

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

February 11, 2003

7:00 P.M.

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**AT A RETREAT OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 18TH DAY OF JANUARY, 2003, AT 8:00 A.M. IN ROOM A OF THE
JAMES CITY/WILLIAMSBURG COMMUNITY CENTER, 5301 LONGHILL ROAD, JAMES CITY
COUNTY, VIRGINIA.**

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. RETREAT

1. Employee Compensation and the Fiscal Year 2004 Budget

Ms. Carol M. Luckam, Human Resource Manager, provided the Board with an overview of the Market-Based Compensation Plan, the infrastructure recalibration, and the pay-for-performance employee compensation.

Mr. Goodson inquired about new employee impacts on the performance increase levels.

Ms. Luckam stated that there are guidelines for performance increases that designate the levels of performance compensation.

Mr. Brown inquired about the salary increases.

Ms. Luckam stated that the performance compensation is based on the mid-level salary level on the range; for those above the mid-level salary point, the compensation is on actual salary.

Mr. John McDonald, Manager of Financial and Management Services, stated that the County budgets salary increases based upon a level such as 3.5 percent and usually the actual year-end salary budgets end at a 3.35 percent increase level.

Mr. Brown inquired about the skew of the number of exceeds and outstanding performance measures given in employee evaluations.

Ms. Luckam stated that Human Resources could address concerns about high-rated evaluations or Human Resources could adjust the performance compensation level from the outstanding level downward.

Mr. McGlennon requested clarification regarding the majority of employees receiving an exceeds level of performance compensation.

Ms. Luckam stated that staff could review the performance compensation and, if directed, would make recommendation regarding alternative methods for compensation.

Mr. Kennedy requested information regarding the employee benefits package and how it compares to surrounding localities.

Ms. Luckam stated that it is difficult to measure benefits; however, the benefits package appears to be competitive with surrounding jurisdictions.

Mr. Brown inquired about providing the employees with benefit costs to see the entire compensation picture.

Mr. Wanner stated that occasionally, employees have been provided information with benefit costs.

Ms. Luckam stated that these compensation ideas should be considered and, if appropriate, planned out for implementation in future fiscal years.

Mr. Harrison requested clarification on the recalibration process.

Ms. Luckam stated that the recalibration process is utilized to keep salary ranges competitive.

Mr. Harrison recommended the staff review the compensation guidelines and procedures, and advise the Board of the cost for alternatives for compensation.

Mr. McGlennon inquired about other compensation items that may impact the budget levels.

Ms. Luckam stated that the health insurance costs will be increasing and the County has budgeted a ten percent increase.

Mr. McGlennon stated that employee productivity has increased and kept up with the County's increased population without a corresponding increase in staffing.

2. Budget Guidance – FY 2004

Ms. Suzanne R. Mellen, Director of Budget and Accounting, provided the Board with an overview of the projected County Operating Budgets and Capital Budgets including adjusted revenue estimate and expenditure growth, observations on machinery and tools tax due to the closing of John Deere and BP Solar, and the impacts of one- and two-cent reduction in real estate tax rates, and a change over to a biennial assessment.

Mr. Wanner requested guidance from the Board regarding the revenue choices so staff can address expenditure recommendations.

Mr. Kennedy requested information from John Horne regarding Development Management's ability to break-even through fees for cost recovery.

Mr. Harrison stated that the fees collected do not cover staff costs.

Mr. Kennedy recommended staff be aggressive in fee collections to recover service costs to serve developers.

Mr. Kennedy requested staff cut the travel budget and their operating expenditures and review the employee performance pay and benefits for possible reductions.

Mr. Brown inquired about the contingency funding plan.

Ms. Mellen stated that the contingency funding is still in place.

The Board and staff held discussions regarding the employee performance compensation for the County and Schools, impact of a 0.5 percent decrease in performance compensation, State funding levels to the Schools, the increased funding by the County to the Schools, and that the Board has supported increases in teacher salaries.

Mr. Kennedy inquired about the County's annually increasing funding to the Schools despite the School's growing fund balance.

Mr. Wanner recommended that the Board not fund the School's Capital Improvement Projects (CIP) and direct the Schools to utilize its Contingency Fund to support FY04 CIP projects.

Mr. Harrison requested direction from the Board on the real estate tax.

The Board recommended that in the face of uncertain economic conditions, the County should continue with the 0.87 cent tax rate and setting aside 0.2 cents for debt services.

The Board and staff held a discussion regarding the Real Estate assessment cycle and staff strongly recommended that the Board keep an annual assessment and change the tax rate rather than move to a biennial assessment.

Mr. Wanner indicated areas within the proposed budget that would be reduced based upon the Board's direction on the revenue.

The Board and staff held a discussion regarding the expenditure levels and opportunities to reduce the Operating Budget.

The Board agreed not to adjust the real estate tax rate or to change the reassessment cycle for Fiscal Year 2004 (FY04) and directed staff to review the FY04 Budget accordingly.

The Board took a brief break at 10:30 a.m.

The Board reconvened at 10:45 a.m.

3. Affordable Housing for First-Time Homebuyers

Mr. Richard B. Hanson, Housing and Community Development Administrator, provided the Board with an overview of the shortage of affordable housing for first-time homebuyers, the impact of the rapidly rising housing market that has against the slower wage increases in the local economy, the lack of affordable property to develop moderately priced single- or multifamily homes, possible exclusionary zoning, the costs association with addressing the shortfall of affordable housing in the County, and the opportunities the County offers to assist low- to moderate-income homebuyers.

Staff recommended that the County assist in the identification and development of affordable homes through partnerships, developing surplus property, fee waivers as incentives to keep housing prices down, inclusionary zoning, and Land Use policies.

The Board and staff discussed the possibility to keep the resale of affordable housing to other low-to moderate-income homebuyers or to recuperate the cost of the County's assistance for the initial purchase.

Mr. Anthony Conyers, Jr., Manager of Community Services, stated that affordable housing is not a Community Services issue within the structure of the County; Development Management and the James City Service Authority are also involved; fiscal impacts of the affordable housing programming; and the impact on the growth and development in the community.

Mr. Harrison inquired about how much administrative support the affordable housing programming would need.

Mr. Conyers stated that the level would depend upon the program developed.

Mr. Brown requested an update on the Ironbound Square Redevelopment Project at a future Board meeting.

4. Youth Services

Mr. Anthony Conyers, Jr., Manager of Community Services, and Nancy Ellis, Youth Services Coordinator, provided the Board with an overview of the progress in implementing the adopted County Strategic Plan for Children and Youth, with an introduction to the STRIVE and Beyond the Bell programs, funding for these initiatives, and with the impacts of these program.

The Board and staff held a discussion regarding the utilization of the scholarship funds for the Williamsburg Indoor Sports Complex and other partnerships for training and placement of youth in programs.

Mr. Kennedy inquired if there are individuals who work with the youth and employers to match up for employment and job training opportunities.

Ms. Ellis stated that initiatives are underway to match up youth with employers.

Mr. Kennedy inquired if the individuals that work with youth could work on interviewing, dressing, obtaining skills for the workforce, and transportation resources.

Mr. Harrison requested that youth be more visible through the Youth Advisory Council and through the County's Youth Services.

5. Water Rates – Increasing Block Rate System

Mr. Larry M. Foster, General Manager of the James City Service Authority, provided the Board with an overview of the increasing block water-rate structure for residential customers and requested guidance from the Board on the recommendations for alternative rate blocks.

Mr. Harrison requested clarification on the Water Conservation Committee's recommendation to increase the third-block rate to \$7.20 per thousand gallons and increase the third block to 30,000 gallons.

Mr. Foster stated that the recommendation is based on the Committee's desire to conserve water.

The Board and staff held a discussion regarding the recommendations and directed staff to pursue Option One.

Mr. Goodson thanked staff for meeting with the Board.

Mr. Harrison recapped the consensus of the Board regarding the Real Estate Tax Rate, assessment cycle, and water rates.

Mr. Wanner stated that he will be presenting the Board with a Budget in March for consideration.

C. RECESS

Mr. Goodson made a motion to recess until January 23, 2003.

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

Mr. Harrison recessed the Board at 12:14 p.m. until January 23, 2003, at 10 a.m. for the VML/VACo Legislative Day.

Sanford B. Wanner
Clerk to the Board

AT THE VACo/VML LEGISLATIVE DAY OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JANUARY, 2003, AT 10:08 A.M. IN RICHMOND, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District, arrived at noon
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District, Absent

Sanford B. Wanner, County Administrator

B. VACo/VML LEGISLATIVE DAY

Board members left the Government Complex at 101-C Mounts Bay Road, Williamsburg, VA 23185 at 10:08 a.m. and drove to the Richmond Marriott at 500 East Broad Street, Richmond, VA 23219 where the VACo/VML Legislative Day Program was held.

The Board participated in the Program and visited members of the County's General Assembly delegation.

Mr. McGlennon joined the Board at 12:00 p.m.

Mr. McGlennon left at 4:00 p.m.

C. ADJOURNMENT

Mr. Harrison adjourned the Board at 7:10 p.m.

Sanford B. Wanner
Clerk to the Board

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 28TH DAY OF JANUARY, 2003, AT 4:00 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.**

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. BOARD DISCUSSION

1. FY 2003 – 2008 Six-Year Secondary Road Plan

Mr. John T. P. Horne, Development Manager, provided the Board with an overview of the projects and status for those that were endorsed by the Board in the previous six-year plan.

The Board and staff discussed the State funding shortfalls on the projects, the funds set aside by the County for the projects, and agreed to revise the FY 2003-2008 Six-Year Secondary Road Plan accordingly to minimize project delays and preserve road improvement benefits.

Mr. Steve Hicks, Resident Engineer, Virginia Department of Motor Vehicles, joined the discussion and defined Rural Rustic Design Standard and its benefits both in road development cost reductions and a method by which Route 622 (Racefield Drive) could get paved in the near future.

Mr. Hicks provided the Board with an improvement method to recondition and thereby substantially improve Route 607 (Croaker Road) without substantial cost to the County and improve safety of the roadway.

The Board and Mr. Hicks discussed the proposed Route 607 improvement method's durability and anticipated maintenance constraints in anticipation of limited increased traffic on the roadway in the future.

The Board and Mr. Hicks discussed Route 615 (Ironbound Road) improvements between Route 681 (Sandy Bay Road) and Route 31 (Jamestown Road) including the type of construction to align the road, costs for the roadway work, and timetable to improve the roadway.

Mr. Horne stated that staff will schedule a Public Hearing for the Six-Year Secondary Road Plan to be held on February 25.

The Board thanked Mr. Hicks for VDOT's flexibility in working with the Six-Year Secondary Road Plan and for its customer service during the recent inclement weather.

Mr. Goodson inquired about the snow removal funding status.

Mr. Hicks stated that the funding is in good condition to address inclement weather concerns.

Mr. McGlennon thanked Mr. Hicks for his willingness to visit sites of concern in the County.

Mr. Harrison thanked Mr. Hicks for working with the County to keep long-term construction costs down.

Mr. Kennedy requested VDOT review the paving in front of Toano Middle School on Route 60W.

Mr. Kennedy requested VDOT replace the damaged and missing poles from the right shoulder of Route 607 (Croaker Road) at the intersection of Route 607 and Route 60W.

2. James City County Stormwater Funding and Project Program

Mr. John T. P. Horne, Development Manager, stated that in accordance with the Board's direction, staff scheduled and conducted an additional public outreach meeting for public comment on the Stormwater Funding and Project Program.

Mr. Horne and Mr. McGlennon provided an overview of the questions, issues, and comments raised by those in attendance including assessment of the stormwater utility, and set up of the program in the County.

Mr. Harrison inquired if staff attended connected neighborhood meetings to get feedback from those who did not attend the outreach meetings.

Mr. Horne stated that staff would take certain steps in that direction when the Board directed staff to move forward with the Program.

Mr. Harrison inquired about the consideration of the impact to the County of not having a stormwater utility in place with continued development growth.

Mr. Horne stated that the water quality in the County is decreasing significantly in the watershed and will continue to decrease, and stated that the stormwater utility will minimize the continued decrease in water quality in the watershed.

Mr. Horne inquired if the Board's consensus is to have a systematic, effective stormwater management program to address and document impacts to the watershed and if so, the Board must be willing to annually provide a stable funding source for the stormwater program.

The Board and staff discussed other localities' stormwater utilities, a comprehensive program, acceptable levels of Stormwater Management Program by the County that would exceed the Federal mandate levels, impacts to individual landowners when they develop their lands, inspecting BMPs and the Program, and the potential burden to landowners and neighborhoods that do not have Homeowner Associations and/or those whose stormwater management BMPs handle stormwater runoff from other neighborhoods.

Mr. Horne requested guidance from the Board regarding the stormwater utility in light of the upcoming budget process.

The Board directed staff not to pursue the establishment of a Stormwater Utility at this time, encouraged enhance educational information to the citizens regarding the purpose of the Stormwater Management Program and Stormwater Utility, recommended staff wait until after the completion of the Comprehensive Plan to pursue this initiative, and stated support for protecting the watershed quality.

C. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia to consider a personnel matter involving the six-month performance evaluation of the County Administrator.

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

Mr. Harrison convened the Board into Closed Session at 5:15 p.m.

Mr. Harrison reconvened the Board into Open Session at 6:45 p.m.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion and Section 2.2-3711(A)(1) to consider a personnel matter involving the six-month performance review of the County Administrator.

D. ADJOURNMENT

At 6:47 p.m., Mr. Harrison recessed the Board until 7 p.m.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF JANUARY, 2003, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Harrison recognized members of Boy Scout Troop 103 in attendance.

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

C. PLEDGE OF ALLEGIANCE

Elizabeth Hodges, a fifth grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Planning Commission Annual Report – A. Joe Poole, III

Mr. A. Joe Poole, III, Planning Commission Chairman, provided the Board with an overview of the Planning Division's Annual Report including the status of the Division's workload in relation to available staffing, cases addressed in FY 02, and the status of a variety of projects worked on in FY 02.

The Board thanked the Planning Commission and staff for their work.

E. PUBLIC COMMENT

1. Mr. Richard Bradshaw, Commissioner of the Revenue, stated that the County has arranged for free tax preparation services, six days a week at six locations throughout the County from February 3 to April 5 for low- to moderate-income families and those filing Form C.

Mr. McGlennon inquired about the methods of notification to citizens that this service is available and recommended that the Cox County Channel 48 and the County web site also provide information regarding the service.

2. Mr. Ed Oyer, 139 Indian Circle, stated that he visited the General Assembly, commented on the State Budget shortfalls, and stated concern about the reallocation of Lottery funds to the General Fund as well as concern regarding the withdrawal of funds from the Transportation Trust Fund.

F. CONSENT CALENDAR

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

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

1. Minutes – January 14, 2003, Regular Meeting
2. Budget Amendment – Emergency Management

RESOLUTION

BUDGET AMENDMENT - EMERGENCY MANAGEMENT

WHEREAS, the Board of Supervisors of James City County has been requested to approve the additional funding by the Virginia Department of Emergency Management to the James City County Office of Emergency Management for preparation and response to weapons of mass destruction incidents.

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:

Department of Emergency Management	<u>\$47,940.16</u>
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Expenditures:

Office of Emergency Management	<u>\$47,940.16</u>
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3. Strengthening Families Program

RESOLUTION

STRENGTHENING FAMILIES PROGRAM

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

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:

Revenues:

From Historic Triangle Substance Abuse Coalition \$3,750

Expenditures:

Office of Community Services \$3,750

4. Federal Emergency Management Agency Grant Award

RESOLUTION

FEDERAL EMERGENCY MANAGEMENT AGENCY GRANT AWARD

WHEREAS, the Federal Emergency Management Agency (FEMA) has approved an Assistance to Firefighters Grant providing \$138,000 to the Fire Department for firefighter applicants physical ability testing, firefighter wellness programs, and equipment; and

WHEREAS, local matching funds of \$13,800 are available in the Fire Programs account.

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

Revenue:

Transfer from Donation Trust Fund \$ 13,800

Federal Emergency Management Agency (FEMA) 124,200

Total \$138,000

Expenditures:

Fire Department Budget \$138,000

5. Budget Appropriation – Emergency Management

RESOLUTION

BUDGET APPROPRIATION - EMERGENCY MANAGEMENT

WHEREAS, the Board of Supervisors of James City County has been requested to approve the additional funding by the Virginia Department of Emergency Services to the James City County Office of Emergency Operations for annual operations and improvement in the area of radiological preparedness.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the FY 2003 Operating Budget as follows:

Revenues:

VA Department of Emergency Services \$15,372

Expenditures:

Emergency Management \$15,372
(Account No. 001-073-0318)

6. Dedication of Streets in Mulberry Place

RESOLUTION

DEDICATION OF STREETS IN MULBERRY PLACE

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk’s Office of the Circuit Court of James City County; and

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

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, 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 the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) 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 the Virginia Department of Transportation.

7. Award of Contract – JC/WCC HVAC Replacement

RESOLUTION

AWARD OF CONTRACT - JC/WCC HVAC REPLACEMENT

WHEREAS, a request for proposals for replacement of three HVAC units at the James City-Williamsburg Community Center (JC/WCC) was publically advertised; five interested firms submitted proposals; and

WHEREAS, staff reviewed all proposals, interviewed three proposers, and selected David H. Rogers Plumbing Co., Inc., as the most qualified firm to provide the services associated with the projects; and

WHEREAS, a fee of \$190,440 was negotiated with David H. Rogers, Plumbing Co., Inc., for providing the services, with funds available in the Capital Maintenance Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the contract to provide the JC/WCC HVAC Replacement to David H. Rogers Plumbing Co., Inc., for \$190,440.

8. Appropriation of Dry Well Replacement Program Funds

RESOLUTION

APPROPRIATION OF DRY WELL REPLACEMENT PROGRAM FUNDS

WHEREAS, the Commonwealth of Virginia has established the Dry Well Replacement Program to provide assistance to low- and moderate-income homeowners whose wells went dry during the drought of 2002 to secure a reliable source of water; and

WHEREAS, a letter identifying a need for assistance under the Dry Well Replacement Program within James City County and all other documentation required to enable the County to receive a grant contract have been submitted to the Virginia Department of Housing and Community Development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Community Development budget, as adopted for the fiscal year ending June 30, 2003, as follows:

Revenues:

Dry Well Replacement Program funds	<u>\$57,500</u>
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Expenditures:

Dry Well Replacement Program loans and administrative expenses	<u>\$57,500</u>
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BE IT FURTHER RESOLVED that the appropriation of funds for the Dry Well Replacement Program be designated a continuing appropriation to carry beyond FY 2003 until the activities of the Dry Well Replacement Program are completed.

9. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – Stonehouse Development Company, L.L.C.

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - STONEHOUSE DEVELOPMENT COMPANY, L.L.C.

WHEREAS, Stonehouse Development Company, L.L.C., is the owner of a certain parcel of land, commonly known as Mill Pond Park, designated as Parcel No. (01-24) on James City County Real Estate Tax Map No. (4-4); hereinafter referred to as the (“Property”); and

WHEREAS, on or about November 8, 2002, understory vegetation consisting of 49 trees and shrubs were removed from the Resource Protection Area on the Property; and

WHEREAS, Stonehouse Development Company, L.L.C., agreed to a Restoration Plan to replant 98 trees and shrubs, on the Property in order to remedy the violation under the County’s Chesapeake Bay Preservation Ordinance and Stonehouse Development Company, L.L.C., has provided surety to the County to guarantee the completion of the restoration for the Resource Protection Area on the Property; and

WHEREAS, Stonehouse Development Company, L.L.C., has agreed to pay \$2,500 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,500 civil charge from Stonehouse Development Company, L.L.C., as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

G. PUBLIC HEARING

1. Lease Agreement - James City-Bruton Volunteer Fire Department

Mr. William C. Porter, Jr., Assistant County Administrator, stated that it was discovered that the public hearing advertisement had not been submitted in a timely fashion for the hearing held on January 2, 2003, by the Board of Supervisors.

Mr. Porter recommended the Board hold a Public Hearing on the Lease Agreement, following which the Board should adopt the resolution authorizing the County Administrator to execute the lease that is exactly the same as the lease presented on January 2, 2003.

Mr. Kennedy requested confirmation that the Lease Agreement is the same as the one presented on January 2.

Mr. Porter confirmed the information.

Mr. Harrison opened the Public Hearing.

As no one wished to speak to this matter, Mr. Harrison closed the Public Hearing.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

LEASE AGREEMENT JAMES CITY-BRUTON VOLUNTEER FIRE DEPARTMENT

WHEREAS, the Board of Supervisors of James City County has been requested to approve a lease agreement between the County of James City and the James City-Bruton Volunteer Fire Department, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a lease agreement between James City County and the James City-Bruton Volunteer Fire Department, Inc.

H. BOARD CONSIDERATIONS

1. PDR Program – Acceptance of Offer to Sell a Conservation Easement

Mr. Michael H. Drewry, Administrator of the Purchase of Development Rights Program, introduced members of the Purchase of Development Rights (PDR) Committee that were in attendance.

Mr. Drewry stated that Alex Penland has offered to sell a conservation easement on his property located at 9229 and 9201 Diascund Road, further identified as Tax Map Nos. (9-1) (1-1) and (2-4) (1-29), to the County for the appraised value of \$200,000.

The PDR Committee and staff recommended that the Board approve the resolution authorizing the County Administrator to execute all documents necessary for the completion of the acquisition of the conservation easement offered by Mr. Penland.

The Board members commented on the positive work the PDR Committee and staff are doing.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

PDR PROGRAM - ACCEPTANCE OF OFFER TO SELL A CONSERVATION EASEMENT

WHEREAS, the County has received an offer to sell a conservation easement under the Purchase of Development Rights (PDR) Program from the owner of the property known as 9229 and 9201 Diascund Road, Tax Parcels Nos. 0240100029 and 0910100001; and

WHEREAS, the owner offered to sell a conservation easement on the property for a purchase price of Two Hundred Thousand Dollars (\$200,000), subject to the conditions set forth in the proposed Deed of Easement enclosed with the County's invitation of offer.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the offer to sell a conservation easement described above, or as modified by the County Attorney, and authorizes the County Administrator to execute all documents necessary for completing the acquisition.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby directs the PDR Administrator to send a copy of this resolution to the owner of the property identified herein.

2. Purchase of Portion of 4315 John Tyler Highway

Mr. John T. P. Horne, Development Manager, stated that by Board instruction given on March 12, 2002, staff proceeded with the purchase of a parcel of land adjacent to Powhatan Creek, owned by Axel and Sheila Nixon.

Mr. Horne stated that the owners wish to proceed with the closing and have agreed to the negotiated contract containing a purchase price of \$95,368 for 10.48 acres.

Staff recommended the Board approve the contract and authorize the County Administrator to proceed with the closing.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

PURCHASE OF PORTION OF 4315 JOHN TYLER HIGHWAY

WHEREAS, James City County currently owns a parcel of land adjacent to Powhatan Creek in the Berkeley District shown as Parcel No. (46-2) on the James City County Real Estate Tax Map No. (1-33); and

WHEREAS, the County desires to acquire further property along Powhatan Creek for open space conservation and connection to the site of the planned Groundwater Treatment Facility being constructed by the James City Service Authority and to the site of Clara Byrd Baker Elementary School, and for other public uses; and

WHEREAS, Axel L. Nixon and Sheila F. Nixon currently own a certain 10.48-acre parcel at 4315 John Tyler Highway, being a portion of that parcel shown as Parcel No. (46-2) on the James City County Real Estate Tax Map No. (1-21), that is adjacent to said Groundwater Treatment Facility site, Powhatan Creek, and said parcel of land owned by James City County, and said owners have signed a contract dated May 1, 2002, to sell the 10.48-acre parcel to James City County for a purchase price of \$9,100 per acre (for a total purchase price of \$95,368).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the contract with Axel L. Nixon and Sheila F. Nixon dated May 1, 2002, and authorizes and directs the County Administrator to purchase the above-described 10.48-acre parcel for a price not to exceed \$95,368 plus closing costs. Costs for the acquisition shall be deducted from the County Greenspace Fund.

I. PUBLIC COMMENT

Mr. Ed Oyer, 139 Indian Circle, stated that the recordation fees and Department of Motor Vehicle fees will be increasing, voiced concern again regarding the Transportation Trust Fund withdrawal, and stated concern regarding the transfer of funds by the State from agencies to the General Fund.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that on January 23 the Board and County Administration met with the County's delegation in Richmond regarding issues concerning the County and its citizens.

Mr. Wanner recommended that upon completion of the meeting, the Board adjourn until its next regular meeting at 7 p.m. on February 11.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Brown requested that the County Administrator forward the Board's concern and opposition to the sunset clause in Senate Bill 1069. The Board concurred.

Mr. Kennedy thanked Mr. Penland for his participation in the PDR Program.

Mr. Harrison stated that there would be a memorial service for Dr. James B. Blayton on February 8 at the Kimball Theater.

J. ADJOURNMENT

Mr. Kennedy made a motion to adjourn until February 11, 2003.

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

Mr. Harrison adjourned the Board at 7:37 p.m. until February 11, 2003.

Sanford B. Wanner
Clerk to the Board

M E M O R A N D U M

DATE: February 11, 2003
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Colonial Area Family and Intimate Partner Violence Fatality Review Team

During the January 14, 2003, meeting, the Board adopted a resolution authorizing the County to join the Colonial Area Family and Intimate Partner Violence Fatality Review Team and appointed the Chief of Police and the Director of Social Services to the Team. The Board has been requested by Community Services to appoint the Director of the Colonial Community Corrections or her designee to the Team. Attached for the Board's consideration is a resolution appointing the Director of the Colonial Community Corrections to the Colonial Area Family and Intimate Partner Violence Fatality Review Team.

Staff recommends adoption of the attached resolution.

William C. Porter, Jr.

WCP/gs
colonial.mem

Attachment

RESOLUTION

COLONIAL AREA FAMILY AND INTIMATE PARTNER

VIOLENCE FATALITY REVIEW TEAM

WHEREAS, family and intimate partner violence has destructive consequences upon individuals and families within our areas; and

WHEREAS, the Colonial Area Council on Domestic Violence has established a regional Family and Intimate Partner Violence Fatality Review Team and the Board has appointed the Chief of Police and the Director of Social Services to the Team; and

WHEREAS, the Board has been requested to appoint the Director of Colonial Community Corrections or her designee to the Team.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the Director of Colonial Community Corrections or her designee be and is hereby appointed to the Colonial Area Family and Intimate Partner Violence Fatality Review Team.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

colonial.res

MEMORANDUM

DATE: February 11, 2003
TO: The Board of Supervisors
FROM: Michael H. Drewry, Purchase of Development Rights Program Administrator
SUBJECT: Purchase of Development Rights (PDR) Committee Appointments

Submitted for your consideration are citizens recommended for reappointment to the Purchase of Development Rights (PDR) Committee and a recommendation for appointment of the James City County-Virginia Cooperative Extension Unit Administrator, or her designee, as an ex officio member of the PDR Committee.

The purpose of the PDR Committee is to promote the PDR Program, review the ranking of PDR applications, and annually review and make recommendations on the effectiveness of the PDR Program. The PDR Program Ordinance states in Section 16A-6 that "each term after the initial term shall be for three years."

The following citizens have served an initial one-year term which expires on February 12, 2003, and are recommended for reappointment to a three-year term: 1) Larry B. Abbott, 4478 Centerville Road, Powhatan District; and 2) Loretta B. Garrett, 8431 Croaker Road, Stonehouse District.

The James City County-Virginia Cooperative Extension Unit Administrator is currently an ex officio member of the PDR Committee. It is recommended that this appointment be changed to include the language "or her designee."

Michael H. Drewry

CONCUR:

Anthony Conyers, Jr.

MHD/gs
pdrappts.mem

Attachment

RESOLUTION

PURCHASE OF DEVELOPMENT RIGHTS (PDR) COMMITTEE APPOINTMENTS

WHEREAS, Section 16A-6 of the Code of the County of James City, Virginia, states that members of the Purchase of Development Rights (PDR) Committee shall serve at the pleasure of the Board; and

WHEREAS, the James City County-Virginia Cooperative Extension Unit Administrator is currently an ex officio member of the PDR Committee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby reappointments to the James City County Purchase of Development Rights Committee the following citizens: Larry B. Abbott and Loretta B. Garrett, for a three-year term.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints the James City County-Virginia Cooperative Extension Unit Administrator, or her designee, as an ex officio member of the James City County Purchase of Development Rights Committee.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

pdrappts.res

**REZONING 5-02 & HEIGHT LIMITATION WAIVER-1-02. Longhill Grove
Staff Report for February 11, 2003, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Building C Board Room; County Government Complex
 Planning Commission: January 13, 2003, 7:00 p.m.
 Board of Supervisors: February 11, 2003, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Alvin Anderson of Kaufman & Canoles

Land Owner, Tax Map ID, Area and Existing Zoning: Parcel 1: Burton Woods Associates; (31-3)(1-14); 6.42 acres; R-5
 Parcel 2: Heritage Builders; (31-3)(1-13); 1.07 acres; R-5
 Parcel 3: UPC Limited Partnership; (31-3)(1-12); 8.33 acres; LB

Proposal: To rezone a total of approximately 15.82 acres (among three parcels) to allow for the construction of up to 170 apartments which, by proffer, are proposed to be low-income affordable in rent. A height limitation waiver is also requested from the Board of Supervisors as the proposed three-story apartment buildings exceed 35 feet in height.

Location: At the intersection of Longhill Road and Centerville Road.

Primary Service Area: Inside

Proposed Zoning: R-5, Multifamily Residential, with proffers

Comprehensive Plan: Moderate-Density Residential

Surrounding Zoning: North: an undeveloped parcel zoned LB; R-2 zoned property
 South: Powhatan Apartments, Mulberry Place subdivision, vacant R-5 land
 East: generally undeveloped land zoned R-8
 West: scattered single-family homes on property zoned A-1

Staff Contact: Christopher M. Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with the Land Use and Housing policies of the Comprehensive Plan and consistent with the Comprehensive Plan Land Use Map designation. Staff also finds that the added benefit of affordable housing will meet an important need in James City County. Finally, staff finds that the Zoning Ordinance criteria for the granting of a Height Limitation Waiver have been satisfactorily met. Staff recommends approval of the Rezoning and Height Limitation Waiver applications and the acceptance of the voluntary proffers. On January 13, 2003, the Planning Commission recommended approval of the rezoning application by a vote of 6 to 1.

Project Description

Eagle Construction of Virginia has submitted an application to rezone approximately 15.82 acres located at the southeast corner of Longhill Road and Centerville Road from LB, Limited Business, and R-5, Multifamily Residential, to R-5, with proffers. These properties share the corner with a one-acre, LB zoned parcel owned by ExxonMobil.

If approved, the developer would use the assembled parcels to create a new affordable apartment housing complex. The development, to be known as Longhill Grove, would consist of up to 170 two- and three-bedroom apartments among multiple buildings, and would include the demolition and rebuilding of the remaining Burton Woods apartment buildings, thus eliminating a significant blighted area. The proposed Master Plan shows two proposed buildings on the former Burton Woods site which will require variances from the Board of Zoning Appeals. The existing buildings are nonconforming under current zoning setbacks. Approval of the Master Plan does not eliminate the need for variances from the Board of Zoning Appeals. The developer states that all first floor units in these buildings will be handicapped adaptable.

The project is possible with support from the Low-Income Housing Tax Credit Program and financing by the Virginia Housing Development Authority.

A height limitation waiver is also requested from the Board of Supervisors as the proposed three-story apartment buildings exceed 35 feet in height. The attached elevations are of another apartment project completed by Eagle Construction and the developers have indicated the architecture may be somewhat similar on this project.

The UPC parcel was once used for agricultural activities; however, for several years now, the property has gone unused and it is now overgrown. The remaining Burton Woods apartments are currently condemned and boarded up.

Proposed Density Bonuses

Under the R-5 provisions of the Zoning Ordinance, a 15.82-acre site can only accommodate 142 three-story apartments by-right. However, the Ordinance permits density bonuses to be granted - up to an additional 20 percent dwelling units per acre can be added to the by-right unit count.

For this particular project, the developer seeks an additional nine percent increase in density by providing enhanced recreation. Also, an additional 11 percent increase in density is sought by a landscaping proposal which exceeds the minimum ordinance standards. Only with these bonuses can the requested 170 units be built.

The landscape plan attached to the Master Plan is conceptual in nature. The final landscaping details, in support of the requested density bonus, are to be resolved during the site plan review process. Upon a preliminary review, while some additional landscaping may be desirable to screen the development from Longhill and Centerville Roads, staff finds the landscape plan generally consistent with the intent of the landscape ordinance and forms a good foundation on which to grant a density bonus. Staff hopes to work with the applicant on developing a final landscape plan which utilizes native species and species which are drought-tolerant, and developing a plan which minimizes future maintenance costs on the residents of this development.

The recreation amenities, as indicated on the Master Plan, are planned to be provided as shown and also help to meet the recommendations of the Parks and Recreation Master Plan guidelines for residential development. Recommendations for multifamily developments include park land, biking/jogging trails, playgrounds, play courts, and softball fields.

Eagle Construction proposes:

- a swimming pool and clubhouse;
- bike racks;
- a community bus stop and bookmobile parking area;
- a school bus shelter;
- common recreational areas (to include picnic benches and BBQ grills);
- other common passive recreational areas;
- an active tot lot/playground area; and
- 2,500 linear feet of 4-foot wide mulched walking and jogging trails.

The total recreation areas provided add up to 69,033 square feet, or 1.58 acres, which is more than ten percent of the site area. Also provided is an additional 11.4 percent of the site area in natural open space. Finally, available to residents via existing sidewalks along Longhill and Centerville Roads is access to the new County District Park. Given the redevelopment aspect of this proposal and the limited site area, the provision of a softball field is not feasible; however, as mentioned, large open space areas are available at the District Park. The proposed recreation amenities are well in excess of applicable Zoning Ordinance requirements. Staff finds the recreation proposal acceptable for achieving the density bonus.

Archaeology

There have been many concerns on how archaeology may affect this project, and its ability to provide affordable units. These concerns have been based on the significant archaeological findings at the Exxon/Mobil site and at the District Park site.

Therefore, Eagle Construction had an archaeological study commissioned. The study was prepared on August 22, 2002, by the James River Institute for Archaeology. Based on the positive shovel tests, as well as the observation of surface structural remains and associated artifacts, one archaeological site and three archaeological locations were identified within this project area.

The archaeological site consists of the remains from a single-family dwelling, with an occupation dating to the early 1900s. According to the archaeologist, the site is not considered potentially eligible for the National Register and no further work is recommended or necessary.

The three other archaeological discoveries represent isolated finds. Again, the finds are not considered to have any research value, and as such, are not potentially eligible for the National Register and no further work is recommended or necessary.

Based upon the findings in the report and the concurring opinion of an independent third party archaeologist, staff concurs that no further archaeological work is necessary at the site.

Surrounding Development and Zoning

Located to the south of this site is an undeveloped parcel zoned R-5. Southeast of the site is Powhatan Apartments, zoned R-5, and Mulberry Place, a single-family detached subdivision zoned R-2, General Residential. Powhatan Apartments, formerly known as Burton Woods, Phase 2, recently underwent extensive rehabilitation.

To the north of this site, across Longhill Road, is an undeveloped parcel zoned LB. Finally, across Centerville Road and to the west of this site are scattered single-family dwellings located on property zoned A-1, General Agriculture. The only exception is the entrance to the new County park, which is zoned LB.

The proposal is generally consistent with the adjacent Powhatan Apartments. With the submitted proffers, staff finds the proposal will not negatively impact surrounding single-family property.

Traffic Impact Study

A traffic impact study was prepared for Eagle Construction by DRW Consultants.

According to the report, the proposed apartments will generate approximately 92-93 AM peak hour vehicle trips and approximately 112-116 PM peak hour vehicle trips. The traffic engineer also found these additional vehicle trips will have little effect on the capacity of the Longhill Road/Centerville Road intersection. The findings indicate that any delay experienced would be more attributable to general growth in the County and not directly from this proposal. More specifically:

<u>Condition</u>	<u>A.M. Peak Hour LOS</u>				<u>P.M. Peak Hour LOS</u>			
	<u>EB</u>	<u>WB</u>	<u>NB</u>	<u>SB</u>	<u>EB</u>	<u>WB</u>	<u>NB</u>	<u>SB</u>
Existing	C	C	A	A	C	C	A	A
2007 without the apartments	D	C	A	A	D	C	A	A
2007 with the apartments	D	C	A	A	D	C	A	A

*EB = Eastbound on Longhill Road; WB = Westbound on Longhill Road;
NB = Northbound on Centerville Road; SB = Southbound on Centerville Road*

Regarding traffic generation at this corner, it may be helpful to note that the special use permit for the convenience store and gas station, a traditionally heavy traffic generator, has expired. Any commercial use which would generate more than 100 peak hour trips to and from the one-acre parcel would need another special use permit from the Board of Supervisors. Cumulative traffic counts would be considered and evaluated at that time.

According to the study, no additional road improvements are warranted at the entrance to the apartment site on either Centerville Road or at the Longhill Road/Burton Woods Drive intersection. There is already a separate left-turn lane on westbound Longhill Road and separate left-turn and right-turn lanes leaving the apartment complex site on Burton Woods Drive.

In reviewing the Master Plan and traffic study, the Virginia Department of Transportation agreed on the technical merits of the study and the general conclusions.

Powhatan Creek Watershed

In a report prepared for James City County by the Center for Watershed Protection (i.e., the Powhatan Creek Watershed Management Plan), it was noted that rapid development has occurred within the Powhatan Creek Watershed, posing a threat to natural habitats and the water quality benefit of this tributary. In 2001, the Center for Watershed Protection made recommendations for various sub-watersheds of Powhatan Creek.

The site proposed for Longhill Grove is located in Sub-watershed 204 of Powhatan Creek, for which the two following recommendations were made:

1. Extension of Resource Protection Areas (RPAs) to protect all perennial streams and connected wetlands.
2. That current James City County (JCC) stormwater management objectives and design criteria be used to prevent impacts to water resources.

According to the project’s engineer, the development of Longhill Grove will directly support these two goals by:

1. Incorporating a stormwater management facility/best management practice designed to honor JCC stormwater management goals, and
2. Reserving on-site lands adjacent to identified wetland areas, and adjacent to possible intermittent (possible perennial) streams to act as natural buffers on-site. Areas designated as natural buffers will also be deeded over to JCC as conservation easements or natural open space easements.

The Community Impact Statement and proposed Master Plan has been reviewed by the James City County Environmental Division and they agree with the findings and agree that the proposal meets the objectives of the Powhatan Creek Watershed Study.

Adequate Public Facilities Test

Per the “Adequate Public School Facilities Test” policy adopted by the Board of Supervisors, all special use permit or rezoning applications should pass the test for adequate public school facilities.

A proposed rezoning will pass the test if the schools which would serve the future development currently have adequate design capacity to accommodate the existing student population plus the additional school children generated by the development. For purposes of this policy, the schools shall be deemed adequate if the projected student population does not exceed 100 percent of the design capacity at the time of the application’s review.

If any of the applicable public schools which would serve the future residential development exceed 100 percent of the design capacity, then the application will not pass the test for adequate school facilities. However, if the affected public schools currently exceed design capacity, but the school’s student population will be brought under design capacity within three years of the time of the application’s review through either physical improvements programmed in the Capital Improvements Plan (CIP), and/or through a redistricting plan that was approved by the School Board prior to the application, then the application will be deemed to have passed the test.

With respect to this test, the following information is offered by the applicant:

<u>Schools serving Longhill Grove</u>	<u>2001-02 enrollment</u>	<u>Design capacity</u>	<u>Program capacity*</u>
D.J. Montague Elementary	591	757	645
Toano Middle	757	775	782
Lafayette High	1,391	1,250	1,296

* Program capacity is computed using 90 percent of the schools design capacity. This number reflects the schools programmatic capacity, rather than the structural (or design) capacity.

The applicant expects this project to generate 62 elementary school aged children, 24 middle school aged children and 22 high school aged children. This would bring enrollment at D.J. Montague up to 653, enrollment at Toano up to 781, and enrollment at Lafayette up to 1,413.

The applicant further notes that while the figures indicate that the proposed development may add to the number of students over the capacity at the middle and high schools, it should be noted that this development will most likely draw tenants from the existing residential population base within the same and surrounding school zones. Therefore, the impact of this project on the school system would be more of a redistribution of the school age population, rather than an increase.

Staff does not have any information on which to form a conclusion affirming or denying the notion of school age child redistribution over new child generation. Past experience with other similar developments does not

support the applicant's redistribution theory. Staff does concur that with the number of children expected from the development, the proposal does not pass the adequate public facilities schools test.

The applicant has maintained that any capital contribution (i.e., cash proffer) to the school system to mitigate impacts would impair the ability to provide these units at the affordable rents proposed. Based on information presented to staff to date and other public benefits provided by this proposal, staff concurs with this statement and recommends acceptance of the proffers, as currently proposed.

More information on the fiscal expectations of this project is listed in the attached Fiscal Impact Statement.

Proffers

The following has been proffered by the applicant. Staff finds that the voluntary proffers offset potential impacts and recommends their acceptance. Staff comment appears when warranted:

1. Binding Master Plan. The property shall be developed generally in accordance with the Master Plan. Development plans may deviate from the Master Plan only after the Planning Commission (following review by the DRC) determines that such changes do not significantly alter the character of the project or conflict with any conditions of approval.
2. Private Driveways. That roads internal to the project shall remain as private driveways - not Virginia Department of Transportation (VDOT) streets.
3. Water Conservation. That appropriate water conservation measures be developed and submitted to the JCSA for review and approval prior to any site plan approval. This particular language has been reviewed by the James City Service Authority (JCSA) and is acceptable.

It should be noted that with other recent residential proposals, a per unit cash contribution has been proffered to help offset the costs of water supply facilities. Based on a formula developed by the JCSA, the per unit contribution for this development would be \$500 per unit. However, as noted above in the Schools discussion, the applicant has maintained that such a contribution would impair the ability to provide these units at the affordable rents proposed. Based on information presented to staff to date and other public benefits provided by this proposal, staff concurs with this statement and recommends acceptance of the proffers, as currently proposed.

4. Number of Apartments. That no more than 170 apartments can be constructed on this site. This number of dwelling units is conditioned upon receiving the maximum allowable density bonuses permitted in the R-5, Multifamily Residential, zoning district during the site plan review process.
5. Affordable Housing. For a period of 15 years after the first apartment is occupied, occupancy will be limited to only those individuals and families whose incomes do not exceed 60 percent of the area's median gross income (median gross income was \$53,800 in 2002). As shown on the Fiscal Impact Statement, this effectively means that the maximum rents in 2002 for the two-bedroom units would be \$726/month and would be \$839/month for the three-bedroom units.

With this project, the James City County Office of Housing and Community Development (OHCD) had wanted to achieve a goal of occupancy by 20 percent of the units by low-income residents via assistance with the County's Section 8 Housing Choice Voucher Program. While the current proffers do not explicitly address these issues, the actions to achieve such a goal could include:

- a continuing commitment to limit the rent on 20 percent of the units to be within the JCC Housing Choice Voucher Program payment standard for contract rent plus utilities. The current payment standard of rent plus utility allowance is \$780 for a two-bedroom unit, and \$1,037 for a three-bedroom unit;

- ongoing notification to the JCC Housing Choice Voucher Program of the anticipated availability of units for rent by bedroom size;
- a commitment to provide waiting list priority to Housing Choice Voucher (HCV) Program participants when the number of units rented to HCV participants in the development is less than the 20 percent HCV occupancy goal.

The OHCD had also hoped for some one-bedroom apartments and an active program to encourage rental to those persons with special accessibility needs. OHCD perceives these two aspects to be of need in the County. The current plan presented to staff does not explicitly address these two issues.

6. Construction Entrance. The construction entrance for the proposed development will be located along Longhill Road at the existing Burton Woods Drive entrance. An existing 60-foot ingress/egress easement will be preserved in place to guarantee vehicular and/or pedestrian access to Powhatan Apartments during construction.
7. Pump Station. JCSA lift station 7-2 is located on the southeast corner of the proposed development adjacent to the recorded site for the lift station. This proffer will provide for an exchange of property between the owners and the JCSA of the recorded and actual lift station sites. The proffers also provide for an exchange of service line easements necessary for the operation of the lift station in exchange for abandonment and vacation of existing unnecessary easements on the property.
8. Water Mains. An existing 8-inch water main within the Burton Woods Drive right-of-way will be indirectly connected to an existing 12-inch water main within the Centerville Road right-of-way through the construction and development of the water supply system for the proposed development.
9. Lighting. Exterior light fixtures that are consistent with Zoning Ordinance requirements will be used throughout the development. The Zoning Ordinance requires exterior lighting to be horizontally mounted with recessed fixtures with no bulb, lens, or globe extending below an opaque casing which completely surrounds the light fixture and light source in a manner that directs light downward.
10. Longhill Road Entrance. The proffer provided by the applicant does not provide a dedication of right-of-way along Longhill Road for the future construction of a bike lane or keep future roadway improvements out of the way. Federal and County funds for bikeway construction have been allocated. In the absence of such a proffer to dedicate right-of-way or design the infrastructure so it is out of the way, public costs for the bikeway could be significantly more costly. As stated previously, the traffic study provided by the applicant states that no additional road improvements are warranted at either the Centerville Road entrance to the site or the Longhill Road/Burton Woods Drive intersection. Staff and VDOT concur with this conclusion.

Comprehensive Plan

The James City County Comprehensive Plan Land Use Map designates these properties for Moderate-Density Residential development.

According to the Plan, Moderate-Density areas are residential developments or land suitable for such developments with a minimum density of four dwelling units per acre, up to a maximum of 12 dwelling units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, and the degree to which the development is consistent with the Comprehensive Plan. The location criteria for moderate-density residential require that these developments be located within the PSA where utilities are available. Optimum sites are near the intersections of collector streets, have natural characteristics such as terrain and soil suitable for compact residential development, and provide sufficient buffering so that

the higher-density development is compatible with nearby development and the natural and wooded character of the County.

These moderate-density residential areas may serve as transitional uses, primarily to neighborhood commercial, general commercial, or mixed use areas. The timing and density of development for a Moderate-Density Residential site may be conditioned on the provision of least cost housing or the provision of open space.

Suggested land uses include townhouses, apartments, attached cluster housing, and recreation areas.

The Comprehensive Plan also designates Centerville Road and Longhill Road as Community Character Corridors.

The proposal is consistent with both the Land Use and Housing policies of the Comprehensive Plan. The proposal is not consistent with the Public Facilities policies of the Comprehensive Plan.

Height Limitation Waiver

The applicant has also requested a Height Limitation Waiver from the Board of Supervisors. On property zoned R-5, structures may be constructed up to 35 feet as a matter of right; however, structures in excess of 35 feet may be constructed only if specifically approved by the Board. The applicant has specifically requested that a Height Limitation Waiver be granted to allow for the construction of structures up to 45 feet tall.

Section 24-314(j) of the James City County Zoning Ordinance states that structures in excess of 35 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding that:

1. Such structure will not obstruct light from adjacent property;

Staff comment: Given the proposed building setbacks and given that this development will consist of multiple buildings (instead of one large and tall single building), staff finds that light would not be obstructed from adjacent property.

2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

Staff comment: While there are historic archaeological finds in the vicinity, there are no immediately adjacent aboveground historic attractions or other areas of significant historic interest. The immediately adjacent development, Powhatan Apartments, is similar to the proposed Longhill Grove in character. Staff believes the ability to enjoy surrounding historic attractions and developments will not be impaired.

3. Such structure will not impair property values in the area;

Staff comment: According to Real Estate Assessments, there is no prior indication that the construction of apartments on this site will have a detrimental effect on surrounding residential properties.

4. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;

Staff comment: The project, if approved, will be subject to full County review processes. Staff feels confident this review process will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from the Greensprings Fire Station with backup from the other JCC fire stations and the Williamsburg Fire Department.

5. Such structure will not be contrary to the public health, safety, and general welfare.

Staff comment: Based on the current proposal, information submitted by the applicant, and the proffers, staff believes the development will not adversely effect the public health, safety, or general welfare.

Recommendation

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with the Land Use and Housing policies of the Comprehensive Plan and consistent with the Comprehensive Plan Land Use Map designation. Staff also finds that the added benefit of affordable housing will meet an important need in James City County. Finally, staff finds that the Zoning Ordinance criteria for the granting of a Height Limitation Waiver have been satisfactorily met. Staff recommends approval of the Rezoning and the Height Limitation Waiver applications and the acceptance of the voluntary proffers. On January 13, 2003, the Planning Commission recommended approval of the rezoning application by a vote of 6 to 1.

Christopher M. Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gs
Z-5-02 HW1-02

Attachments:

1. Planning Commission minutes from January 13, 2003
2. Location map
3. Elevations of a similar apartment complex completed by Eagle Construction (provided under separate cover by the applicant)
4. Master Plan (provided under separate cover by the applicant)
5. Fiscal Impact Statement
6. Proffers
7. Rezoning resolution
8. Height Limitation Waiver resolution

RESOLUTION

CASE NO. Z-5-02. LONGHILL GROVE

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia, 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-5-02 for rezoning ±8.33 acres from LB, Limited Business, to R-5, Multifamily Residential, with proffers; and rezoning ±7.49 acres from R-5, Multifamily Residential, to R-5, Multifamily Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on January 13, 2003, recommended approval of Case No. Z-5-02, by a vote of 6 to 1; and

WHEREAS, the properties are located at 5500 Centerville Road and 102 Burton Woods Drive and further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (31-3); Parcel No. (1-13) on James City County Real Estate Tax Map No. (31-3); and Parcel No. (1-14) on James City County Real Estate Tax Map No. (31-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-5-02.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

z-5-02.res.

RESOLUTION

CASE NO. HW-1-02. LONGHILL GROVE

WHEREAS, Alvin P. Anderson of Kaufman & Canoles, on behalf of Eagle Construction of Virginia and property owners UCP Limited Partnership, Heritage Builders, and Burton Woods Associates, has applied for a height limitation waiver to allow the construction of up to 170 apartment housing units approximately 45 feet above grade; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. HW-1-02; and

WHEREAS, the apartment housing complex will be constructed on property currently zoned R-5, Multifamily Residential, with proffers, and identified as Parcel Nos. (1-12), (1-13), and (1-14) on James City County Real Estate Tax Map No. (31-3); and

WHEREAS, the Board of Supervisors may grant a height limitation waiver to allow the erection of structures in excess of 35 feet in height from grade upon finding that the requirements of Section 24-314(j) of the James City County Zoning Ordinance have been satisfied.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-1-02 with the following condition:

1. A land disturbing permit shall be obtained by the developer for this project within 36 months from the date of approval of this height limitation waiver or the height limitation waiver shall become void.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

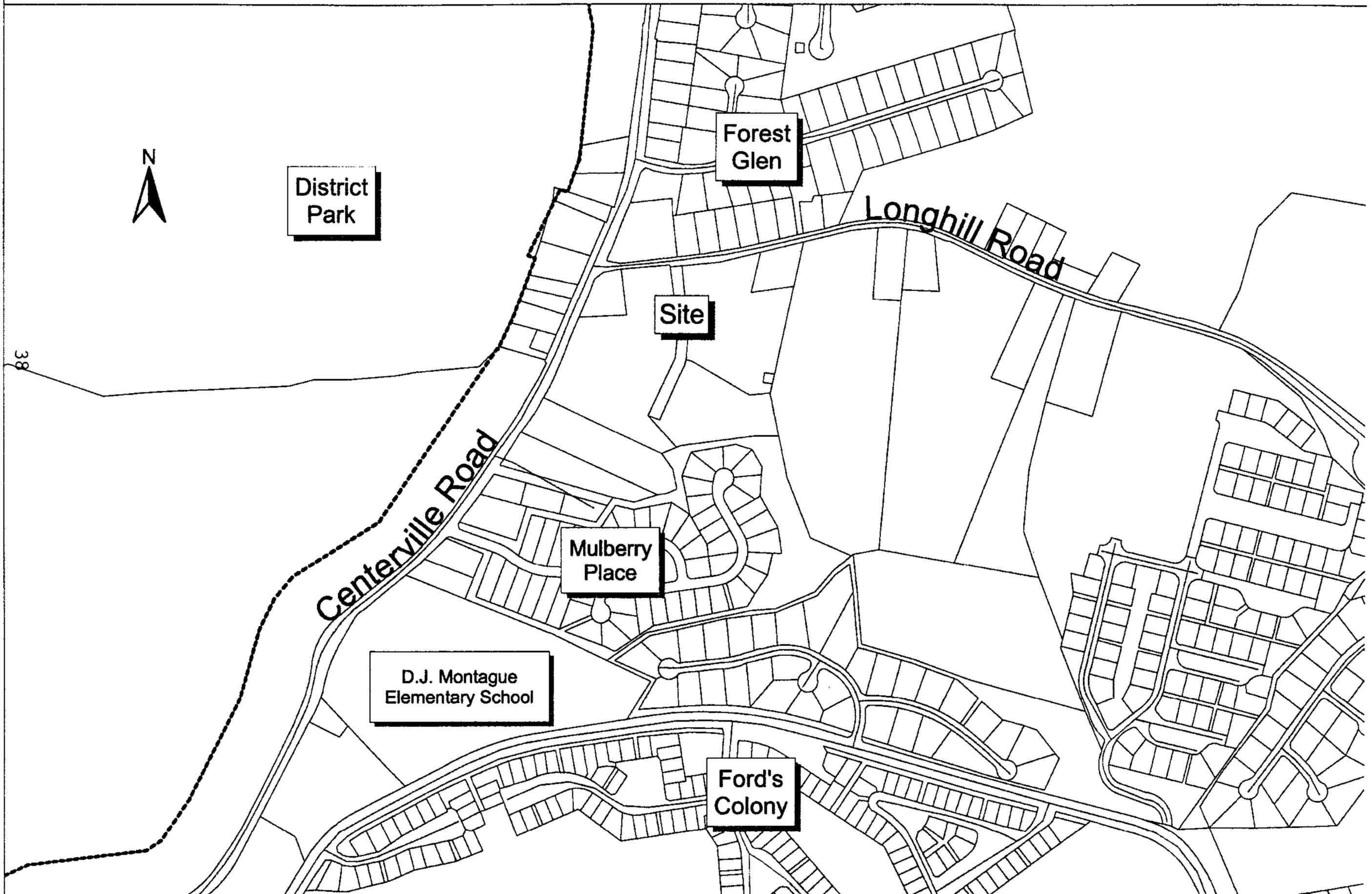
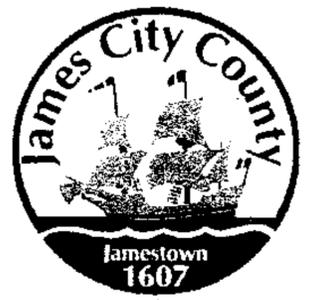
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

HW-1-02.res

Case Nos. Z-5-02 & HW-1-02

Longhill Grove





Case Nos. Z-5-02 & HW-1-02 Longhill Grove

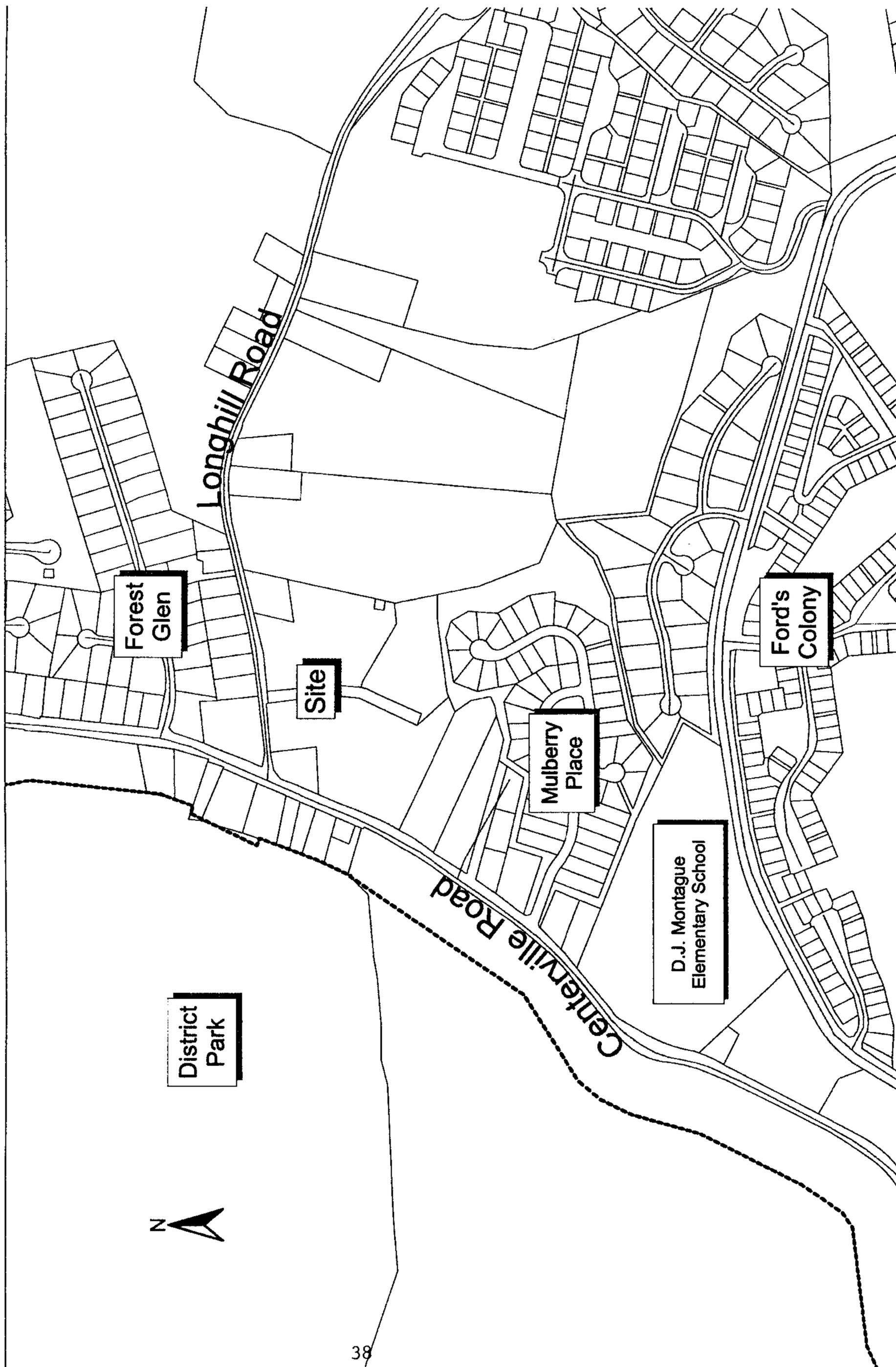


EXHIBIT A

THE UCP PROPERTY

THAT certain parcel of land, in Berkley District, James City County, Virginia, shown as Parcel 2 containing 12.8519 acres and Parcel 3 containing .6507 acres on plat of survey by Deward M. Martin & Associates, Inc., dated June 10, 1975, a copy of which is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, in Deed Book 32, page 81, reference to which is made for a more particular description of such parcel of land.

LESS AND EXCEPT that 3.56 acres conveyed from Heritage Builders, Inc. to Second Burton Woods Associates, dated November 1, 1979, recorded November 13, 1979, in Deed Book 199, page 224

LESS AND EXCEPT that strip conveyed in Deed from Heritage Builders, Inc. to Commonwealth of Virginia, dated February 21, 1989, recorded March 6, 1989, in Deed Book 427, page 624.

LESS AND EXCEPT those parcels conveyed in Deed from Heritage Builders, Inc. to County of James City dated March 8, 1995, recorded August 30, 1995, in Deed Book 752, page 224.

LESS AND EXCEPT that parcel conveyed from Heritage Builders, Inc. to County of James City dated September 11, 1995, recorded October 11, 1995, in Deed Book 758, page 406.

LESS AND EXCEPT that parcel conveyed from UCP, Limited Partnership to Exxon Corporation dated January 6, 1999, recorded March 11, 1999, at Instrument No. 990005207.

BEING a portion of the same real estate conveyed to Heritage Builders, Inc. by deed from William M. Lee and Shirley A. Lee, husband and wife, dated June 13, 1972, recorded July 7, 1972, in the Clerk's Office, Circuit Court, James City County, Virginia, in Deed Book 137, page 645; and by Deed from J. Corry Mulligan and Olive C. Mulligan, his wife, dated June 13, 1972, recorded July 7, 1972, in Deed Book 137, page 647; and by Deed from J. Corry Mulligan and Olive C. Mulligan, his wife, dated June 13, 1972, recorded July 7, 1972, in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, in Deed Book 137, page 650.

Tax Parcel No. (31-3)(01-0-0012)
5500 Centerville Road

Tax Parcel No. (31-3)(01-0-0013)
Burton Woods Drive Roadway

EXHIBIT B

THE FORECLOSURE PROPERTY

THOSE three parcels of land, in Berkeley Magisterial District, James City County, Virginia, designated as Parcel 1 containing 6.29 acres, Parcel 4 containing 0.0673 of an acre, and Parcel 5 containing 0.0574 of an acres, on plat of survey by Deward M. Martin & Associates, Inc., dated June 10, 1975, entitled "Plat Showing Various Parcels of Land Standing in Berkeley Magisterial District," recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, in Plat Book 32, page 81, reference to which is made for a more particular description of such parcels of land.

LESS AND EXCEPT that certain piece or parcel of land, containing 0.0574 acre, conveyed to the James City Service Authority by deed dated May 16, 1986, recorded in Deed Book 311 at page 75.

BEING a portion of the same property conveyed to Burton Woods Associates, a Virginia limited partnership, by deed from Heritage Builders, Inc., dated March 22, 1976, recorded March 23, 1976, in Deed Book 167, page 271.

BEING a portion of the same property conveyed in trust to Marion V. Baker, Trustee, for the benefit of Farmers Home Administration, United States Department of Agriculture, by deed of trust from Burton Woods Associates, dated March 23, 1976, recorded March 23, 1976, in Deed Book 167, page 273.

BEING a portion of the same property conveyed in trust to Philip H. Stetson, Trustee, for the benefit of the United States of America, by deed of trust from Burton Woods Associates, dated May 22, 1998, recorded May 26, 1998, at Instrument Number 980009644.

BEING a portion of the same property conveyed in trust to Samuel I. White, P.C., a Virginia professional corporation, Substitute Trustee, for the benefit of the United States of America, by the powers of substitution of trustee created under the deeds of trust recorded in Deed Book 167, page 273 and in Instrument No. 980009644, notice of which is recorded at Instrument Numbers 020009414 and 020009415.

BEING a portion of the same property foreclosed upon by Samuel I. White, P.C. as a result of the default by Burton Woods Associates under the deeds of trust recorded at Deed Book 167, page 273 and at Instrument No. 980009644, the foreclosure sale being held on May 20, 2002, at a public auction at the entrance to the Circuit Court for the City of Williamsburg and the County of James City, Virginia, there being a successful bidder as evidenced by contract of purchase executed on May 20, 2002.

Tax Parcel No. (31-3)(01-0-0014)
102 Burton Woods Drive

#6032256 v6

UNAPPROVED MINUTES TO THE JANUARY 13, 2002, PLANNING
COMMISSION MEETING

CASE NO. Z-05-02/HW-1-02. LONGHILL GROVE APARTMENTS.

Mr. Christopher Johnson presented the staff report. He stated that Eagle Construction of Virginia has submitted an application to rezone approximately 15.82 acres located at the southeast corner of Longhill Road and Centerville Road from LB, Limited Business and R-5, Multifamily Residential to R-5, with proffers. If approved, the developer would be using the assembled parcels to create a new affordable apartment housing complex. The development would consist of up to 170, two and three bedroom apartments among multiple buildings, and would include the demolition and rebuilding of the remaining Burton Woods apartment buildings. The project is possible with support from the Low Income Housing Tax Credit Program and financing by the Virginia Housing Development Authority. A height limitation waiver is also requested from the Board of Supervisors as the proposed three story apartment buildings exceed 35 feet in height. With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with the Land Use and Housing policies of the Comprehensive Plan and consistent with the Comprehensive Plan Land Use Map designation. Staff also finds that the added benefit of affordable housing will meet an important need in James City County. Staff therefore recommends approval of the rezoning and the acceptance of the voluntary proffers.

Mr. Joe Poole, III opened the public hearing.

Mr. Alvin Anderson, the applicant, stated the proposal would replace a blighted area with a quality product and development plan, benefit to the County with the exchange of the Lift Station property, and provides low income housing which is a stated goal of the James City County Comprehensive Plan.

Mr. Wilford Kale asked about some of the proffers, wondering why there were no proffers for the water and sewer utilities and schools. He wanted to know if there would be any financing available for water hook-ups.

Mr. Alvin Anderson stated that cash proffers to mitigate water or school impacts would prevent the applicant from offering these units as low-income housing.

Mrs. Peggy Wildman asked about whether or not the nearest fire station at Old Town Road would be able to handle the proposed height waiver.

Mr. Marvin Sowers stated that it was not a problem and well within the range of their capabilities.

Mr. George Billups asked about the types of apartments there would be and what was installed for fire safety.

Mr. Bryan Kornblau, a representative of Eagle Construction, stated that the apartments were designed to local building codes and provided sprinkler systems for fire safety. The configuration of the apartments would be 50 percent 2 bedroom and 50 percent 3 bedroom units. No 1 bedroom units would be available. All apartments would have two full bathrooms.

Mr. John Hagee asked about the rent structure and how the Section 8 housing program worked.

Mr. Bryan Kornblau stated they were limited on what they could charge and it was based on the income of the families at 60%.

Mr. Vaughn Poller, Community Development with James City County Housing and Community Development, explained how the Section 8 Housing program worked, the vouchers and how they are issued. He stated that James City County was issued only 175 vouchers and they were all currently being used. The demand for them is so great that the waiting list has 337 people on it and that they had to stop taking names.

Mrs. Peggy Wildman asked Mr. Poller how his department is involved in building low income housing.

Mr. Vaughn Poller explained how they try to bring about these types of projects and encourage them.

Mr. Reed McNeill, a James City County citizen, commented on the staff report. He was concerned about the availability of the handicapped accessible apartments, the proposal for the recreation areas and the need to screen the complex from the roads.

There being no further questions, Mr. Joe Poole, III closed the public hearing.

A discussion ensued among the Planning Commission members in regards to the benefits of this type of project and the proffers being offered.

Mr. John Hagee commented on the size of the project and the proffers being offered by the applicant. He stated that the applicant has gone above and beyond from what is required.

Mr. Joseph McCleary commented on Mr. Anderson's point that the developer could not offer cash proffers for water and schools and provide these units as affordable housing. He thought it was a good trade, and asked Mr. Poller to comment on Housing and Community Development's position on this project.

Mr. Vaughn Poller stated that Housing and Community Development strongly supports this project, since it would remove blight and provide much needed affordable housing.

Mr. Joe Poole, III also added his support for the project, stating that the benefits outweigh the negatives.

Mrs. Peggy Wildman recommended approval and made a motion.

Mr. John Hagee seconded.

In a roll call vote, motion passed (6-1). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Poole (6); NAY: Billups (1).

Fiscal Impact Statement

The proposed apartment development will be developed in conjunction with the Virginia Housing Development Authority under the following:

Low Income Housing Tax Credits Program

"The Federal Low-Income Housing Tax Credit (LIHTC) program is sponsored by the U.S. Treasury Department and administered by VHDA in the Commonwealth of Virginia. The LIHTC program is authorized under Section 42 of the Internal Revenue Code of 1986 and encourages the development of affordable rental housing by providing owners with a federal income tax credit. It also serves as an incentive for private investors to participate with developers in the construction and rehabilitation of low-income housing."

Income level limits will be determined by information from the following table (based on 60% of the MSA's median income):

HUD Median Income for Fiscal Year 2002
Virginia State Median Income: \$59,800
Effective Date: 1/31/2002

***30%:Extremely Low Income | 50%:Very Low Income | 80%:Low Income**

Name	MSA	Median Income	Persons								
			Pet	One	Two	Three	Four	Five	Six	Sev	Eight
			50%	\$18850	\$21500	\$24200	\$26900	\$29050	\$31200	\$33350	\$35500

Rents will be determined by looking at comparable properties in the area. Maximum rents are guided by the following information:

Filter For Location								
James City County AMI:\$53800	30% of 40%	377	403	484	559	624	688	
	30% of 50%	471	504	605	699	780	860	
	25% of 50%	392	420	504	582	650	717	

REVENUE

Because of the type of development proposed - affordable housing - there will be very little or no revenue generated. The property will, however, generate estimated annual real estate taxes of \$40,122.66. This estimate is based on the assessed value of a nearly identical property in Henrico County, Virginia, using the current tax rate in James City County.

PROFFERS
LONGHILL GROVE

THESE PROFFERS are made this 26th day of December, 2002, by and among:

EAGLE CONSTRUCTION OF VIRGINIA, INC., a Virginia corporation ("Eagle")
(to be indexed as grantor) and

UCP, L.L.C., a Virginia limited liability company (successor in interest and/or title to
Heritage Builders, Inc., a Virginia corporation) ("UCP") (to be indexed as grantor) and

DAVID WALKER ("Walker") (to be indexed as grantor) and

BRYAN KORNBLAU ("Kornblau") (to be indexed as grantor) and

SAMUEL I. WHITE, P.C., a Virginia professional corporation ("White") (to be indexed
as grantor) and

THE COUNTY OF JAMES CITY, VIRGINIA ("County") (to be indexed as grantee),
provides as follows:

RECITALS:

R-1. UCP is the owner of certain real property located in the County of James City,
Virginia, containing 8.34± acres, more or less, more particularly described on **Exhibit A**
attached hereto and made a part hereof (the "UCP Property").

R-2. White is the owner as Substitute Trustee of certain real property located in the
County of James City, Virginia, pursuant to a foreclosure under certain deeds of trust existing on
thereon, consisting of 7.48± acres, more or less, more particularly described on **Exhibit B**
attached hereto and made a part hereof (the "Foreclosure Property").

R-3. The real property described on Exhibits A and B inclusive shall be referred to collectively herein as the "Property."

R-4. Eagle is the contract purchaser of the UCP Property, and Walker and Kornblau are the contract purchasers of the Foreclosure Property

R-5. Eagle, UCP, Walker, Kornblau and White, and their collective successors and assigns who own record title to all of the Property are referred to collectively herein as the "Owners".

R-6. UCP and White, prior to conveyance of the Property, joined in the filing of an Amended Application for rezoning (the "Application") of the Property. The Application has been designated by the County as Case No. Z-5-02.

R-7. Owners have requested in the Application that the Property be rezoned to R-5 – Multifamily Residential District with proffers as described by Section 24-304 *et seq.* of the County's zoning ordinance in effect on the date hereof ("Zoning Ordinance") in order to permit the construction of apartment housing ("Apartments").

R-8. The provisions of the Zoning Ordinance, Section 24-1, *et seq.* may possibly be deemed inadequate for protecting and enhancing orderly development of the Property in accordance with the County Comprehensive Plan. The Owners, in furtherance of the Application, desire to proffer certain conditions which, among other things, provide for some of the types of benefits specified in the residential provisions of the comprehensive plan and in density bonus provisions of the Zoning Ordinance applicable to R-5 districts. These conditions are specifically limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property,

in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code"), and Section 24-16 of the Zoning Ordinance.

R-10. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

R-11. A Phase I Archaeological Study (the "Archaeological Study") recommending no treatment or further study has been performed on the UCP Property and the study has been submitted to the County Director of Planning for review by the County in connection with the Application. A copy of the Archaeological Study is on file in the office of the County Director of Planning. No archaeological study is required for the Foreclosure Property.

R-12. A Community Impact Statement (the "Community Impact Statement") has been submitted to the County Director of Planning for review by the County in connection with the Application. The Community Impact Statement is on file in the office of the County Director of Planning.

R-13. A traffic analysis dated September 20, 2002, entitled: "Traffic Analysis for Williamsburg Apartments at Centerville/Longhill Road" prepared by DRW Consultants, Inc. (the "Traffic Study") has been submitted to the County Director of Planning and the Virginia Department of Transportation ("VDOT") for review in connection with the Application. The Traffic Study is on file in the office of the County Director of Planning.

R-14. A Master Plan of Development entitled "Master Plan of Longhill Grove" made by AES Consulting Engineers, dated September 23, 2002, and revised December 2, 2002, (the "Master Plan") has been submitted to the County Director of Planning for review by the County in connection with the Application. The Master Plan is on file in the office of the County Director of Planning.

R-15. Owners are seeking verification from the County Zoning Administrator of the lawful status of and continued utilization of some of the existing pad sites on the Foreclosure Property for the construction of new buildings on said pad sites on the Property. Said pad sites are shown on that certain plan titled "CURRENT BUILDING LOCATION & CONFIGURATION, LONGHILL GROVE (FORMERLY BURTON WOODS)" prepared by AES Consulting Engineers, dated December 18, 2002, submitted to the County Director of Planning and on file in his office. Said existing pad sites are nonconforming by virtue of current setback requirements. Owners may also seek a variance from the County Board of Zoning Appeals to allow utilization of said existing pad sites.

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning of the Property, and pursuant to Section 15.2-2296 of the Virginia Code and Section 24-16 of the Zoning Ordinance, the Owners agree that they shall meet and comply with the following conditions and proffers as indicated in developing the Property.

PROFFERS:

SECTION I. Proffers Applicable to the Property.

1. Binding Master Plan. The Property shall be developed generally in accordance with the Master Plan pursuant to Section 24-515(b) of the Zoning Ordinance. The Master Plan provides only for the general location of buildings, proposed streets, drainage facilities, areas of open space, buffer areas and recreation facilities. Development plans may deviate from the Master Plan if the Planning Commission concludes after reviewing written comments from the Planning Director that the deviation does not significantly alter the character of land uses or

other features or conflict with any conditions placed on the approval of the Application. The Master Plan will be followed to the extent legally possible but is subject to certain verifications and/or variances as described in Recital 15 (R-15).

2. Private Driveways. All driveways (as hereinafter defined) within the Property shall be private. The term "driveway" is defined as any interior roadway or lane designed for automobile travel and connecting the Property's various parking lots with Centerville Road and/or Longhill Road.

3. Water Conservation. Eagle shall be responsible for developing for the Property water conservation standards to be submitted to and approved by James City Service Authority (the "JCSA"). The standards shall address such water conservation measures as limitations on 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. Landscape design features, including the use of native species and drought tolerant grasses and plantings, and a water conservation plan shall be implemented to reduce the total irrigated area of the Property in order to accomplish the limitation on use of municipal water and groundwater. The standards shall be approved by JCSA prior to approval of the first site plan for development of the Property or any portion thereof.

4. Number of Apartments. The maximum number of Apartments constructed on the Property shall not exceed one hundred seventy (170) dwelling units, as defined in the Zoning Ordinance; however, said maximum density is conditioned upon approval of the requisite density bonuses during the site plan review and approval process.

5. Affordable Housing. For a period of fifteen (15) years after the first occupancy of an apartment on the Property, all apartments constructed on the Property will be occupied by

individuals and families whose incomes do not exceed sixty percent (60%) of the area median gross income. For the purposes hereof, the incomes of the individuals and families and area median gross income, shall be determined in a manner consistent with the determinations of area median gross income under Section 8 of the United States Housing Act of 1937, as amended, and such determinations shall include adjustments for family size. If the income of an occupant(s) of an apartment on the Property does not exceed the applicable income limit under this provision upon commencement of occupancy of the apartment, then the requirements of this proffer shall be deemed satisfied for the duration of occupancy of any apartment by such occupant(s), regardless of subsequent changes in income.

6. Construction Entrance. The construction entrance for development of the Property shall be located along Longhill Road at the existing Burton Woods Drive entrance; however, construction vehicles and/or construction materials shall not impede vehicular and/or pedestrian access to the adjacent Powhatan Apartments.

7. Pump Station. The Owners agree to offer for exchange with the James City Service Authority ("JCSA") certain real property on which JCSA Lift Station 7-2 is located in exchange for certain real property shown on that certain plat entitled "PLAT FOR CONVEYANCE OF LIFT STATION SITE 7-2 FROM: BURTON WOODS ASSOCIATES TO: JAMES CITY SERVICE AUTHORITY" dated May 14, 1986 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City at Deed Book 311, page 77. In addition, the Owners shall offer for exchange with JCSA certain service line easements reasonably necessary for the operation of said Lift Station 7-2 in exchange for abandonment and vacation of existing unnecessary easements on the Property.

8. Water Mains. The 8 inch water main existing within the Burton Woods Drive right of way and the 12 inch water main existing within the Centerville Road right of way will be indirectly connected through the construction and development of the internal water supply system for Longhill Grove.

9. Lighting. All exterior lighting for the Property shall be in substantial conformity with the cutsheets entitled "Area Lighting - GE Lighting Systems, Inc." submitted to the County Director of Planning and on file in his office, as determined by the County Director of Planning.

10. Longhill Road Entrance. The entrance to the Property along Longhill Road shall be in substantial conformity with that certain plan titled "EXISTING TURN LANES ON LONGHILL ROAD AT LONGHILL GROVE" prepared by AES Consulting Engineers, submitted to the County Director of Planning and on file in his office.

SECTION II. Miscellaneous Provisions

1. Headings. All section and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.

2. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the

controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

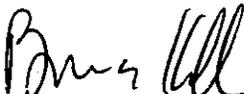
3. Conflicts. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts as otherwise provided by law.

4. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

5. Void if Rezoning not Approved. In the event that the rezoning sought by the Application is not approved by the County, these Proffers shall be null and void.

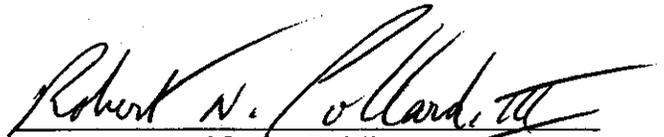
6. Signature by County. The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings, submissions and acceptance of same described in the Recitals section above, and confirming approval by the County Board of Supervisors of the rezoning of the Property with these Proffers by a resolution dated February __, 2003.

EAGLE CONSTRUCTION OF VIRGINIA, INC., a
Virginia corporation

By: 
Bryan Komblau, CEO

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 27th day of JANUARY,
2003, by Bryan Komblau, CEO of Eagle Construction of Virginia, Inc., a Virginia corporation,
in its behalf.


Notary Public

My commission expires: 6/30/03

UCP, L.L.C., a Virginia limited liability company

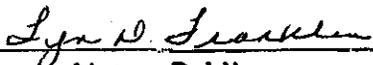
By: 

Name: Carter C. Chinnis

Title: General Mgr.

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 27th day of January
2003, by Carter C. Chinnis, of UCP, L.L.C., a Virginia limited
liability company, in its behalf.


Notary Public

My commission expires: 12-31-06

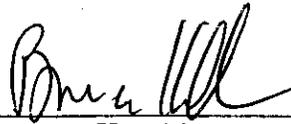
David Walker
David Walker

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 24 day of JANUARY,
2003, by David Walker.

Paul A. Rose
Notary Public

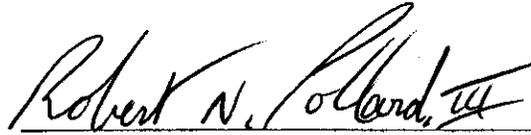
My commission expires: 7-31-05



Bryan Komblau

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 27th day of JANUARY,
2003, by Bryan Komblau.



Notary Public

My commission expires: 6/30/03

SAMUEL I. WHITE, P.C., a Virginia professional corporation, Substitute Trustee

By: Emmanuel D. Voces

Name: Emmanuel D. Voces, Vice President
Samuel I. White, P.C., attorney-in
Title: fact for USDA

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 27th day of January 2003, by Emmanuel D. Voces, Vice President of Samuel I. White, P.C., a Virginia professional corporation, Substitute Trustee, in its behalf.

Clay Crawford
Notary Public

My commission expires: March 31, 2005

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____

Name: _____

Title: Director of Planning

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do certify that _____, Director of Planning of the County of James City, Virginia, whose name is signed to the foregoing document, has acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

Notary Public

My commission expires: _____

APPROVED AS TO FORM:

County Attorney

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

I, the undersigned, a Notary Public in and for the County and State aforesaid, do certify that _____, Deputy County Attorney of the County of James City, Virginia, whose name is signed to the foregoing document, has acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

Notary Public

My commission expires: _____

**SPECIAL USE PERMIT-22-02. Schmidt Landscaping
Staff Report for February 11, 2003, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS Building C Board Room; County Government Complex
 Planning Commission: January 13, 2003, 7:00 p.m.
 Board of Supervisors: February 11, 2003, 7:00 p.m.

SUMMARY FACTS

Applicant: Chris Basic of AES Consulting Engineers

Land Owner: Timothy P. Schmidt

Proposed Use: Landscape Contractors' Warehouse, Office, Nursery; and Equipment and Material Storage Areas

Location: 2961 Jolly Pond Road; Powhatan District

Tax Map and Parcel No.: (30-3)(1-8C)

Primary Service Area: Outside

Parcel Size: ±1.97 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Surrounding Zoning: The property is completely surrounded by land zoned A-1, General Agricultural. The surrounding development consists of single-family dwellings and undeveloped land.

Staff Contact: Christopher M. Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff recommends approval of this application. With the proposed conditions, staff believes that the proposed use is consistent with the Comprehensive Plan and the Rural Lands and Commercial Development Standards and does not create negative impacts on the surrounding area. On January 13, 2003, the Planning Commission recommended approval of this application by a vote of 6 to 0.

History

Schmidt Landscaping has been a locally owned and operated business since 1989. The owner, Mr. Timothy Schmidt, has a home occupation permit to operate the landscape contracting business out of his home in Season's Trace. Mr. Schmidt subsequently purchased two adjoining parcels of land approximately 8.33 acres in size on Jolly Pond Road for the purpose of operating his business. Zoning staff observed a structure under construction and notified the owner that no site plan, building permit, or land disturbing permit had been obtained for the construction on the site. Code Compliance staff issued a field correction notice and stop work order to notify the owner of the building code violations. Mr. Schmidt responded by stating that he had discussions with various staff members prior to beginning construction to verify that the building qualified as a farm structure which would have been exempt from building code requirements. Zoning and Code Compliance staff discussed the matter with Mr. Schmidt on several occasions following construction but no action was taken to rectify the zoning and building code violations. The structure was completed and has been used to store equipment associated with the landscaping business since its construction.

Further discussions have occurred with Mr. Schmidt about what steps must be taken to resolve the outstanding issues on the site and he submitted a conceptual plan for the development of the property. Staff informed Mr. Schmidt that the existing use on the property was viewed as a contractors' warehouse and office which requires the issuance of a special use permit from the Board of Supervisors. Mr. Schmidt subsequently submitted a special use permit application in order to bring the existing use of the site into conformance with the Zoning Ordinance.

Proposed Use

The applicant intends to continue to use the site as a storage facility for material and equipment typical of a landscaping contracting business. As shown on the attached Preliminary Site Plan, the applicant is also proposing to grow plant material on a portion of the site for the sole use of Schmidt Landscaping. Contractors' warehouses and offices are a specially permitted use in the A-1, General Agricultural, zoning district. The plant growing operation, by itself, is a by-right use. The applicant does not currently have any employees working for him but has hired seasonal workers in the past when necessary.

Surrounding Zoning and Development

The property is completely surrounded by land which is zoned A-1, General Agricultural. The surrounding development consists of scattered single-family dwellings and undeveloped land.

Access/Traffic

The site has an existing entrance off Jolly Pond Road (Route 633) which would continue to be utilized. Virginia Department of Transportation (VDOT) has reviewed the preliminary site plan submitted with this application and recommended minor improvements to the entrance to the site. Given the non-retail nature of the business, staff does not believe that the traffic generated by the business negatively impacts Jolly Pond Road or the surrounding area.

Utilities

The property is located outside the Primary Service Area (PSA) and is not served by public water or sewer. The preliminary site plan submitted with this application identifies a proposed well site and drainfield location for a private septic system. Both the proposed well and septic system will require the review and approval of the local Health Department.

Comprehensive Plan

The property is designated Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside of the PSA, where a lower level of public service delivery exists or where utilities and urban service delivery do not exist and are not planned for the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational and public or semi-public and institutional uses which may require a spacious site and which are compatible with the natural and rural surroundings.

Most retail and commercial uses should be located at planned commercial locations or on major thoroughfares inside the PSA. However, a few of the smaller service uses and certain uses which require a specialized location may be located on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the surrounding area, in accordance with the Development Standards of the Comprehensive Plan. These uses should be located in a manner which minimizes effects on agricultural and forestal activities, and located where public services and facilities, especially roads, can adequately accommodate them.

In recent years, staff has recommended denial of commercial uses in areas designated Rural Lands mainly due to their inconsistency with the Comprehensive Plan. In cases such as Poulston Motorcycle Repair, Nance Auto Repair, Stonehenge Kennels, and Williamsburg Heating and Air Conditioning, staff determined that the proposals detracted from the rural character of the surrounding area in which they were proposed, created impacts which could not be adequately mitigated, or could have been located in more appropriate commercial locations. While staff remains concerned about the encroachment of non-agricultural or forestal activities outside the PSA, staff does not view this proposal as a use which is inappropriate for a rural area. The growing of plants and storage of materials associated with a landscaping business are an agriculturally related land use and do not adversely impact the rural character of the surrounding area. The existing structure is not inconsistent in scale with other structures in the surrounding area and the small site will keep the proposed use at an acceptable scale. Also, the non-retail nature of the business will avoid generating customer trips to and from the site.

Recommendation

Staff recommends approval of this application. With the proposed conditions, staff believes that the proposed use is consistent with the Comprehensive Plan and the Rural Lands and Commercial Development Standards and does not create negative impacts on the surrounding area. On January 13, 2003, the Planning Commission recommended approval of this application by a vote of 6 to 0.

1. This special use permit shall be limited to the following: operation of a landscape contracting business from the existing 2,000-square foot two-story warehouse/office building, storage of vehicles and equipment directly associated with the landscaping business, mulch stockpile area, and landscape material growing area. Development of the site shall generally be in accordance with the "Preliminary Site Plan for Special Use Permit, Schmidt Landscaping" prepared by AES Consulting Engineers, dated November 25, 2002.
2. The sale of plants and related materials shall be prohibited on the property.
3. A site plan shall be submitted to and approved by the Planning Director. The site plan shall include an erosion and sediment control plan which addresses the method of containment for the mulch stockpile and landscape material growing areas.
4. A permanent certificate of occupancy for the warehouse/office building shall be obtained within one year from the issuance of a special use permit or the special use permit shall become void.

5. All entrance improvements required by the Virginia Department of Transportation along Jolly Pond Road (Route 633) shall be installed prior to issuance of a certificate of occupancy for the office/warehouse building on the site.
6. A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. Such plan shall contain enhanced landscaping so that the required number of plant material equals at least 133 percent of the County's Landscape Ordinance requirements with at least 33 percent of the required number of trees being evergreen. Other than the driveway and septic field shown on the Preliminary site plan, no further land disturbance shall occur within 75 feet from the Jolly Pond Road (Route 633) right-of-way.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Christopher M. Johnson

CONCUR:

O. Marvin Sowers, Jr.

CJ/gs
wsup-22-02.wpd

Attachments:

1. Planning Commission minutes from January 13, 2003
2. Location Map
3. Preliminary Site Plan
4. Resolution

RESOLUTION

CASE NO. SUP-22-02. SCHMIDT LANDSCAPING

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. Chris Basic of AES Consulting Engineers has applied on behalf of property owner Timothy P. Schmidt for a special use permit to allow a contractors office and warehouse located at 2961 Jolly Pond Road; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-8C) on James City County Real Estate Tax Map No. (30-3); and

WHEREAS, the Planning Commission, following its public hearing on January 13, 2003, voted 7-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-22-02 as described herein with the following conditions:

1. This special use permit shall be limited to the following: operation of a landscape contracting business from the existing 2,000-square foot two-story warehouse/office building, storage of vehicles and equipment directly associated with the landscaping business, mulch stockpile area, and landscape material growing area. Development of the site shall generally be in accordance with the "Preliminary Site Plan for Special Use Permit, Schmidt Landscaping" prepared by AES Consulting Engineers, dated November 25, 2002.
2. The sale of plants and related materials shall be prohibited on the property.
3. A site plan shall be submitted to and approved by the Planning Director. The site plan shall include an erosion and sediment control plan which addresses the method of containment for the mulch stockpile and landscape material growing areas.
4. A permanent certificate of occupancy for the warehouse/office building shall be obtained within one year from the issuance of a special use permit or the special use permit shall become void.
5. All entrance improvements required by the Virginia Department of Transportation along Jolly Pond Road (Route 633) shall be installed prior to issuance of a certificate of occupancy for the office/warehouse building on the site.

6. A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. Such plan shall contain enhanced landscaping so that the required number of plant material equals at least 133 percent of the County's Landscape Ordinance requirements with at least 33 percent of the required number of trees being evergreen. Other than the driveway and septic field shown on the preliminary site plan, no further land disturbance shall occur within 75 feet from the Jolly Pond Road (Route 633) right-of-way.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

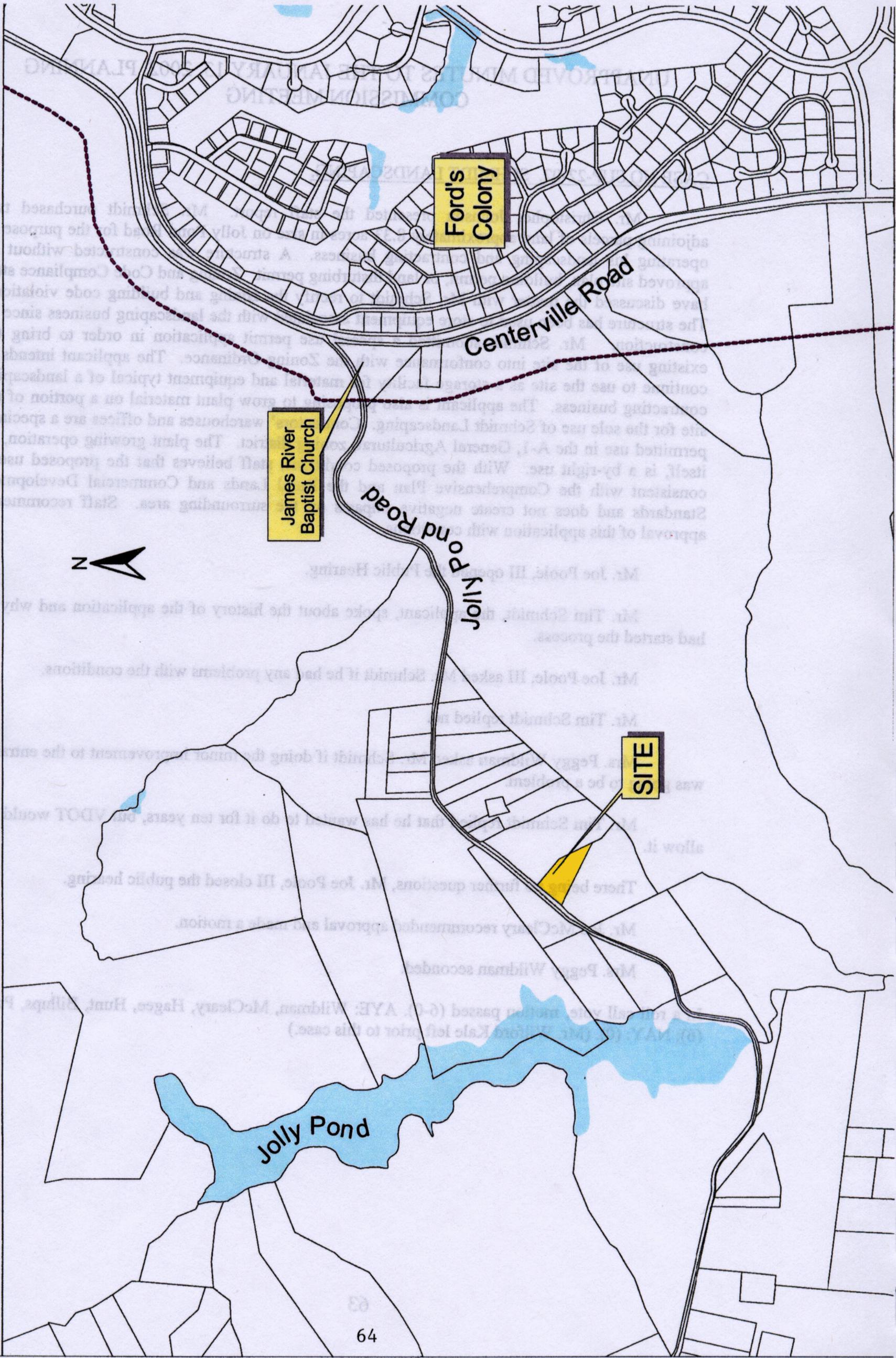
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

sup-22-02.res

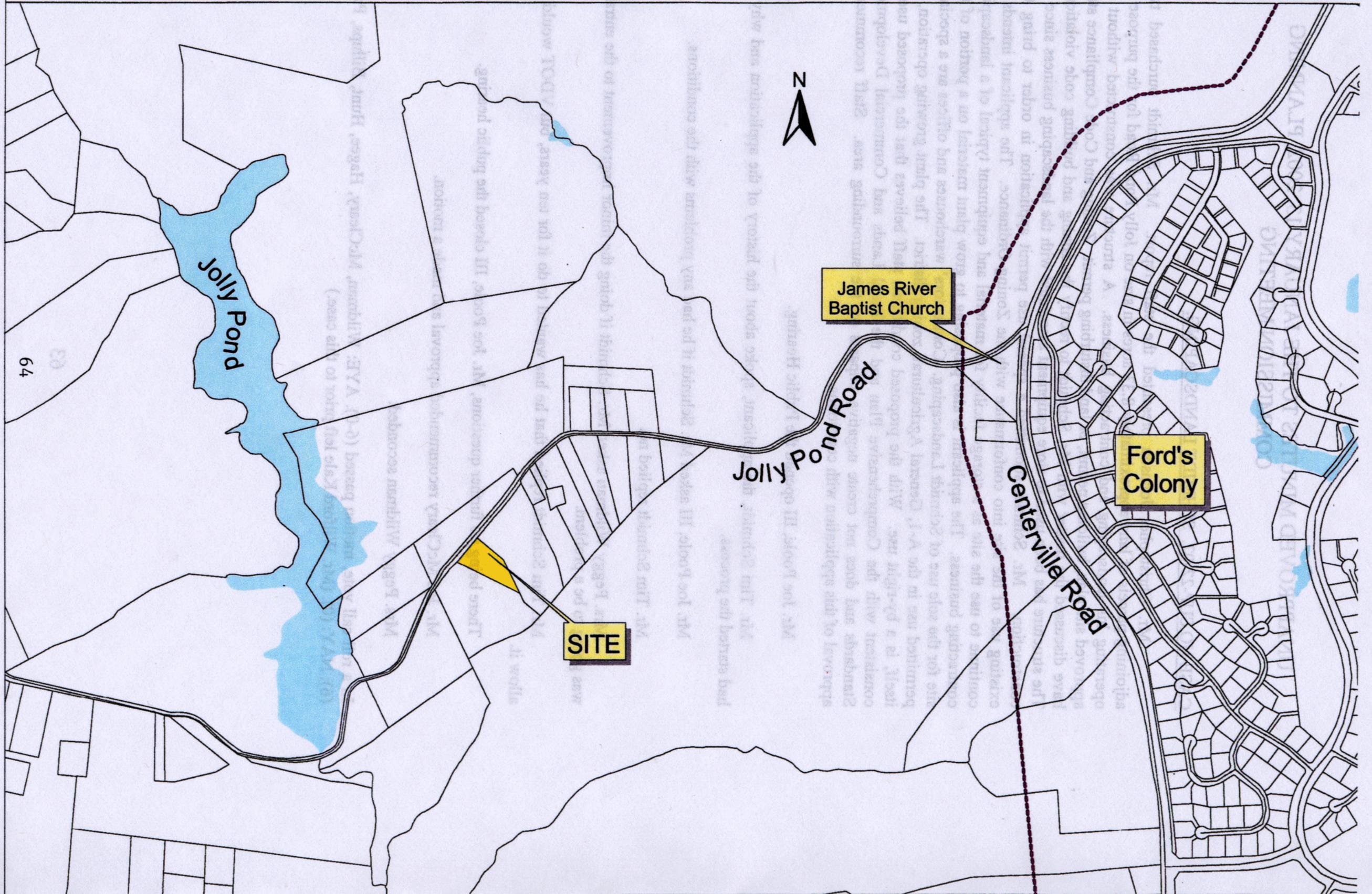


Case No. SUP-22-02 Schmidt Landscaping



Case No. SUP-22-02

Schmidt Landscaping



UNAPPROVED MINUTES TO THE JANUARY 13, 2002, PLANNING
COMMISSION MEETING

CASE NO.SUP-22-02. SCHMIDT LANDSCAPING.

Mr. Christopher Johnson presented the staff report. Mr. Schmidt purchased two adjoining parcels of land approximately 8.33 acres in size on Jolly Pond Road for the purpose of operating his landscaping and contracting business. A structure was constructed without an approved site plan, building permit, or land disturbing permit. Zoning and Code Compliance staff have discussed the matter with Mr. Schmidt to rectify the zoning and building code violations. The structure has been used to store equipment associated with the landscaping business since its construction. Mr. Schmidt submitted a special use permit application in order to bring the existing use of the site into conformance with the Zoning Ordinance. The applicant intends to continue to use the site as a storage facility for material and equipment typical of a landscaping contracting business. The applicant is also proposing to grow plant material on a portion of the site for the sole use of Schmidt Landscaping. Contractors' warehouses and offices are a specially permitted use in the A-1, General Agricultural, zoning district. The plant growing operation, by itself, is a by-right use. With the proposed conditions, staff believes that the proposed use is consistent with the Comprehensive Plan and the Rural Lands and Commercial Development Standards and does not create negative impacts on the surrounding area. Staff recommends approval of this application with conditions.

Mr. Joe Poole, III opened the Public Hearing.

Mr. Tim Schmidt, the applicant, spoke about the history of the application and why he had started the process.

Mr. Joe Poole, III asked Mr. Schmidt if he had any problems with the conditions.

Mr. Tim Schmidt replied no.

Mrs. Peggy Wildman asked Mr. Schmidt if doing the minor improvement to the entrance was going to be a problem.

Mr. Tim Schmidt replied that he has wanted to do it for ten years, but VDOT would not allow it.

There being no further questions, Mr. Joe Poole, III closed the public hearing.

Mr. Joe McCleary recommended approval and made a motion.

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (6-0). AYE: Wildman, McCleary, Hagee, Hunt, Billups, Poole (6); NAY: (0). (Mr. Wilford Kale left prior to this case.)

**SPECIAL USE PERMIT-21-02. Jamestown Island Expansion
Staff Report for February 11, 2003, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Building C Board Room; County Government Complex
Planning Commission: January 13, 2003, 7:00 p.m.
Board of Supervisors: February 11, 2003, 7:00 p.m.

SUMMARY FACTS

Applicant: Jane Jacobs of Carlton Abbott and Partners
Land Owner: Association for the Preservation of Virginia Antiquities, APVA
Proposed Use: An addition to an existing building for offices and storage; also a museum exhibit facility adjacent to an archaeological site
Location: Jamestown Island
Tax Map and Parcel No.: (54-2)(1-1)
Primary Service Area: Inside
Parcel Size: 22.5 acres
Existing Zoning: R-8, Rural Residential
Comprehensive Plan: Park, Public, or Semi-Public Open Space
Surrounding Zoning: R-8, Rural Residential
Staff Contact: Sarah Weisiger, Planner - Phone: 253-6685

STAFF RECOMMENDATION:

Staff recommends approval of the Special Use Permit (SUP) application. Staff finds this proposal to be consistent with the surrounding zoning and uses and consistent with the Comprehensive Plan. On January 13, 2003, the Planning Commission recommended approval of the SUP application, with conditions, by a vote of 6-0.

History

In 1893, the Association for the Preservation of Virginia Antiquities (APVA) acquired this 22.5-acre parcel on the western corner of Jamestown Island; it now forms part of Historic Jamestowne. The APVA, a nonprofit organization devoted to historic preservation, owns and maintains 34 historic properties throughout the State.

In 1907, the APVA constructed the Yeardley House as a visitor facility and caretaker residence. Other buildings were constructed on this property, including the Dale House, Memorial Church, and the Mule Barn. (In the 1930's, the National Park Service (NPS) purchased the remainder of the island, which is roughly 1,500 acres in size; the NPS now operates the Colonial National Historical Park.) Today, the APVA and the NPS jointly administer Jamestown Island for visitors.

Over the past several years, archaeologists working on Jamestown Island have uncovered hundreds of thousands of artifacts dating from the early seventeenth century. In 1997, the APVA received a special use permit to use the Yeardley House as office space for archaeologists (SUP-8-97). The APVA subsequently renovated the house and constructed an addition for the storage of artifacts. This addition to the Yeardley House formed part of the Jamestown Rediscovery Center.

The APVA parcel is also subject to the conditions of a special use permit granted in 2001 for the Carrot Tree seasonal food concession next to the Dale House Archaeological Laboratory (SUP-11-01). Among other conditions, the special use permit allows for the future relocation of the food concession into the Dale House.

Proposal

In preparation for Jamestown's 400th anniversary, the APVA and the NPS are working on a joint undertaking called the Jamestown Project. The proposed facilities in this special use permit application are only part of a much larger project that includes proposals to relocate the island's visitors' center, reconfigure parking areas, change roadways, and add pedestrian and bicycle trails. Improvements to NPS land do not require special use permits. The following two facilities require a special use permit, because they are located on the parcel owned by the non-governmental APVA:

Archaearium

The Archaearium is a proposed new exhibit space that would be open to the public. It is to be adjacent to, and over, the Ludwell Statehouse foundations. The modern building structure is to rest on lightweight pier construction and is intended to be mobile for future excavations. This museum exhibit facility is to give visitors an opportunity to learn more about archaeology and about excavation of the historic site. The proposed one-story Archaearium would be approximately 7,500 square feet. The interior rooms would consist of an exhibit space, an active archaeology space, and rest rooms. The facility would be used by visitors to Jamestown Island, reception staff, and archaeologists.

Jamestown Rediscovery Center Collections Facility Addition

The proposed collections' research facility is to be adjacent to the Yeardley House and its existing Jamestown Rediscovery Center addition. The facility will be used, in part, to house APVA and NPS collections together. The addition will be less than 8,000 square feet on two floors. The rooms in the new addition are intended for storage, a processing lab, curator work space, offices, a library, and rest rooms. The facility is not to be open to the public.

Surrounding Zoning and Development

All of the surrounding property, zoned R-8, Rural Residential, is owned and operated by the NPS and borders the James River. Some of the surrounding uses and development include the visitors' center, parking, and the Loop Road.

Comprehensive Plan Designation

The Comprehensive Plan Land Use Map designates the APVA parcel on Jamestown Island as Park, Public, or Semi-Public Open Space. Large undeveloped areas owned by institutions or the public and used for recreation or open space are included in this category. These areas serve as buffers to historic sites, as educational resources, and as areas for recreation and enjoyment.

Environmental

The APVA parcel contains wetlands and tidal shores. The Resource Protection Area (RPA) buffer is a 100-foot buffer landward of these features. The existing RPA buffer is not intact or functional in the area of the proposed facilities. Currently, impervious cover, equipment, and debris are located within the RPA buffer. Two conditions in the recommendation for this special use permit address these environmentally sensitive areas near the proposed facilities.

Utilities

The site is located inside of the Primary Service Area (PSA). A utilities master plan is currently being developed for all of the proposed facilities on Jamestown Island, including the Archaearium and Jamestown Rediscovery Center addition.

Access

Tourists visiting the Archaearium will access it along foot paths from the existing NPS visitor center parking lot.

Staff parking for the two facilities is planned for spaces near the Jamestown Rediscovery Center.

Recommendation

Staff finds the proposal, with conditions, consistent with surrounding zoning and uses and consistent with the Comprehensive Plan. On January 13, 2003, the Planning Commission recommended approval of the SUP application, with conditions, by a vote of 6-0. Staff recommends the Board of Supervisors adopt the attached resolution and approve this special use permit application with the following conditions:

1. An archaeological study, performed in accordance with County policy, shall be submitted and approved by the Director of Planning before any land disturbing activity will be allowed to take place.
2. A site plan shall be submitted to and approved by the Planning Director.
3. Prior to preliminary site plan approval, an engineering study shall be submitted to and approved by the James City Service Authority confirming the sanitary sewer system capacity.

4. Prior to preliminary site plan approval, the Resource Protection Area and Buffer in the vicinity of the Pole Shed and proposed BMP Easement 2 (as shown in the drawing: Proposed NPS Easements at APVA Property, in the Conceptual Stormwater Management Plan for the James City County Special Use Permit application) shall have existing equipment and debris removed, as approved by the County Environmental Director. This area shall be restored with vegetation, as approved by the County Environmental Director.
5. Grid pavers or other pervious paving surfaces shall be used in place of impervious surfaces for the construction or relocation of access roadways or paths within the 50-foot Resource Protection Area buffer, as approved by the County Environmental Director.
6. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Sarah Weisiger

CONCUR:

O. Marvin Sowers, Jr.

SW/g
sup-21-02.wpd

Attachments:

1. Planning Commission Unapproved Minutes from January 13, 2003
2. Location Map
3. Drawing: Proposed NPS Easements at APVA Property, in the Conceptual Stormwater Management Plan for the James City County Special Use Permit application, provided by applicant.
4. Resolution for Case No. SUP-21-02. Jamestown Island Expansion

RESOLUTION

CASE NO. SUP-21-02. JAMESTOWN ISLAND EXPANSION

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

WHEREAS, Ms. Jane Jacobs of Carlton Abbott and Partners has applied on behalf of the Association for the Preservation of Virginia Antiquities for a special use permit to allow a building for offices and storage to be approximately 8,000 square feet on two floors located adjacent to and behind the Yeardeley House and Rediscovery Center and to allow a one-story museum exhibit facility approximately 7,500 square feet in size adjacent to and partially over an archaeological site known as the Ludwell Statehouse complex; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (54-2); and

WHEREAS, the Planning Commission, following its public hearing on January 13, 2003, voted 6-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-21-02 as described herein with the following conditions:

1. An archaeological study, performed in accordance with County policy, shall be submitted to and approved by the Director of Planning before any land disturbing activity will be allowed to take place.
2. A site plan shall be submitted to and approved by the Planning Director.
3. Prior to preliminary site plan approval, an engineering study shall be submitted to and approved by the James City Service Authority confirming the sanitary sewer system capacity.
4. Prior to preliminary site plan approval, the Resource Protection Area and Buffer in the vicinity of the Pole Shed and proposed BMP Easement 2 (as shown in the drawing: Proposed NPS Easements at APVA Property, in the Conceptual Stormwater Management Plan for the James City County Special Use Permit application) shall have existing equipment and debris removed, as approved by the County Environmental Director. This area shall be restored with vegetation, as approved by the County Environmental Director.
5. Grid pavers or other pervious paving surfaces shall be used in place of impervious surfaces for the construction or relocation of access roadways or paths within the 50-foot Resource Protection Area buffer, as approved by the County Environmental Director.

6. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jay T. Harrison, Sr.
Chairman, Board of Supervisors

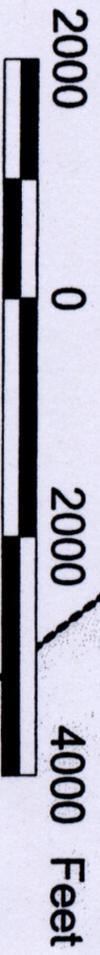
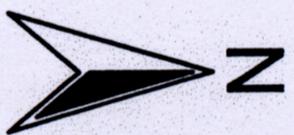
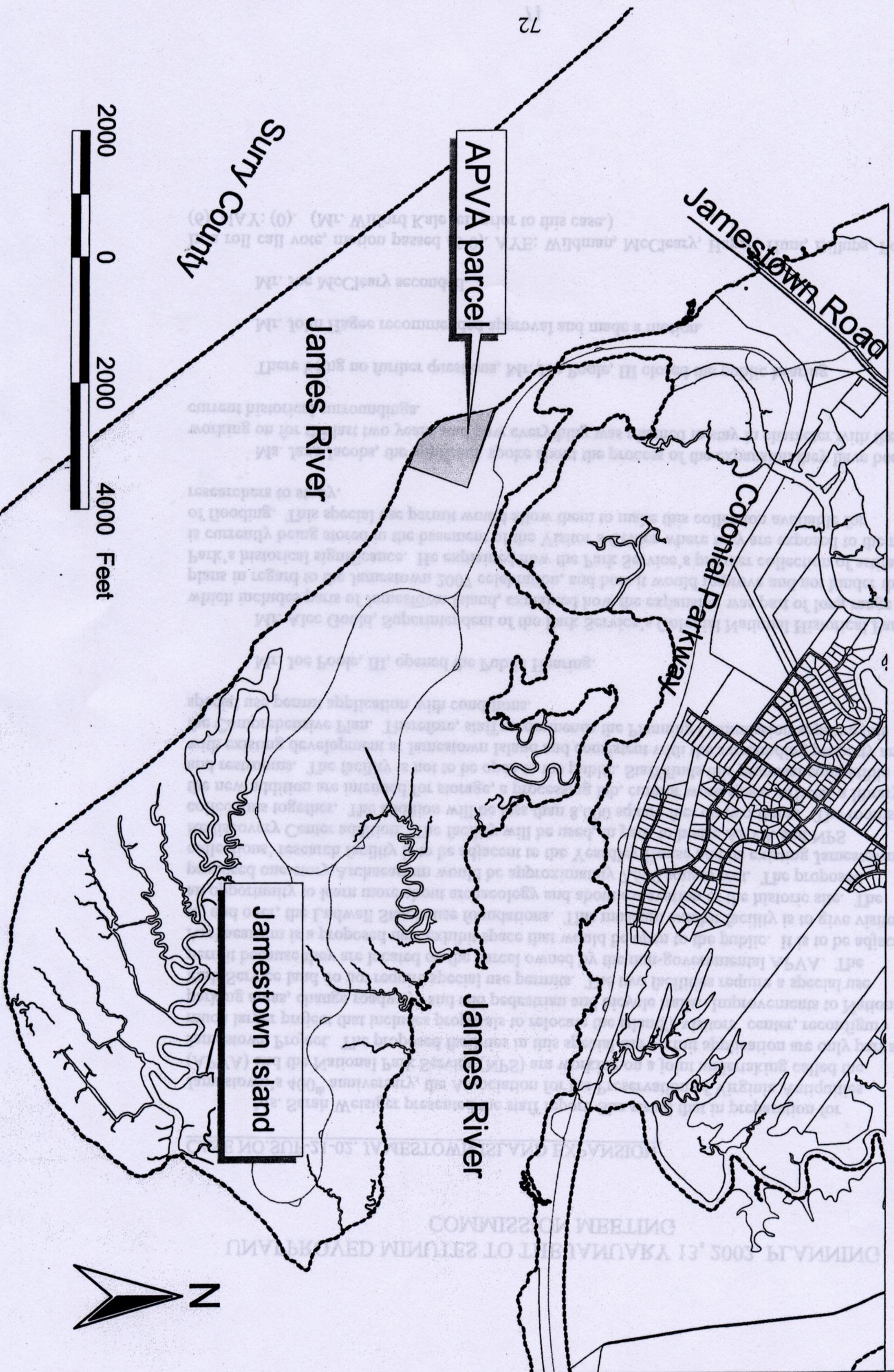
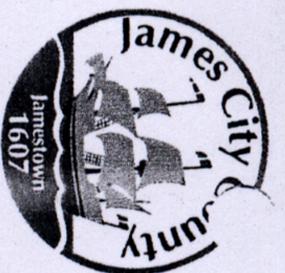
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of February, 2003.

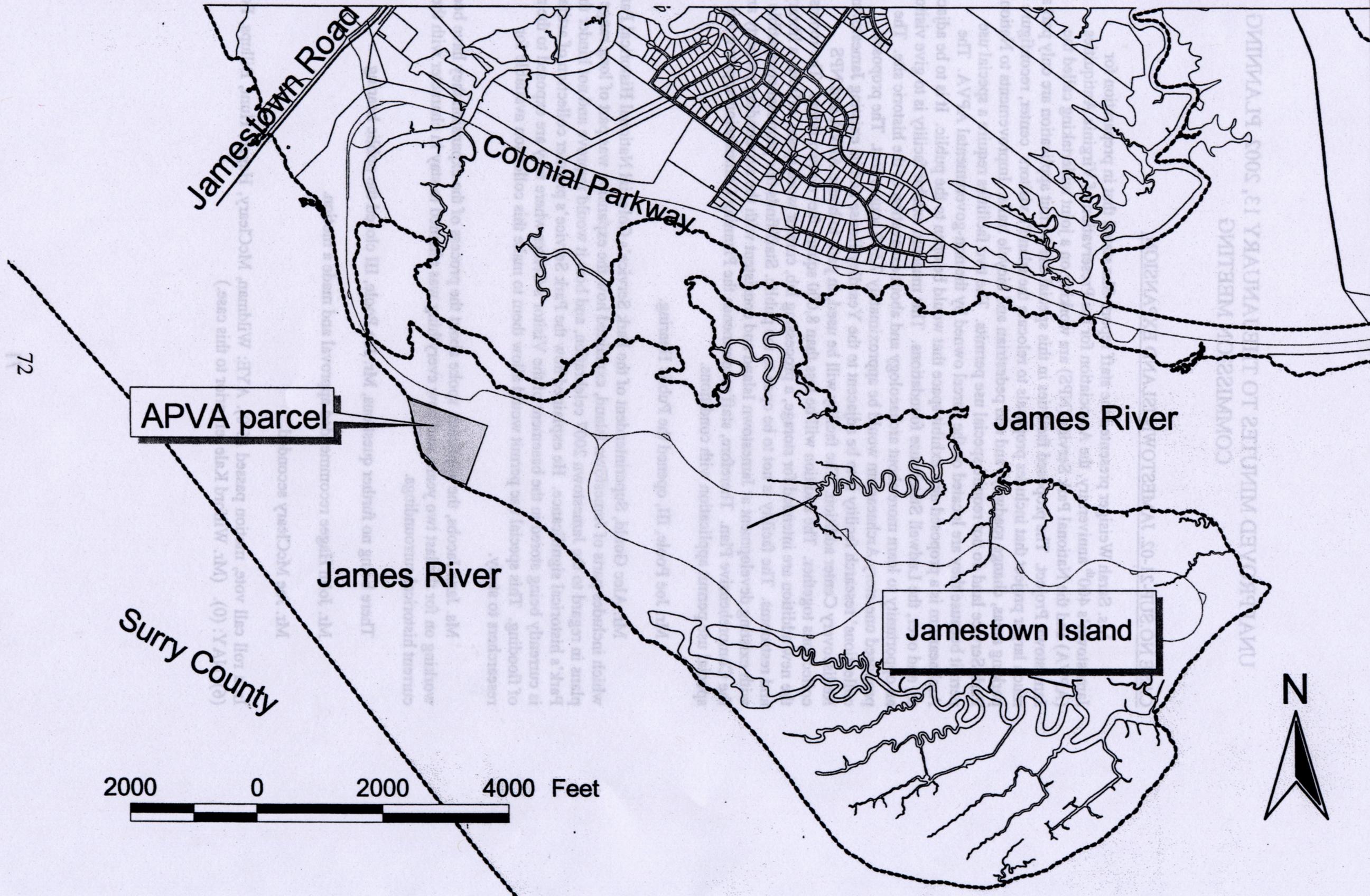
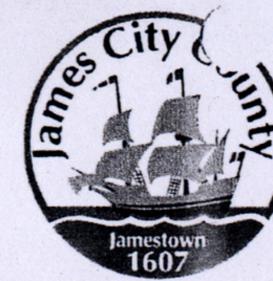
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Case No. SUP-21-02 Jamestown Island Expansion

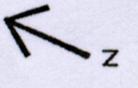


Case No. SUP-21-02

Jamestown Island Expansion



Conceptual Stormwater Management Plan



PROPOSED NPS EASEMENTS AT APVA PROPERTY

SCALE: 1" = 60'

ARCHAERIUM

SQ. FOOTAGE - App. 7500 Sq.Ft.
HEIGHT OF BUILDING - App. 15'-0"

COLLECTIONS FACILITY

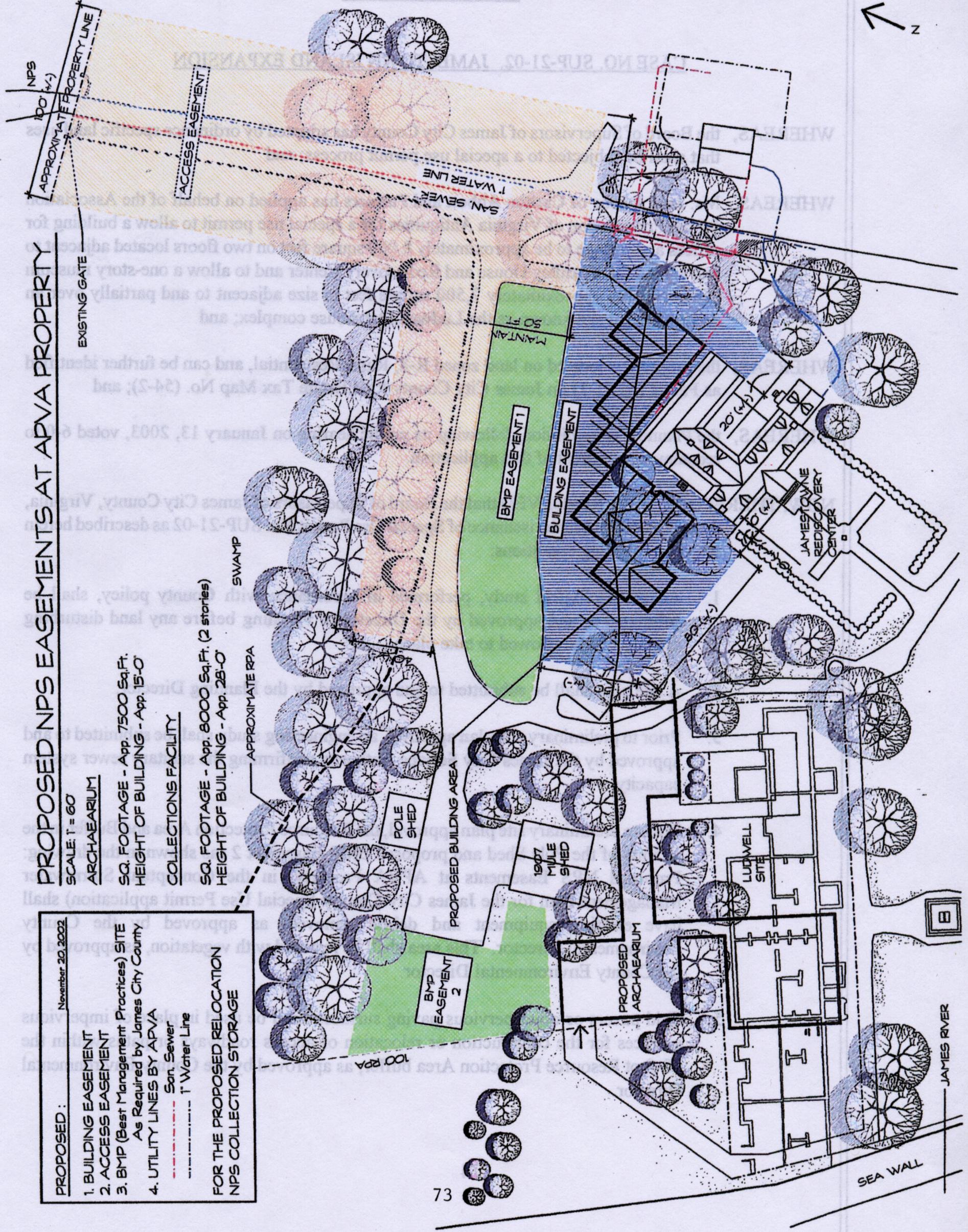
SQ. FOOTAGE - App. 8000 Sq.Ft. (2 stories)
HEIGHT OF BUILDING - App. 28'-0"

PROPOSED: November 20, 2002

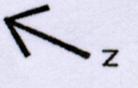
1. BUILDING EASEMENT
2. ACCESS EASEMENT
3. BMP (Best Management Practices) SITE
As Required by James City County
4. UTILITY LINES BY APVA

--- San. Sewer
--- 1" Water Line

FOR THE PROPOSED RELOCATION
NPS COLLECTION STORAGE



Conceptual Stormwater Management Plan



PROPOSED NPS EASEMENTS AT APVA PROPERTY

SCALE: 1" = 60'

ARCHAERIUM

SQ. FOOTAGE - App. 7500 Sq.Ft.
HEIGHT OF BUILDING - App. 15'-0"

COLLECTIONS FACILITY

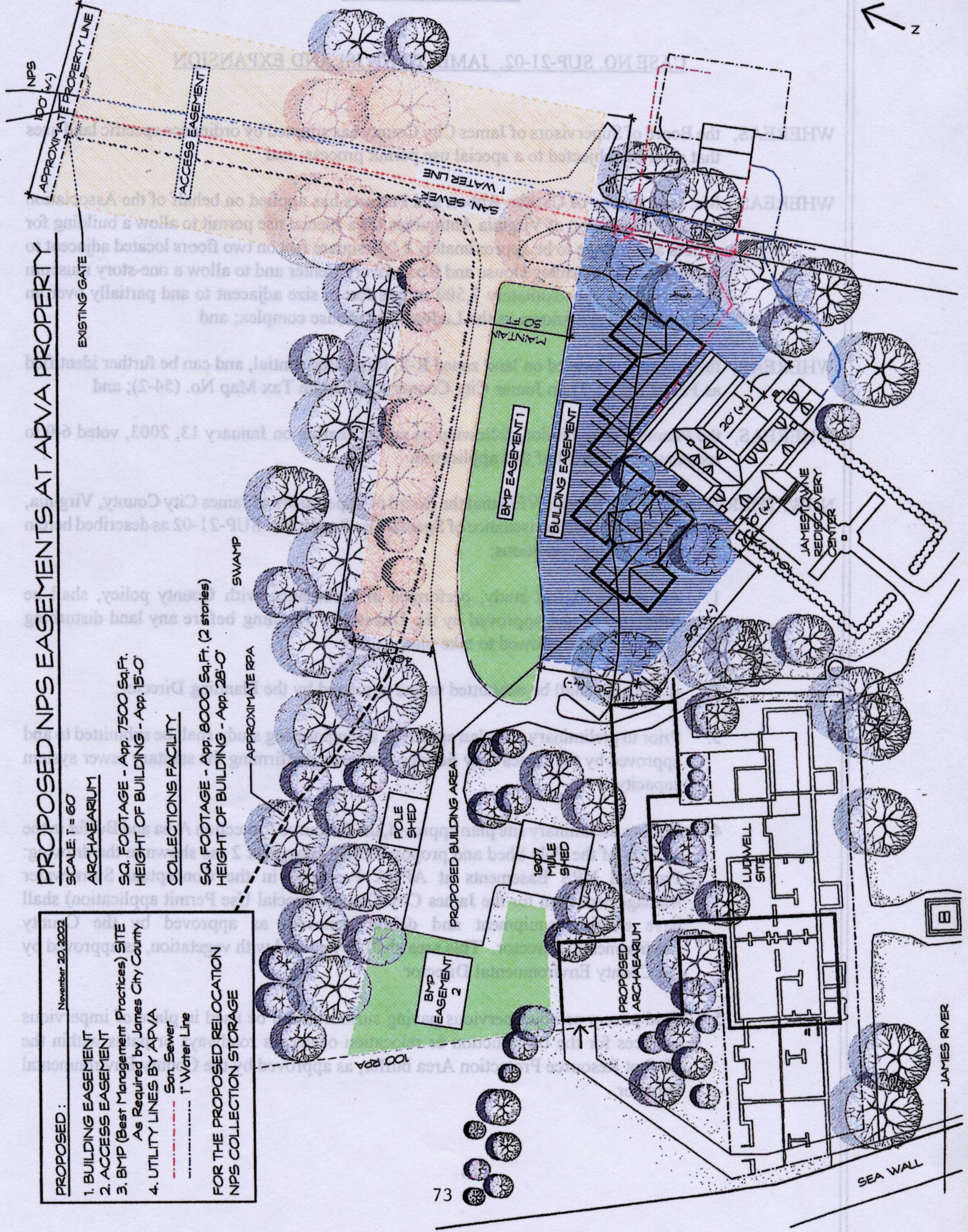
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1. BUILDING EASEMENT
2. ACCESS EASEMENT
3. BMP (Best Management Practices) SITE
As Required by James City County
4. UTILITY LINES BY APVA

--- San. Sewer
--- 1" Water Line

FOR THE PROPOSED RELOCATION
NPS COLLECTION STORAGE



UNAPPROVED MINUTES TO THE JANUARY 13, 2002, PLANNING
COMMISSION MEETING

CASE NO. SUP-21-02. JAMESTOWN ISLAND EXPANSION.

Ms. Sarah Weisiger presented the staff report. She stated that in preparation for Jamestown's 400th anniversary, the Association for the Preservation of Virginia Antiquities (APVA) and the National Park Service (NPS) are working on a joint undertaking called the Jamestown Project. The proposed facilities in this special use permit application are only part a much larger project that includes proposals to relocate the island's visitors' center, reconfigure parking areas, change roadways and add pedestrian and bicycle trails. Improvements to National Park Service land do not require special use permits. The two facilities require a special use permit because they are located on the parcel owned by the non-governmental APVA. The Archaearium is a proposed new exhibit space that would be open to the public. It is to be adjacent to, and over, the Ludwell Statehouse foundations. This museum exhibit facility is to give visitors an opportunity to learn more about archaeology and about excavation of the historic site. The proposed one-story Archaearium would be approximately 7,500 square feet. The proposed collections' research facility is to be adjacent to the Yeardeley House and its existing Jamestown Rediscovery Center addition. The facility will be used, in part, to house APVA and NPS collections together. The addition will be less than 8,000 square feet on two floors. The rooms in the new addition are intended for storage, a processing lab, curator work space, offices, a library and restrooms. The facility is not to be open to the public. Staff finds this proposal compatible with existing development at Jamestown Island and consistent with the surrounding property and the Comprehensive Plan. Therefore, staff recommends the Planning Commission approve this special use permit application with conditions.

Mr. Joe Poole, III, opened the Public Hearing.

Mr. Alec Gould, Superintendent of the Park Service's Colonial National Historical Park which includes parts of Jamestown Island, explained how the expansion was part of long range plans in regard to the Jamestown 2007 celebration, and how it would improve and not hinder the Park's historical significance. He explained how the Park Service's premier collection of artifacts is currently being stored in the basement of the Visitor's Center where they are exposed to the risk of flooding. This special use permit would allow them to make this collection available for researchers to study.

Ms. Jane Jacobs, the applicant, spoke about the process of the expansion they have been working on for the last two years, and how everything was planned to stay in character with the current historical surroundings.

There being no further questions, Mr. Joe Poole, III closed the public hearing.

Mr. John Hagee recommended approval and made a motion.

Mr. Joe McCleary seconded.

In a roll call vote, motion passed (6-0). AYE: Wildman, McCleary, Hagee, Hunt, Billups, Poole (6); NAY: (0). (Mr. Wilford Kale left prior to this case.)