water or well water 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 that the Impoundments cannot provide sufficient water for Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100' feet) well to supplement the water provided by the Impoundments. If water from shallow wells is inadequate to irrigate common areas the General Manager of the JCSA may approve areas after reviewing site plans that demonstrate the common areas incorporate water conservation techniques (i.e. minimize turf, use of drought tolerant plant, drip irrigation, etc).

Witness the following signature and seal

Evans Development Corporation

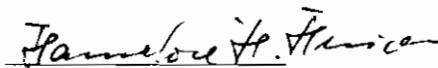


Scott Evans, President

COMMONWEALTH OF VIRGINIA

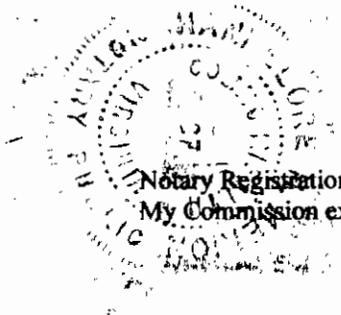
City/County of JC', to wit:

The foregoing instrument was acknowledge before me by Scott Evans, on this 28 day of January, 2008.



Notary Public

Notary Registration Number: 183385
 My Commission expires: 12/31/2009



Prepared by: Scott Evans, 5251-18 John Tyler Hwy, #134, Williamsburg, VA 23185

Return to: James City County Attorneys Office, 101-C Mounts Bay Road, Williamsburg, VA 231285.