

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

July 8, 2003

7:00 P.M.

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JUNE, 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 requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Skyler Helms, a future kindergarten student at Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

1. Chesapeake Bay Partner Community Awards

Ms. Maureen Tooke, Environmental Protection Agency (EPA) Region III Chesapeake Bay Program Office, presented the County and accepted by Mr. Harrison, Darryl Cook, Environmental Director, and Michael Woolson, Watershed Planner, with an award from the Chesapeake Bay Partner Community Awards Program as a Gold level Bay Partner in recognition for the efforts that the County has undertaken in the areas of improving water quality, promoting sound land use, protecting and restoring living resources and habitats, and engaging the community.

2. July is Recreation and Parks Month

Mr. Harrison presented Mr. Needham S. Cheely, III, Director of the Division of Parks and Recreation, and Jim Dorsey and Mary Higgins, members of the Parks and Recreation Advisory Commission, with a resolution recognizing July as Recreation and Parks Month.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT), stated that he would accept remarks from the Board.

Mr. McGlennon requested the weeds be trimmed along the medium of Brookwood Drive (Route 700) near Route 199.

Mr. Kennedy inquired about VDOT's schedule to maintain the weeds along Route 60 near New Kent.

Mr. Brewer stated that contractors are out cutting now and should be out along the New Kent area of Route 60 this week.

Mr. Harrison inquired about the maintenance schedule for the ditches along Ironbound Road (Route 615).

Mr. Brewer stated that VDOT will be contacting the County regarding the drainage issue along Ironbound Road (Route 615).

Mr. Harrison inquired about "Children At Play" signs in Jamestown Hundred as well as speeding in the subdivision.

Mr. Goodson inquired about VDOTs schedule to mow and maintain the mediums of the main roadways in the County.

Mr. Brewer stated that VDOT targets maintenance at least once a month, although that schedule may be impacted by the weather.

F. PUBLIC COMMENT - None

G. CONSENT CALENDAR

Mr. Harrison inquired if a member of the Board wished to pull an item from the Consent Calendar.

Mr. Kennedy requested Item Number 9, Olde Towne Medical Center Reduction in Force, be pulled.

Mr. McGlennon requested Item Number 7, Lease and Purchase Option Agreement with the Colonial Williamsburg Foundation – Buses, be pulled.

Mr. McGlennon made a motion to adopt the remaining items on the Consent Calendar as well as the amended item relating to the minutes of June 10, 2003.

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

1. Minutes –

- a. June 10, 2003, Work Session
- b. June 10, 2003, Regular Meeting

2. Building D Lease

R E S O L U T I O N

BUILDING D LEASE

WHEREAS, the Williamsburg-James City County Public Schools and James City County desire to enter into a lease agreement for Building D with an effective date of July 1, 2003.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized and directed to execute the lease between the Williamsburg-James City County Public Schools and James City County for occupancy of Building D at the James City County Government Complex.

3. Dedication of Streets in Fernbrook, Phases 1, 2, and 3

R E S O L U T I O N

DEDICATION OF STREETS IN FERNBROOK, PHASES 1, 2, AND 3

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.

4. U. S. Department of Justice COPS Universal Hiring Program Grant

R E S O L U T I O N

U.S. DEPARTMENT OF JUSTICE COPS UNIVERSAL HIRING PROGRAM GRANT

WHEREAS, the United States Department of Justice Office of Community Oriented Policing Services (COPS) has approved a grant to provide three new police officers to enhance general law enforcement, community policing, and homeland security efforts; and

WHEREAS, the grant provides \$225,000 in salary and benefits over a three-year period with the County providing matching funds of \$188,181.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget appropriation amendments for FY 04 to the Special Projects/Grants Fund:

Revenues:

JCC General Fund (Grant Match Account)	\$ 41,073
Federal Revenue (COPS Grant)	<u>90,000</u>
	<u>\$131,073</u>

Expenditures:

COPS Universal Hiring Program Grant	<u>\$131,073</u>
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BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby create three limited-term full-time police officer recruit positions and plans to fully-fund the three positions at the end of the grant period to comply with the grant's Retention Plan.

5. Grant Appropriation – Clerk of the Circuit Court

R E S O L U T I O N

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court a technology grant for \$68,800; and

WHEREAS, there is no local match required.

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:

State Compensation Board Technology Grant	<u>\$68,800</u>
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Expenditure:

Clerk Technology Upgrades	<u>\$68,800</u>
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6. Appropriation of Funds – Bus Shelter, Williamsburg Area Transport

R E S O L U T I O N

APPROPRIATION OF FUNDS - BUS SHELTER, WILLIAMSBURG AREA TRANSPORT

WHEREAS, the Hampton Roads Planning District Commission approved an amendment of \$16,000 in State and Federal revenues to Williamsburg Area Transport; and

WHEREAS, State and Federal revenues will not require any local match.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendment to the FY 04 Williamsburg Area Transport Budget:

Revenue:

Regional Service Transportation Program Grant	<u>\$16,000</u>
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Expenditure:

Installation and purchase of one bus stop shelter	<u>\$16,000</u>
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8. Title V Grant – “Beyond the Bell”

R E S O L U T I O N

TITLE V GRANT - “BEYOND THE BELL”

WHEREAS, the Virginia Department of Criminal Justice Services has made matching funds available for the development of youth-at-risk programs; and

WHEREAS, funds are needed for two staff positions to continue to operate the new middle school after-school program at the County's two community centers for referred at-risk youth.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$56,465 grant awarded by the Virginia Department of Criminal Justice Services.

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

Revenues:

From the Commonwealth	<u>\$56,465</u>
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Expenditures:

Full-time salaries	\$42,848
Fringe benefits	<u>\$13,617</u>
	<u>\$56,465</u>

10. Budget Amendment – Norge Depot

RESOLUTION

BUDGET ADJUSTMENT – NORGE DEPOT

WHEREAS, the James City County Historic Commission wishes to move the historic Norge Depot to the James City County Library Site; and

WHEREAS, the estimated cost for moving the Norge Depot to the James City County Library site is estimated to be \$155,000; and

WHEREAS, the Historic Commission has obtained a TEA-21 Grant in the amount of \$75,000 and has \$40,000 in the FY 2003 Capital Improvement Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget transfer:

Transfer From:

Operating Budget Item No. 001 162 7150	<u>\$40,000</u>
(Through transfer to County General Fund)	

Transfer To:

Capital Improvement Budget Item No. 013 075 0400	<u>\$40,000</u>
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and that said money be and hereby is appropriated for expenditures associated with the moving and restoration of the Norge Depot.

11. July – Recreation and Parks Month

RESOLUTION

JULY – RECREATION AND PARKS MONTH

WHEREAS, parks and recreation activities generate opportunities for people to come together and experience a sense of community through fun recreational pursuits; and

WHEREAS, parks, playgrounds, ball fields, nature trails, open spaces, community and cultural centers, and historic sites make a community attractive and desirable places to live, work, play, and visit to contribute to our ongoing economic vitality; and

WHEREAS, parks and recreation agencies touch the lives of individuals, families, groups, and the entire community, which positively impacts upon the social, economic, health, and environmental quality of our community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims July as Recreation and Parks Month and encourages all citizens of James City County to utilize recreation and park services and recognize that they are essential to the quality of life.

12. County Fair Committee Appointments

7. Lease and Purchase Agreement with the Colonial Williamsburg Foundation - Buses

Mr. Leo P. Rogers, Deputy County Attorney, stated that the Colonial Williamsburg Foundation received a Congressional earmark grant of \$2,457,096 to cover eighty percent of the cost of acquiring nine energy efficient natural gas buses. The staff for the Colonial Williamsburg Foundation (CWF), James City County Transit Company (JCCT), and the County has negotiated the proposed lease and purchase agreement for natural gas buses to be used for public transportation. The County would enter into the agreement as the administrative, fiscal, and purchasing agent for the project.

The CWF would purchase the buses from the JCCT at the end of the term of the lease agreement.

Mr. McGlennon made a motion to adopt the resolution.

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

R E S O L U T I O N

LEASE AND PURCHASE OPTION AGREEMENT WITH
THE COLONIAL WILLIAMSBURG FOUNDATION - BUSES

WHEREAS, the Colonial Williamsburg Foundation (CWF) has received a Congressional earmark of \$2,457,096 to purchase nine natural gas buses; and

WHEREAS, these Federal funds must be directed to an existing recipient of Federal funds; and

WHEREAS, James City County Transit will serve as the pass through entity to receive the grant, purchase these buses, and lease them to the CWF; and

WHEREAS, James City County will act as the administrative, fiscal, and purchasing agent for the project; and

WHEREAS, CWF will fund the entire cost to purchase the buses and be responsible for maintaining them; and

WHEREAS, CWF has committed to operating these buses in accordance with Federal law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes its Chairman to execute the Lease and Purchase Option Agreement with the Colonial Williamsburg Foundation for nine natural gas buses.

Mr. Morton commented to the Board that staff has been working diligently for about one year to acquire this contract.

9. Olde Towne Medical Center Reduction in Force

Ms. Judith N. Knudson, Executive Director of the Olde Towne Medical Center, stated that due to projected budget shortfalls, the Williamsburg Area Medical Assistance Corporation determined that there was a need to reduce staff at the Olde Towne Medical Center effective July 1, 2003.

Based on the actions of the Board of Directors of the Williamsburg Area Medical Assistance Corporation (WAMAC), Ms. Knudson recommended the Board adopt the resolution to eliminate and reduce staff positions at the Olde Towne Medical Center.

Mr. Kennedy inquired how the reduction/elimination would affect the operation of the Center.

Ms. Knudson stated that other staff and members of the Board of Directors of WAMAC have stepped forward to address the workload, and there has been some centralization of services.

Mr. Kennedy inquired about the status of the Dental Program and if it would be affected by the potential shortfalls.

Ms. Knudson stated that the Dental Program is very expensive, that it is difficult to attract volunteer dentists to treat low-income families, that there has been some re-assignment of patients, and that the recent grant from the Riverside Health Foundation will cover some costs.

Mr. Kennedy inquired about the fiscal short- and long-term viability of the Center.

Ms. Knudson stated that she is confident the Center will pull through as the economy grows stronger.

Mr. Kennedy made a motion to adopt the resolution.

Mr. McGlenon stated that he would like the Board to monitor the Dental Program and should there be fiscal challenges with the Program that the Board step up to assist.

Mr. Kennedy stated that he would like to get the other jurisdictions together to plan for problems that may be arising, and to monitor and to lend support to the Program.

Mr. Harrison requested staff keep the Board briefed on the Olde Towne Medical Center's status.

Mr. Harrison requested a roll call on the motion.

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

R E S O L U T I O N

OLDE TOWNE MEDICAL CENTER REDUCTION IN FORCE

WHEREAS, the Board of Directors of the Williamsburg Area Medical Assistance Corporation determined at a special meeting on April 28, 2003, that a projected budget shortfall would make it necessary to have a reduction in force at the Olde Towne Medical Center; and

WHEREAS, the decision was made to eliminate one full-time Director of Development position, one part-time Nurse Practitioner position (1,248 hours), and reduce one full-time Clinical Professional position from full-time to part-time (2,080 to 1,040 hours).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby reduce the work force at Olde Towne Medical Center as requested above effective July 1, 2003.

H. PUBLIC HEARINGS

1. Conveyance of Easements to the Virginia Department of Transportation at 3493 John Tyler Highway

Mr. O. Marvin Sowers, Jr., Planning Director, recommended the Board adopt a resolution conveying easements to the Virginia Department of Transportation (VDOT) on an 8.067-acre parcel located at 3493 John Tyler Highway, further identified as Parcel No. (1-12) on the James City County Real Estate Tax Map No. (45-2) to preserve the entire parcel as natural open space and to permit VDOT to use a portion of the parcel as a pedestrian and bicycle trail. VDOT has agreed to reimburse the County 90 percent of the appraised value of the parcel, allowing the County recoup most of the acquisition costs.

Mr. McGlenon inquired if the reimbursement would be to the Greenspace Fund.

Mr. Sowers stated that the funds would go into the Greenspace Fund.

Mr. Harrison opened the Public Hearing.

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

Mr. Brown made a motion to adopt the resolution.

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

R E S O L U T I O N

CONVEYANCE OF EASEMENT TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION

WHEREAS, in December 1999, James City County acquired 8.067 acres of land commonly known as 3493 John Tyler Highway, designated as Parcel No. (01-12) on the James City County Real Estate Tax Map No. (45-2) (the "Property") for the purchase price of \$611,000; and

WHEREAS, the property is appraised at \$645,500; and

WHEREAS, the Commonwealth of Virginia received a Federal matching grant which will pay eighty percent of appraised value of the Property provided certain restrictions and easements are in place; and

WHEREAS, the Virginia Department of Transportation (VDOT) is willing to pay \$580,950, which is ninety percent of the appraised value of the Property for a Deed of Easement agreement for public use; and

WHEREAS, following a public hearing, the Board of Supervisors of James City County, Virginia, believes it is in the best interest of the County to convey an easement over the Property to VDOT.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute a Deed of Easement and such other documents as may be necessary to convey an easement over the Property to VDOT in exchange for \$580,950.

2. Resolution to Endorse a TEA-21 Application Filed by the Jamestown-Yorktown Foundation

Mr. O. Marvin Sowers, Jr., Planning Director, stated that the Jamestown-Yorktown Foundation is applying to the Virginia Department of Transportation (VDOT) for funds from the Transportation Equity Program for the 21st Century (TEA-21) to construct two new replica ships, *Godspeed* and *Discovery*, to be home-ported at Jamestown Settlement.

The foundation must first receive a resolution of support for the project from the Board of Supervisors, before applying to the VDOT Commonwealth Transportation Board.

Staff recommended the Board approve the resolution endorsing the Jamestown-Yorktown Foundation's application.

Mr. Harrison opened the Public Hearing.

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

Mr. Brown made a motion to adopt the resolution.

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

RESOLUTION

ENDORSE A TEA-21 APPLICATION FILED BY THE
JAMESTOWN-YORKTOWN FOUNDATION

WHEREAS, the Jamestown-Yorktown Foundation intends to file an application with the Virginia Department of Transportation (VDOT) for an Enhancement Grant to construct two new replica ships, *Godspeed* and *Discovery*, to be home ported at the Jamestown Settlement; and

WHEREAS, in accordance with the Commonwealth Transportation Board grant allocation procedures, it is necessary that a request by resolution be received from the local government in order for VDOT to program a transportation enhancement project in the County of James City; and

WHEREAS, the Jamestown-Yorktown Foundation hereby agrees to pay 20 percent of the total cost for planning, design, right-of-way, and construction of this project, which is contingent upon entering into an acceptable reimbursement agreement with the VDOT; and

WHEREAS, if the Jamestown-Yorktown Foundation subsequently elects to cancel this project, the Jamestown-Yorktown Foundation hereby agrees to reimburse VDOT for the total amount of the costs expended by the department through the date the department is notified of such cancellation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Commonwealth Transportation Board establish a project for the construction

of two new replica ships to be home ported at the Jamestown Settlement, as described in the "Replica Ships Construction" application submitted by the Jamestown-Yorktown Foundation.

3. Short-term Rental Tax

Mr. John E. McDonald, Manager of Financial and Management Services, presented two ordinance revisions to the Board for the County's Short-Term Rental Tax Ordinance. One revision provides for the repeal of the tax ordinance and the other provides for the implementation of a revised ordinance effective August 1, 2003.

Mr. McDonald stated that the tax has been on the books since 1989 but the tax has not been imposed.

Mr. McDonald stated that the anticipated annual net revenue for collection of this tax will be approximately \$22,000.

Staff recommended the Board repeal the tax Ordinance rather than amend it.

Mr. Goodson inquired if the Board repeals the tax, is there a provision by the State enabling the County to re-impose the tax at a later time.

Mr. McDonald stated that there is such a provision.

Mr. Harrison opened the Public Hearing.

1. Richard Bradshaw, Commissioner of the Revenue, provided the Board with an overview of the tax Ordinance and requested the Board repeal the tax.

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

Mr. McGlennon made a motion to repeal the tax.

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

4. Ordinance Amendment for Cable Communications Committee's Powers and Responsibilities

Mr. Leo P. Rogers, Deputy County Attorney, provided an overview of a proposed ordinance to amend the James City County Code, Section 5-8 as recommended by the Cable Communications Committee. The amendments are to update the ordinance and properly reflect the duties of the Committee as well as to identify the appointment procedures for Committee members.

Mr. McGlennon stated concern with the phrasing of paragraph (c) (7) and recommended the Board amend the beginning of the paragraph to read "Work with staff to perform research . . ." to avoid possible confusion in the Committee's role in this matter.

The Board briefly discussed the motion.

Mr. Harrison opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the revised Ordinance.

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

I. BOARD CONSIDERATION

1. Sound Barrier Wall – Route 199

Mr. John T. P. Horne, Development Manager, stated that the County was informed by the Jamestown 2007 Corridor Constructors that a sound barrier wall will be constructed with Segment II of the Route 199 project along approximately 1,600 feet of the frontage of Williamsburg Landing. Williamsburg Landing will be funding the construction of the basic wall under an agreement with the contractor and that there are two alternate design measures that are available to the County to fund.

Mr. Horne stated that the first alternate involves the substitution of concrete columns for the standard metal columns that are in the basic design. The second alternative involves a substitute material for the panels on the sound barrier wall that would soften the sound and would be with stamped concrete finish design to appear like bricks.

Mr. Horne stated that a decision on the first alternative has been requested by June 25. The cost for the alternative is \$83,632. The decision for the second alternative is not requested until August 31 and would cost \$81,592.

Staff recommended the Board not to fund the first alternative as staff sees little aesthetic benefit from the installation of the concrete columns.

Staff recommended the Board, with staff, visit a location where the stamped brick design is in place and after seeing the design in the field, staff would make a recommendation at that time.

Mr. Goodson requested staff to do some research to find if there was grant money available to cover the cost of upgrading the sound wall to stamped brick as part of the Jamestown 2007 event.

The Board and staff discussed the alternatives.

The Board concurred not to support the first alternative to upgrade the columns to concrete from metal, and concurred to review the stamped brick design in the field before making a decision on the second alternative.

2. Proposed Procedures – Implementation of the Public-Private Education Facilities and Infrastructure Act of 2002

Ms. Stephanie Ahrendt, Purchasing Director, stated that the 2002 Virginia General Assembly passed the Public-Private Educational Facilities and Infrastructure Act of 2002 (PPEA) and provided an overview of the proposed procedures for receiving and evaluating any proposal submitted under the provisions of the PPEA.

Ms. Ahrendt stated that the proposed County Procedures are based upon the Model Procedures developed by a special committee of the State Division of Legislative Services and that the Procedures encompass unsolicited proposals from interested private entities.

Staff recommended approval of the proposed County Procedures.

Mr. Brown requested clarification between how solicitations are received and handled now versus under the PPEA.

Ms. Ahrendt stated that the PPEA would save the County time and money in the elimination of additional approval by outside agencies, the County would be able to recover of some staff costs associated with processing unsolicited proposals, and the Board would have more control over proposed projects.

Mr. Brown inquired about the \$1,000 fee to review unsolicited proposals and inquired if the level was too high for small businesses in the County.

Ms. Ahrendt stated that the figure is in keeping with the consideration of fees the business would encounter through normal approval routes and that it is consistent with research results conducted in surrounding jurisdictions.

Mr. Brown inquired if the Public-Private Partnership for the Jamestown 2007 corridor would be a similar situation to a PPEA situation.

Mr. Morton stated that the two are not similar situations, and that there are a couple localities experiencing a high volume of unsolicited bids that is taking up a lot of staff time and incurring publicizing expenses.

Mr. Morton stated that if the floor level becomes an impediment to small businesses in the County, the Board could always revisit it.

Mr. McGlenon made a motion to approve the Procedures.

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

J. PUBLIC COMMENT

1. Mr. John Sutton, 307 Indian Springs Road, City of Williamsburg, stated that a local newspaper ran an article on the Route 199 sound walls, and he objected to the manner in which VDOT, Williamsburg Landing, and the contractor moved forward with this project without a Public Hearing or considering the County's desire to protect the Community Character Corridors by resisting sound walls.

Mr. Sutton requested the Board send a letter to VDOT requesting it receive public input on the proposal for a sound wall along that portion of Route 199.

Mr. McGlenon stated that VDOT agreed to the proposal by Williamsburg Landing to build the sound wall, and that the Board is not in support of sound walls along Route 199.

Mr. Goodson stated that VDOT and Williamsburg Landing made the agreement and that the Contractor is bound by VDOT's agreement.

Mr. McGlenon stated that a Public Hearing was held early in the process and the general opinion was against sound walls although there were some for sound walls, and that Williamsburg Landing is paying for the walls.

2. Mr. Mark Rinaldi, 10022 Sycamore Landing Road, commented that there is a brick-stamped pattern on sound walls at the north end of the Hampton Roads Bridge Tunnel, that although the private initiative by Williamsburg Landing is good there will still be a visual impact on the community through the corridor.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recognized the following National Association of Counties (NACo) 2003 Achievement Award Winning Programs: *Cap It* for “Best of Category (Rural)”; *Automatic External Defibrillator Program, Working Towards Wellness; the 2002 Greenway Master Plan, the 4th Grade Learn to Swim Program; Chickahominy Riverfront Park;* and the *Powhatan Creek Watershed Management Plan.*

Mr. Wanner recognized the County’s honorable mention for its *2002 - A Year of Partnerships for James City County’s Transit Division* as recognized by the Virginia Association of Counties (VACo) 2003 Achievement Awards.

Mr. Wanner recommended the Board go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of parcels of property for public use and pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia to consider the appointments of individuals to County boards and /or commissions.

L. BOARD REQUESTS AND DIRECTIVES - None

M. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of parcels of property for public use and pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia to consider the appointments of individuals to County boards and/ or commissions.

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 8:31 p.m.

At 9:01 p.m. Mr. Harrison reconvened the Board into Open Session.

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 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, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) to consider the disposition of a parcel of property for public use.

Mr. Brown made a motion to reappoint Alvin Busch to a four-year term on the Industrial Development Authority, term to expire on July 8, 2007; to appoint Dorothy L. Haramis and Gloria Shaffer to four-year terms on the Social Services Advisory Board, terms to expire on July 1, 2007; to appoint Wanda Hitchcock as an alternate to the Social Services Advisory Board for a four-year term, term to expire on July 1, 2007; and to appoint Joseph Gutierrez, Jr. to a four-year term on the Thomas Nelson Community College Local Board, term to expire on July 1, 2007.

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

N. ADJOURNMENT

Mr. McGlennon made a motion to adjourn.

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

At 9:03 p.m. Mr. Harrison adjourned the Board until 7 p.m. on July 8, 2003.

Sanford B. Wanner
Clerk to the Board

M E M O R A N D U M

DATE: July 8, 2003
TO: The Board of Supervisors
FROM: John T. P. Horne, Development Manager
SUBJECT: VDOT Revenue Sharing Projects Amendments

The County has been notified by the Virginia Department of Transportation (VDOT) that VDOT would like to use revenue sharing funds on Project 0607-047-113, C502 (UPC 3089) (Croaker Road). VDOT recommends a transfer of funds from Project 0622-047-P46 (Racefield Drive) to Project 0607-047-113, C502 (UPC 3089) (Croaker Road) in the amount of \$200,000 for the 2003/2004 Secondary Six-Year Plan. Improvements to Racefield Drive are proceeding without revenue sharing funds.

Staff also recommends an amendment to Project 5000-047-174, L801 (UPC 00061576) (Monticello Avenue landscaping) to include other routes in the County.

Staff recommends that the Board of Supervisors adopt the attached resolution which authorizes the application to VDOT for the \$200,000 transfer and the amendment to add a list of routes to Project 5000-047-174, L801 (UPC 00061576).

John T. P. Horne

JTPH/gs
revsharamend.mem

Attachment

R E S O L U T I O N

VDOT REVENUE SHARING PROJECTS AMENDMENTS

WHEREAS, the Revenue Sharing Program, administered by the State of Virginia, provides valuable matching funds on a one-to-one basis for construction of needed roadway projects in James City County; and

WHEREAS, the Board has been notified by the Virginia Department of Transportation (VDOT) that the Croaker Road (0607-047-113, C502) (UPC 3089) Project can productively utilize Revenue Sharing Program funding; and

WHEREAS, the Board wishes to install landscaping on a wider range of roadways in the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Virginia Department of Transportation to transfer \$200,000 of revenue sharing funds from Project 0622-047-P46, N501 (UPC 11264) to Project 0607-047-113, C502 (UPC 3089).

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, requests that Project 5000-047-174, L801 (UPC 00061576) be amended to add the following routes to the list of routes to be landscaped:

Route 60	Route 615
Route 31	Route 199
Route 5	Route 321
Route 614	Route 30

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 8th day of July, 2003.

revsharamend.res

M E M O R A N D U M

DATE: July 8, 2003

TO: The Board of Supervisors

FROM: Keith A. Taylor, Secretary, Industrial Development Authority

SUBJECT: Resolution of Approval for AVID Medical, Inc., Revenue Bond Issue

In May 2002, AVID Medical, Inc., ("AVID") requested that the Industrial Development Authority (the "IDA") issue up to \$3.5 million worth of industrial development revenue bonds to finance an expansion of its facility located at Stonehouse Commerce Park in James City County. The IDA adopted an Inducement Resolution at its May 16, 2002, meeting, after the holding of a public hearing, and the Board of Supervisors adopted a resolution on June 11, 2002, approving, to the extent required by State and Federal statutes, the issuance of bonds by the IDA for AVID's benefit.

After the approvals were obtained, AVID and its lender for the expansion project agreed to finance project construction with a conventional interim loan and agreed that the tax-exempt bonds would be issued as the permanent financing on or about the time of the completion of construction. AVID obtained the conventional interim financing and has proceeded with construction as planned.

It now appears that the tax-exempt bonds will be issued in the August-September time frame. However, under the Internal Revenue Code of 1986, tax-exempt bonds for manufacturing facilities must be issued within one year of the date of the approval of the governing body or else a new public hearing and governing body approval must be obtained.

The IDA held a new public hearing at its June 17, 2003, meeting and adopted a resolution explaining the reasons for the new public hearing and ratifying and confirming the Inducement Resolution. A signed copy of the June 17 resolution; the Inducement Resolution; a fiscal impact statement prepared by AVID Medical, Inc., and executed by the IDA Chairman; and summaries of statements made at the IDA's duly advertised public hearings on this matter are attached. You are reminded that the bonds do not carry the full faith and credit of James City County or its IDA.

State and Federal statutes require that the governing body of the jurisdiction in which such financing activity is to occur adopt a new Resolution of Approval in support of the IDA's action. Counsel has prepared such a resolution.

Staff recommends approval of the attached resolution.

Keith A. Taylor

CONCUR:

Sanford B. Wanner

KAT/gs
AVIDbond.mem

Attachments

R E S O L U T I O N

APPROVAL FOR AVID MEDICAL, INC., REVENUE BOND ISSUE

WHEREAS, the Industrial Development Authority of the County of James City, Virginia (the “Authority”) on May 16, 2002, considered the application of AVID Medical, Inc., (the “Applicant”), a Delaware corporation, having its principal place of business currently at 9000 Westmont Drive, Toano, Virginia 23168. In that application, the Applicant requested the Authority to issue, pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the “Act”), up to \$3.5 million of its revenue bonds for a manufacturing facility (the “Bonds”); and

WHEREAS, the proceeds of the Bonds would be used to assist the Applicant in financing: (1) the acquisition, construction, and equipping of an approximately 45,000-square-foot expansion of the Applicant’s existing facility, which expansion would be used in the manufacturing of medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which would be located on a three-acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia (the “Project”); and (2) the payment of the costs of issuing the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), provides that both the governmental unit having jurisdiction over the issuer of private activity bonds and the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, must approve the issuance of the bonds. The Project is located in James City County, Virginia (the “County”), the Authority issues its bonds on behalf of the County and the Board of Supervisors of the County (the “Board”) constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority held a public hearing on May 16, 2002, regarding this matter on behalf of the Authority and the County and adopted an inducement resolution, and this Board adopted a resolution in June 2002 approving the Project; and

WHEREAS, however, subsequent to the adoption of the aforementioned resolutions by the Authority and the County, the Applicant and its lender agreed to finance construction of the Project through an interim taxable conventional loan with the issuance of the bonds being delayed until on or about the time of construction completion. The Code requires that bonds for manufacturing purposes be issued within one year of the approval of the Board, thus necessitating a new approval by the Board and a new public hearing; and

WHEREAS, the Authority held a new public hearing as required by Section 147(f) of the Code and by the Act on June 17, 2003, and has recommended that the Board approve the issuance of the Bonds and has forwarded to the Board: (1) a copy of the Authority’s resolution approving the issuance of the Bonds, subject to terms to be agreed upon, which was adopted following its public hearing on June 17, 2003; (2) a copy of the Authority’s original inducement resolution adopted on May 16, 2002; (3) a copy of the Fiscal Impact Statement submitted by the Applicant; and (4) a reasonably detailed summary of the comments made at the public hearings on June 17, 2003, and May 16, 2002.

NOW, THEREFORE, BE IT RESOLVED by at the Board of Supervisors of James City County, Virginia:

1. The recitals made in the first and second paragraphs of this resolution are hereby adopted as a part of this resolution.
2. The Board approves the issuance of the Bonds by the Authority in an aggregate principal amount not to exceed \$3.5 million for the benefit of the Applicant to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended.
3. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Applicant or the Project; and, as required by the Act and Virginia law, the Bonds shall provide that none of the Commonwealth of Virginia, the County, or the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon, or other costs incident thereto except from the revenues and moneys pledged therefor, and neither the faith and credit, nor the taxing power of the Commonwealth of Virginia, nor any political subdivision thereof shall be pledged thereto.
4. The County, including its elected representatives, officers, employees, and agents shall not be liable and hereby disclaims all liability for any damage to the Applicant or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
5. This Resolution shall take effect immediately upon its adoption.

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 8th day of July, 2003.

**RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF JAMES CITY, VIRGINIA
AUTHORIZING THE ISSUANCE OF UP TO \$3,500,000
IN AGGREGATE PRINCIPAL AMOUNT OF INDUSTRIAL DEVELOPMENT
REVENUE BONDS FOR THE PURPOSE OF FINANCING A
MANUFACTURING FACILITY**

WHEREAS, the Industrial Development Authority of the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia, as amended (the "Act"), to issue its revenue bonds for the purpose of inducing manufacturing, industrial and commercial facilities to locate or remain in the Commonwealth of Virginia (the "Commonwealth") and to promote the commerce, safety, health, welfare, convenience or prosperity of the citizens of the Commonwealth;

WHEREAS, the Authority has received a request from Avid Medical, Inc. (the "Applicant"), a Delaware corporation, having its principal place of business currently at 9000 Westmont Drive, Toano, Virginia 23168, requesting that the Authority issue its revenue bonds to assist the Applicant in financing (1) the acquisition, construction and equipping of an approximately 45,000 square foot expansion of the Applicant's existing facility, which expansion will be used in the manufacturing of medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which will be located on a 3 acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia (the "Project") and (2) payment of the costs of issuing the Bonds;

WHEREAS, the issuance of bonds for the Project will induce the Applicant to locate the Project in James City County, Virginia (the "County") and thereby benefit the inhabitants of the County and the Commonwealth through the increase of their commerce and through the promotion of their safety, health, welfare, convenience and prosperity;

WHEREAS, the Applicant, in an appearance before the Authority by the Applicant's representatives and in the application filed with the Authority, has described the benefits of the Project to the inhabitants of the County and the Commonwealth;

WHEREAS, the Project has been described to the Authority, and a public hearing has been held as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and by the Act; and

WHEREAS, the Applicant has represented that the estimated cost of the Project and all expenses of the issue payable from bond proceeds will require an issue of industrial development revenue bonds in an aggregate principal amount not to exceed \$3,500,000 (the "Bonds");

NOW, THEREFORE, BE IT RESOLVED BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF JAMES CITY, VIRGINIA:

1. It is hereby found and determined that the acquisition, construction and equipping of the Project will be in the public interest, will bring additional revenues and employment into the County and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth, the County and their citizens. The Project is an "authority facility" within the meaning of the Act.

2. To induce the Applicant to complete the Project in the County, the Authority hereby agrees to assist the Applicant in financing the costs of the Project by undertaking the issuance of its Bonds in an amount not to exceed \$3,500,000 upon terms and conditions mutually agreeable to the Authority and the Applicant and loaning the proceeds of the Bonds to the Applicant pursuant to a loan agreement or similar agreement which will provide payments to the Authority in conformity with the Act sufficient to pay the principal of, premium, if any, and interest on, the Bonds and to pay all other expenses in connection with the Project.

3. The Bonds shall be issued in form acceptable to, and pursuant to terms to be set by, the Authority, and the payment of the Bonds shall be secured by an assignment, for the benefit of the holders thereof, of the Authority's rights to payments under the loan agreement or similar agreement with respect to the Project and may be additionally secured by any other collateral, agreement or assignment. The Bonds may be issued in one or more series at one time or from time to time. The final terms of, security for, and other provisions of, the Bonds shall be determined by the adoption of a final bond resolution by the Authority.

4. It having been represented to the Authority that it is necessary to proceed immediately with the planning and acquisition, construction and equipping of the Project, the Authority hereby agrees that the Applicant may proceed with its plans for the Project, enter into contracts for construction, materials and equipment for the Project and take such other steps as it may deem appropriate in connection therewith; provided, however, that nothing herein shall be deemed to authorize the Applicant to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Project. The Authority agrees that the Applicant may be reimbursed from the proceeds of the Bonds for all costs so incurred by the Applicant, insofar as such costs are properly reimbursable under the Act and other applicable state and federal laws.

5. At the request of the Applicant, the Authority hereby appoints Troutman Sanders LLP, Richmond, Virginia, as Bond Counsel to supervise the proceedings and approve the issuance of the Bonds.

6. In adopting this Resolution, the Authority intends to take "official action" toward the issuance of the Bonds and to evidence its "official intent" to the extent necessary to allow for the use of the proceeds of the Bonds to reimburse the Applicant for "original expenditures" associated with the development or financing of the Project, to the full extent

permitted by Treasury Regulation Section 1.150-2. The Applicant reasonably expects that it will reimburse the "original expenditures" with the proceeds of the Bonds.

7. All costs and expenses in connection with the financing and the acquisition, construction and equipping of the Project, including but not limited to the fees and expenses of the Authority, Authority counsel and Bond Counsel, shall be paid from the proceeds of the Bonds or funds provided by the Applicant. If for any reason the Bonds are not issued, it is understood that all such expenses shall be paid by the Applicant and that the Authority shall have no responsibility therefor.

8. The Applicant hereby agrees to indemnify and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the Project, the application submitted by the Applicant or the issuance of the Bonds.

9. Neither the Authority, including its officers, directors, employees and agents, nor the County shall be liable and hereby disclaim all liability to the Applicant and all other persons or entities for any damages, direct or consequential, resulting from the failure of the Authority to issue the Bonds for any reason.

10. The Applicant agrees to pay the Authority the fees set forth in the Authority's application.

11. The Authority hereby (a) recommends that the Board of Supervisors of James City County, Virginia (the "Board") approve the issuance of the Bonds to the extent required by Section 147(f) of the Code within sixty days of the date of the adoption of this Resolution by the Authority and (b) directs the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority to file with the Board this Resolution, the Applicant's Fiscal Impact Statement and a reasonably detailed summary of the statements made at the public hearing held by the Authority.

12. The Authority agrees to file a request to the Virginia Small Business Financing Authority for an allocation of up to \$3,500,000 with respect to the Bonds, which allocation is a condition precedent to the issuance of the Bonds as tax-exempt obligations pursuant to federal law. The Applicant in requesting the approval of this Resolution understands that it may not receive allocation of private activity bond volume cap from the State Ceiling or otherwise and understands that the adoption of this Resolution neither carries nor implies any assurance of or commitment for an allocation, nor any obligation with respect thereto. By accepting any proceeding under authority of this Resolution, the Applicant agrees (i) to indemnify and hold the Authority harmless for any damages, direct or consequential, suffered by it as a result of any action or inaction of the Virginia Small Business Financing Authority with respect to such allocations or otherwise, (ii) to provide for such indemnification in all documents to which the Applicant and the Authority are parties, (iii) to provide in such documents that they will forbear to bring any action for such damages as aforesaid, and (iv) to assume the risk that the

entire volume of tax exempt notes or bonds authorized to be issued in the Commonwealth in any period may be allocated to others.

13. All other acts of the officers of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the undertaking of the Project are hereby approved and confirmed.

14. This Resolution shall take effect immediately upon its adoption.

ADOPTED: May 16, 2002

CERTIFICATE

I, the undersigned Secretary of the Industrial Development Authority of the County of James City, Virginia (the "Authority") hereby certifies that the foregoing is a true, correct and complete copy of the Resolution duly adopted by a majority of the Directors of the Industrial Development Authority of the County of James City, Virginia present and voting at a meeting duly called and held on May 16th, 2002, all in accordance with law, and that such Resolution has not been repealed, revoked or rescinded but is in full force and effect on the date hereof.

WITNESS my hand and the seal of the Authority this 16 day of May, 2002.

By Kathy A. Taylor
Secretary

INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF JAMES CITY, VIRGINIA

#1049881v2

FISCAL IMPACT STATEMENT*

INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF JAMES CITY, VIRGINIA

To the Board of Supervisors
of the County of James City, Virginia

May 16, 2002

Name of Applicant: AVID MEDICAL, INC.
Facilities: 45,000 square foot expansion of Avid Medical's facility located at
9000 Westmont Drive, Toano, Virginia 23168

1.	Maximum amount of financing sought	\$3,500,000
2.	Estimated taxable value of the facility's real property to be constructed in the locality	\$ 2,200,000
3.	Estimated real property tax per year using present tax rates	\$ 19,000
4.	Estimated personal property tax per year using present tax rates	\$ 10,000
5.	Estimated merchants' capital tax per year using present tax rates	\$ N/A
6.	a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	\$ 200,000
	b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	\$ 50,000
	c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	\$ 50,000
	d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	\$ 0
7.	Estimated number of regular employees on year round basis	300 ¹
8.	Average annual salary per employee	\$ 20,000

INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF JAMES CITY, VIRGINIA

By Stella Lee Kershaw
Chairman

1053250

* The information contained in this Fiscal Impact Statement is based solely on facts and estimates provided by the Applicant, and the Authority has no responsibility with respect thereto.

¹ Of this number, 150 employees will be new. There are currently 150 employees at the site.

² In addition to the fiscal impact stated above, the estimated sales tax per year (based upon a 1% local levy) is \$5,000.

SUMMARY OF STATEMENTS MADE AT PUBLIC HEARING

Members of the Public Appearing Before the Authority:

Mr. Michael Sahady, Mr. Richard Setian and G. Donald Markle, Esquire, on behalf of Avid Medical, Inc.

Summary of Statements Made by Members of the Public:

Mr. Setian spoke briefly about the acquisition, construction and equipping of an approximately 45,000 square foot expansion of the Applicant's existing facility, which expansion will be used in the manufacturing of medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which will be located on a 3 acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia. Mr. Setian also spoke about the current operations at the facility site and the growth of the business since the facility opened. Mr. Markle also briefly spoke about how the existing facility had exceeded the expectations of Avid Medical that were contained in the bond application for the 1998 issue. Messrs. Setian and Sahady answered questions from the Authority regarding the facility.

No members of the public not representing Avid Medical, Inc. were present at the public hearing or submitted written comments to the Authority in advance thereof.

#1053268
217136.000011

**RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF JAMES CITY, VIRGINIA**

WHEREAS, the Industrial Development Authority of the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia, as amended (the "Act"), to issue its revenue bonds for the purpose of inducing manufacturing, industrial and commercial facilities to locate or remain in the Commonwealth of Virginia (the "Commonwealth") and to promote the commerce, safety, health, welfare, convenience or prosperity of the citizens of the Commonwealth;

WHEREAS, the Authority in 2002 received a request from Avid Medical, Inc. (the "Applicant"), a Delaware corporation, having its principal place of business currently at 9000 Westmont Drive, Toano, Virginia 23168, that the Authority issue its revenue bonds to assist the Applicant in financing (1) the acquisition, construction and equipping of an approximately 45,000 square foot expansion of the Applicant's existing facility, which expansion will be used in the manufacturing of medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which will be located on a 3 acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia (the "Project") and (2) payment of the costs of issuing the Bonds;

WHEREAS, the issuance of bonds for the Project will induce the Applicant to locate the Project in James City County, Virginia (the "County") and thereby benefit the inhabitants of the County and the Commonwealth through the increase of their commerce and through the promotion of their safety, health, welfare, convenience and prosperity;

WHEREAS, the Applicant, in an appearance before the Authority in May, 2002 by the Applicant's representatives and in the application filed with the Authority, described the benefits of the Project to the inhabitants of the County and the Commonwealth;

WHEREAS, the Applicant represented that the estimated cost of the Project and all expenses of the issue payable from bond proceeds would require an issue of industrial development revenue bonds in an aggregate principal amount not to exceed \$3,500,000 (the "Bonds");

WHEREAS, the Authority held a public hearing in May, 2002 as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and by the Act and adopted an Inducement Resolution with respect to the Project (the "Inducement Resolution");

WHEREAS, the Board of Supervisors of the County (the "Board of Supervisors") adopted a resolution approving the issuance of bonds for the Project in June, 2002;

WHEREAS, subsequent to the adoption of the aforementioned resolutions by the Authority and the County, the Applicant and its lender agreed to finance construction of the Project through an interim taxable conventional loan with the issuance of the Bonds being delayed until on or about the time of construction completion;

WHEREAS, the Code requires that bonds for manufacturing purposes be issued within one year of the approval of the Board of Supervisors, thus necessitating a new approval by the Board of Supervisors and a new public hearing; and

WHEREAS, the Authority has today held a new public hearing as required by Section 147(f) of the Code and by the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF JAMES CITY, VIRGINIA:

1. The Inducement Resolution, in which the Authority agreed to issue the Bonds to finance the Project, is in all respects ratified and confirmed.

2. The Authority hereby (a) recommends that the Board of Supervisors approve the issuance of the Bonds to the extent required by Section 147(f) of the Code within sixty days of the date of the adoption of this Resolution by the Authority and (b) directs the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Authority to file with the Board of Supervisors this Resolution, the Inducement Resolution, the Applicant's Fiscal Impact Statement and a reasonably detailed summary of the statements made at the public hearing held by the Authority.

3. All other acts of the officers of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the undertaking of the Project are hereby ratified, approved and confirmed.

4. This Resolution shall take effect immediately upon its adoption.

ADOPTED: June 17, 2003

CERTIFICATE

I, the undersigned Secretary of the Industrial Development Authority of the County of James City, Virginia (the "Authority") hereby certifies that the foregoing is a true, correct and complete copy of the Resolution duly adopted by a majority of the Directors of the Industrial Development Authority of the County of James City, Virginia present and voting at a meeting duly called and held on June 17, 2003, all in accordance with law, and that such Resolution has not been repealed, revoked or rescinded but is in full force and effect on the date hereof.

WITNESS my hand and the seal of the Authority this 17 day of June, 2003.

By Kurt A. Taylor
Secretary
INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF JAMES CITY, VIRGINIA

#1166823v1

SUMMARY OF STATEMENTS MADE AT PUBLIC HEARING

No members of the public were present at the public hearing on June 17, 2003 or submitted written comments to the Authority in advance thereof. Attached hereto is the summary statement of the public hearing held on May 16, 2002.

#1053268
217136.000011

M E M O R A N D U M

DATE: July 8, 2003

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Erosion and Sediment Control Ordinance Violation - Civil Charge - Powhatan Enterprises, Inc.

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Erosion and Sediment Control Ordinance. The case involves the disturbance of land on two residential construction sites without a land-disturbing permit or building permit. In accordance with provisions of the Ordinance, the County issued a notice of violation and a stop-work order. The builder, Lawrence Beamer, of Powhatan Enterprises, Inc., has abated the violation.

Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$2,000 as offered by the responsible party. Rather than go to court, Mr. Beamer agreed to a civil charge of \$700. Staff believes that a civil charge of \$700 is fair given the nature of the land disturbance and the cooperation of Mr. Beamer in correcting the violation.

Staff recommends that the Board adopt the attached resolution accepting a civil charge for the erosion and sediment control violation.

Darryl E. Cook

Leo P. Rogers

DEC/LPR/gs
beamerviol.mem

Attachment

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

POWHATAN ENTERPRISES, INC.

WHEREAS, on June 5, 2003, Lawrence Beamer of Powhatan Enterprises, Inc., violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at Lots 12 and 13 in the Powhatan Secondary subdivision, Phase 7A, designated as a portion of Parcel No. (01-00021) on James City County Real Estate Tax Map No. (38-3) (the "Property"); and

WHEREAS, Mr. Beamer has abated the violation at the Property; and

WHEREAS, Mr. Beamer has agreed to pay \$700 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) 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 \$700 civil charge from Lawrence Beamer of Powhatan Enterprises, Inc., as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

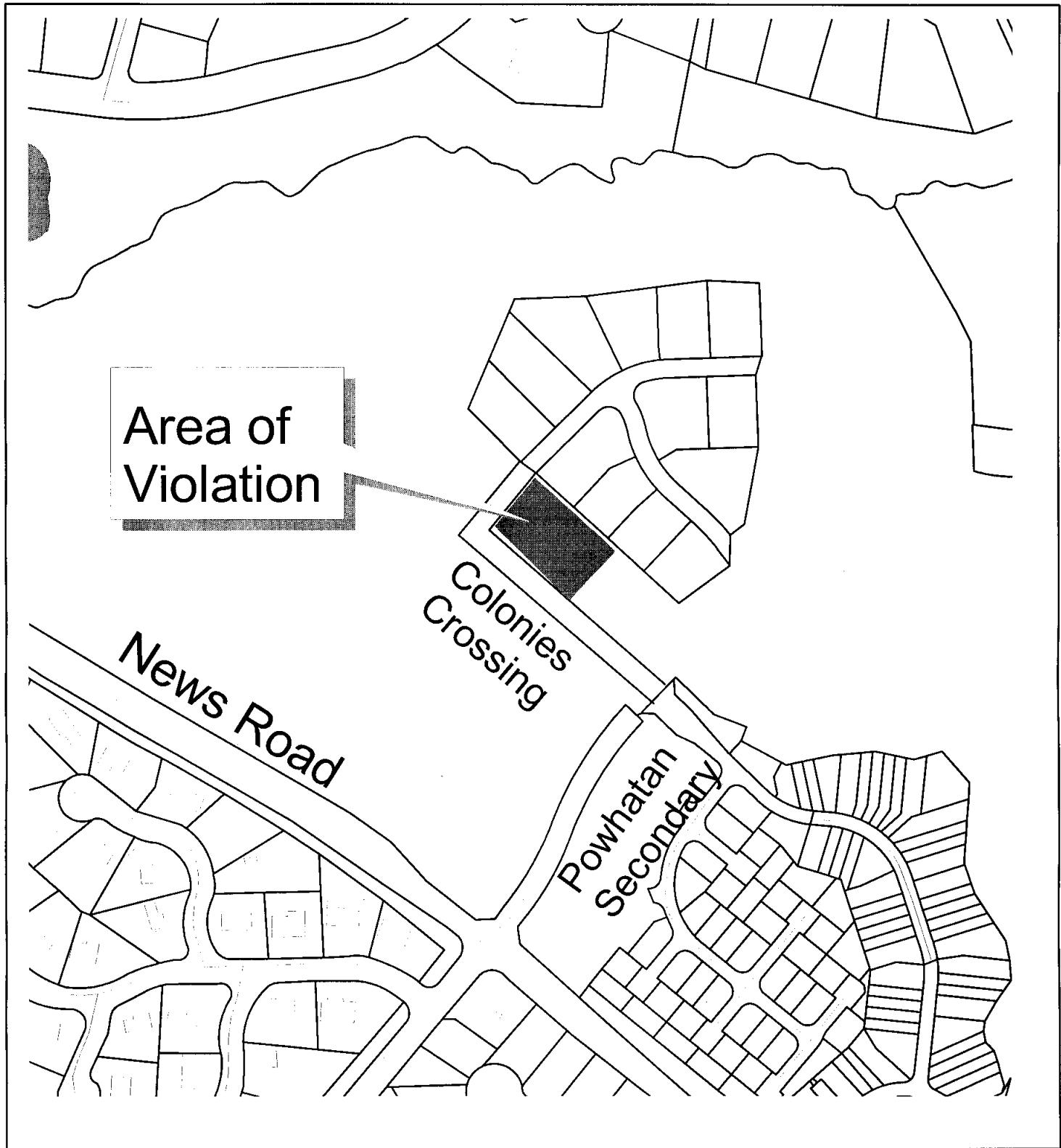
Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

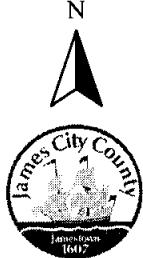
Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of July, 2003.

beamerviol.res



EROSION CONTROL VIOLATION POWHATAN SECONDARY, PHASE 7-A

300 0 300 600 Feet



M E M O R A N D U M

DATE: July 8, 2003

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Erosion and Sediment Control Ordinance Violation - Civil Charge - John Grier Construction

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Erosion and Sediment Control Ordinance. The case involves the disturbance of land on two residential construction sites without a land-disturbing permit or building permit. In accordance with provisions of the Ordinance, the County issued a notice of violation and a stop-work order. The builder, Joseph Terrell, Sr., of John Grier Construction, has abated the violation.

Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$2,000 as offered by the responsible party. Rather than go to court, Mr. Terrell agreed to a civil charge of \$700. Staff believes that a civil charge of \$700 is fair given the nature of the land disturbance and the cooperation of Mr. Terrell in correcting the violation.

Staff recommends that the Board adopt the attached resolution accepting a civil charge for the erosion and sediment control violation.

Darryl E. Cook

Leo P. Rogers

DEC/LPR/gs
terrellviol.mem

Attachment

R E S O L U T I O N

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

JOHN GRIER CONSTRUCTION

WHEREAS, on June 9, 2003, Joseph Terrell, Sr., of John Grier Construction, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at Lot 34 (A-B), and 33 (A-B), in the Longhill Gate subdivision, commonly known as 8312, 8314, 8316, and 8318 Barons Court (the "Property"); and

WHEREAS, Mr. Terrell has abated the violation at the Property; and

WHEREAS, Mr. Terrell has agreed to pay \$700 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) 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 \$700 civil charge from Joseph Terrell, Sr., of John Grier Construction, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

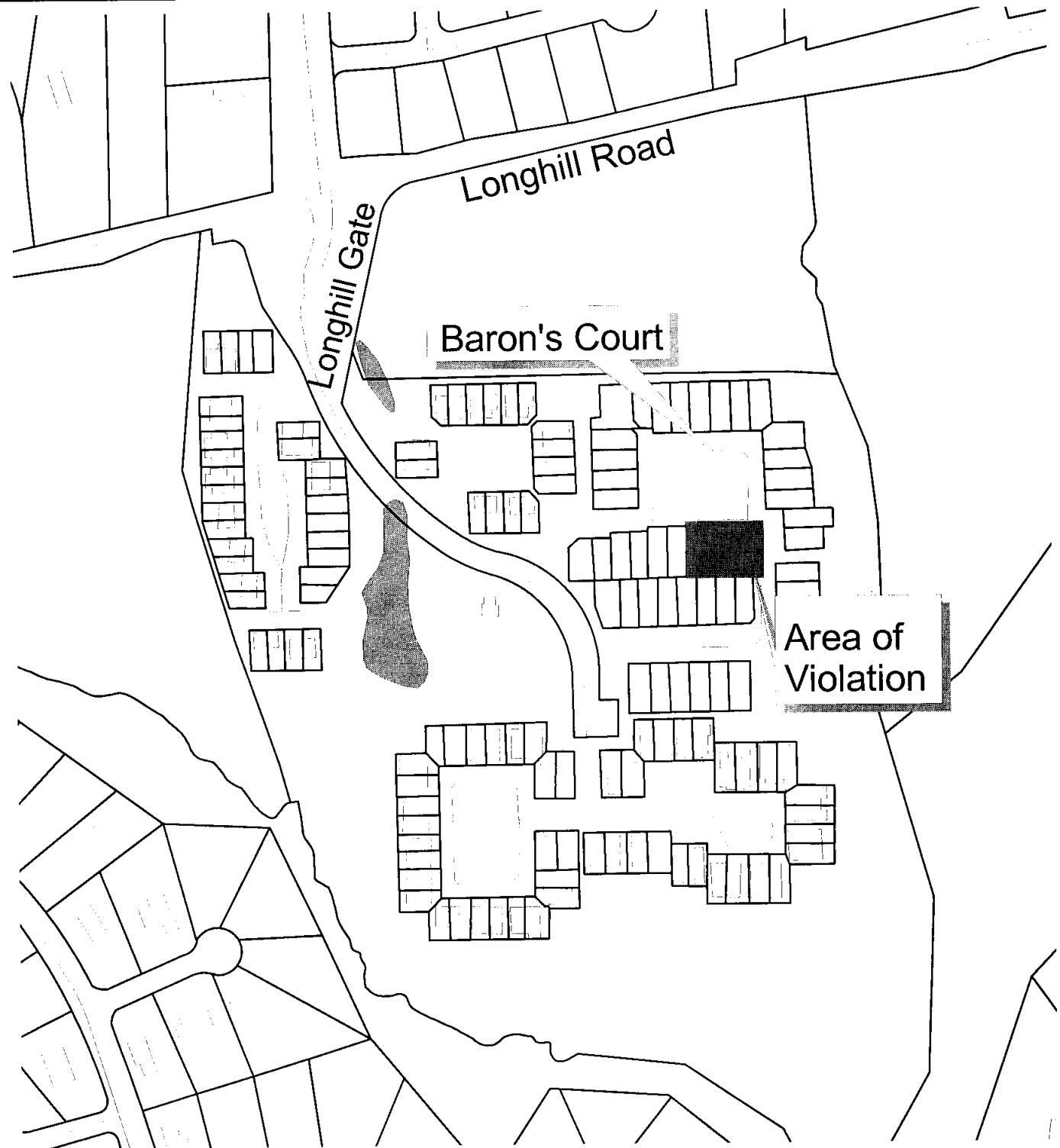
Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of July, 2003.

terrellviol.res



EROSION CONTROL VIOLATION BARON'S COURT, LONGHILL GATE

300 0 300 600 Feet



M E M O R A N D U M

DATE: July 8, 2003

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Erosion and Sediment Control Ordinance Violation - Civil Charge - Charles Crawford

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Erosion and Sediment Control Ordinance. The case involves the disturbance of land for the purpose of building an access road without a land-disturbing permit or building permit. In accordance with provisions of the Ordinance, the County issued a notice of violation and a stop-work order. The owner, Charles Crawford, of Toano, Virginia, has abated the violation.

Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$2,000 as offered by the responsible party. Rather than go to court, Mr. Crawford agreed to a civil charge of \$250. Staff believes that a civil charge of \$250 is fair given the nature of the land disturbance and the cooperation of Mr. Crawford in correcting the violation.

Staff recommends that the Board adopt the attached resolution accepting a civil charge for the erosion and sediment control violation.

Darryl E. Cook

Leo P. Rogers

DEC/LPR/gs
crawfordviol.mem

Attachment

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

CHARLES CRAWFORD

WHEREAS, on May 1, 2003, Charles Crawford of Toano, Virginia, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 7709 Richmond Road, designated as Parcel No. (01-3) on James City County Real Estate Tax Map No. (13-3) (the "Property"); and

WHEREAS, Mr. Crawford has abated the violation at the Property; and

WHEREAS, Mr. Crawford has agreed to pay \$250 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) 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 \$250 civil charge from Charles Crawford of Toano, Virginia, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

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 8th day of July, 2003.

crawfordviol.res

Bush Springs Road

Richmond Road

Area of Violation

EROSION CONTROL VIOLATION 7709 RICHMOND ROAD

300

0

300

600 Feet

N



M E M O R A N D U M

DATE: July 8, 2003
TO: The Board of Supervisors
FROM: Wayland N. Bass, County Engineer
SUBJECT: Award of Construction Contract - Louise Lane

Staff received the following bids for this combination dirt street and water quality project:

<u>Bidder</u>	<u>Amount</u>
Toano Contractors, Inc.	\$187,000.00
Walter C. Via, Inc.	215,765.00
George Nice and Sons	234,726.10
Dwight Snead	267,390.50

The lowest responsive bid was submitted by Toano Contractors, Inc., in the amount of \$187,000. That bid fell below staff's cost estimate of \$200,000. Funds are available in the budget; \$147,000 will be paid from the Road Improvements account and \$40,000 will be paid from the Water Quality Improvements account.

Staff recommends adoption of the attached resolution authorizing the County Administrator to execute a contract with Toano Contractors, Inc., for this work.

Wayland N. Bass

CONCUR:

John T. P. Horne

WNB/gs
louiselncontr.mem

Attachments

R E S O L U T I O N

AWARD OF CONSTRUCTION CONTRACT - LOUISE LANE

WHEREAS, Louise Lane is currently a dirt street; and

WHEREAS, funds are available to construct Louise Lane to Virginia Department of Transportation (VDOT) standards for inclusion in the VDOT Secondary Road System; and

WHEREAS, four firms submitted bid, with Toano Contractors, Inc., submitting the lowest responsible bid of \$187,000; and

WHEREAS, the bid is within budget, funds are available, and Toano Contractors, Inc., has been determined capable of performing the work associated with the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute a contract with Toano Contractors, Inc., for this work in the amount of \$187,000.

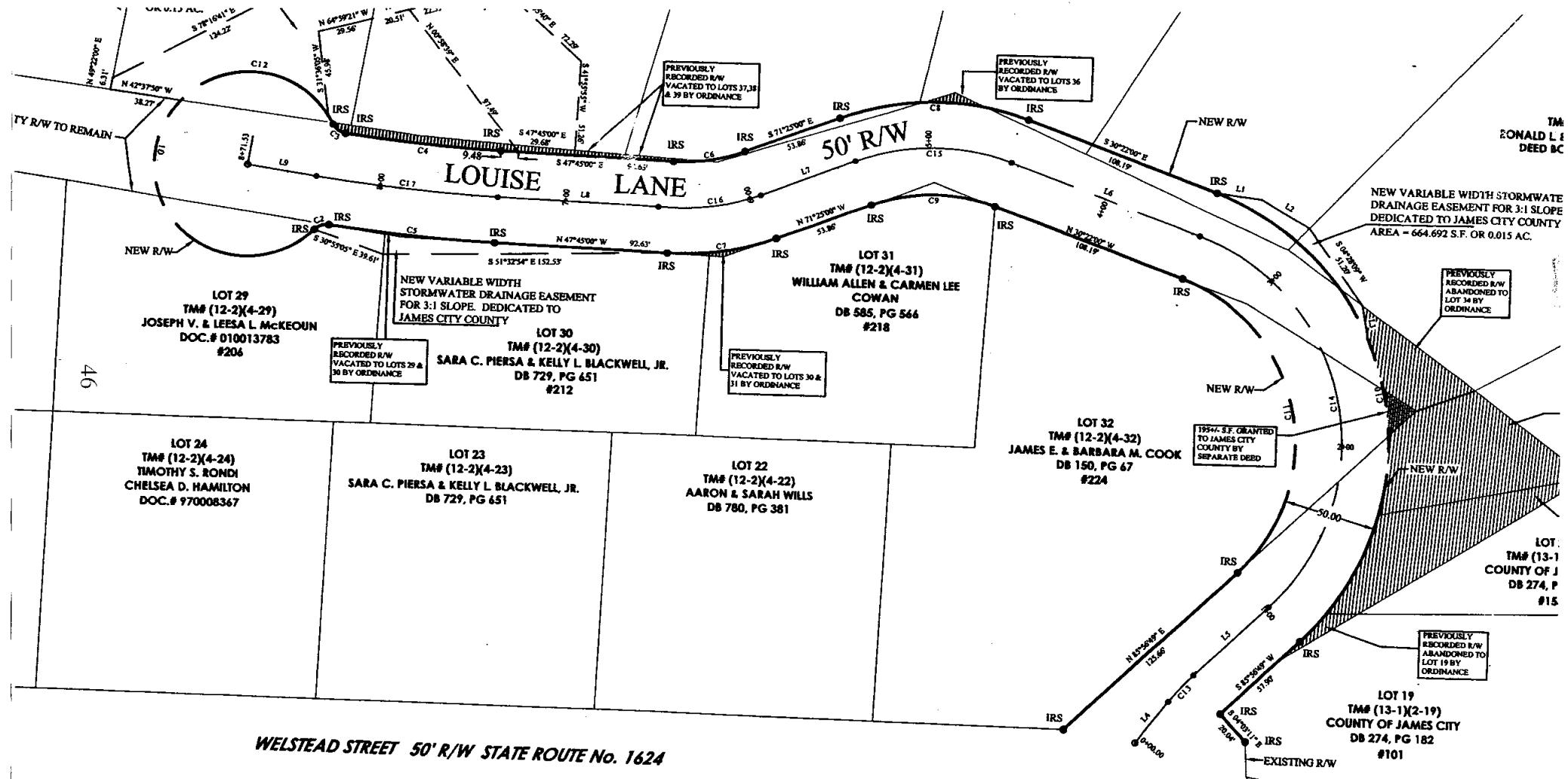
Jay T. Harrison, Sr.
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of July, 2003.

louiselncontr.res



**TED RESIDENTIAL
OWN ON PLAT**

D ZONE "X" AREAS DETERMINED TO
FLOODPLAIN PER COMMUNITY PANEL
D BY THE FEDERAL EMERGENCY
FFECTIVE DATE FEBRUARY 6, 1991

**SPECIAL USE PERMIT-11-03. AJC Woodworks
Staff Report for July 8, 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

Planning Commission: Building C Board Room; County Government Complex
June 2, 2003
Board of Supervisors: July 8, 2003, 7:00 p.m.

SUMMARY FACTS

Applicant: Tony Casanave

Land Owner: Arneata Denise Lynch

Proposed Use: A woodworking shop for the manufacture of furniture and cabinetry

Location: 8305 Richmond Road, between Anderson's Corner and Toano, Virginia

Tax Map and Parcel No.: (12-4)(1-3)

Primary Service Area: Inside

Parcel Size: 1.5 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: General Industry

Surrounding Zoning: A-1, General Agricultural

Staff Contact: Sarah Weisiger - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds this proposal, with conditions, to be compatible with the main use of the property and generally consistent with the surrounding property and the Comprehensive Plan. On June 2, 2003, the Planning Commission recommended approval of the SUP application, with conditions, by a vote of 6-0. Staff recommends approval of this special use permit.

Description of Project

Mr. Tony Casanave has applied for a special use permit (SUP) to construct and operate a woodworking shop behind an existing dwelling and garage at 8305 Richmond Road, Toano, Virginia. The manufacture and sale of wood products is a specially permitted use in the A-1, General Agricultural, zoning district in which the property is located. Mr. Casanave has a contract to purchase the property depending on the outcome of this special use permit application. He proposes to build a 40' x 80' x 13'8" low-pitched metal roof building and to use it to manufacture custom wood products. The applicant, Mr. Casanave, currently operates a woodworking business, AJC Woodworks, Inc., off-site. He builds furniture, cabinetry, and other custom wood products. He currently has a one-man operation with a part-time helper. He visits the homeowners or job sites to transact business. He hopes to expand his business and possibly have one or two full-time employees.

Mr. Casanave will not be operating a retail business or setting up a showroom at this location. The house is to remain as a dwelling unit with an office in the existing garage. The operation will be strictly for the manufacture of wood products. The hours of operation will be limited in order to reduce the impact to surrounding residential properties. The proposed building, both walls and doors, will be insulated for noise reduction. All of these restrictions have been set forth in the proposed conditions of this special use permit.

Surrounding Zoning and Development

The property is located between Anderson's Corner and Toano on the southwest side of Route 60, a four-lane divided highway. All of the adjacent property is zoned A-1, General Agricultural. The parcel that is the subject of this SUP application has a dwelling, as do the lots on either side of it. The lots behind the existing house and garage are wooded and undeveloped back to the CSX railroad tracks. Hickory Neck Church is located approximately 400 feet across Route 60 from the house and garage. Hickory Neck Church, an eighteenth century structure, is on the National Register of Historic Places. The church and church hall are currently surrounded by open farm land. The applicant has submitted a Phase 1 archaeological study to staff for the area of the proposed woodworking shop. According to the study, no artifacts were recovered to indicate the presence of cultural resources and no further studies were recommended.

This SUP contains conditions restricting the height of the proposed woodworking building and requiring enhanced landscaping to buffer views from the church as well as adjacent properties. Other conditions have been added to ensure the residential use and character of the site in order to preserve a residential setting across from Hickory Neck Church. This type of use would serve as a buffer between the church and any possible industrial development of the vacant property to the West.

Comprehensive Plan Designation

The west side of Route 60 on which the proposed use is to be located is designated as General Industry on the Comprehensive Plan Land Use Map. All of the adjoining parcels on the same side of Route 60 are also designated as General Industry. General Industry is designated for areas within the Primary Service Area (PSA) that are suitable for industrial uses that require buffering from adjoining uses, due to their potential for creating dust, noise, odor, and other adverse environmental effects. The area across Route 60, surrounding the church, is designated low-density residential on the Comprehensive Plan Land Use Map.

Utilities

The dwelling on the site is served by a private well and septic system. The site is located within the PSA. Currently, only public water would be available to the site. The applicant is not proposing a water connection as part of this Master Plan, but intends on connecting to public water in the future and to a public sewer if it becomes available.

Traffic Impacts/Access

The property of the proposed use is located on a four-lane divided section of Route 60. As the applicant will not be able to use the location as a retail business under the proposed conditions, the property is expected to generate very few additional vehicle trips. However, due to the need for delivery trucks to access the property, the Virginia Department of Transportation (VDOT) requires that the applicant provide a commercial entrance for the proposed use. This type of entrance will reduce the likelihood of large vehicles damaging the highway and tracking gravel and soil onto the road.

According to the 2002 James City County Greenway Master Plan, a shoulder bike lane is proposed for both sides of Route 60 between Anderson's Corner and Toano in the area of the applicant's proposed use. Staff prefers that any commercial entrance for this property be designed in a way that would allow for the construction of the proposed shoulder bike lane without necessitating the demolition and reconstruction of the commercial entrance and associated improvements.

The applicant proposes to replace the current driveway on the north side of the existing house and garage with an entrance and driveway on the south side of the property. It would be aligned with a crossover in the highway right-of-way. The conditions in this SUP would allow such a driveway provided it was in accordance with VDOT standards and replaces any other entrance way. Only one entrance from Route 60 would be permitted.

Recommendation

Staff finds the proposal, with conditions, consistent with surrounding zoning and uses and consistent with the Comprehensive Plan. On June 2, 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. The property shall be developed generally in accordance with the master plan titled, "AJC Woodworks Master Plan for 8305 Richmond Road, SUP-11-03," dated May 19, 2003, with minor changes approved by the Development Review Committee.
2. This special use permit is for the use as a woodworking shop for the manufacture of wood products. The property shall not be used as a retail store or shop.
3. A site plan shall be submitted to and approved by the Planning Director.
4. A minimum 25-foot-wide undisturbed wooded buffer as shown in the Master Plan shall remain along the property line to the north, parallel to the area of the proposed workshop and parking area. In addition, enhanced landscaping consisting of evergreen shrubs to be planted ten feet on center shall be provided along the edge between the disturbed area and the undisturbed wooded buffer. Along the property line to the south, landscaping shall provide transitional screening of a total width of twenty-five feet, parallel to the area of the proposed workshop and proposed parking area. Additional landscaping is required to sufficiently buffer views of the workshop

from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and must be approved by the Planning Director.

5. Only one entrance shall be allowed onto Route 60. The property shall have a commercial entrance that is designed to accommodate a shoulder bike lane as approved by the Planning Director.
6. Hours of operation including the operation of power tools and truck deliveries and pickups shall be limited to 7:30 a.m. to 7:00 p.m., Monday through Saturday.
7. All walls and doors shall have insulation for noise reduction. Plans and specifications shall be approved by the Planning Director prior to issuance of a building permit. Workshop doors and windows shall be closed while power tools are in operation.
8. One freestanding sign shall be permitted on site. The sign shall be limited to no larger than 16 square feet with a maximum height of 7 feet. The sign may only be externally illuminated by ground-mounted lights concealed by landscaping. The sign shall be approved by the Planning Director.
9. The height of the proposed building shall not exceed 15 feet over natural grade.
10. The existing residence shall continue to be used primarily as a single-family dwelling, but may contain an accessory office for the woodworking shop. Any exterior modifications to the dwelling shall be approved by the Planning Director.
11. 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/gs
sup-11.03.wpd

Attachments:

1. Planning Commission unapproved minutes from June 2, 2003
2. Location Map
3. Master Plan
4. Special Use Permit Resolution for Case No. SUP-11-03

RESOLUTION

CASE NO. SUP-11-03. AJC WOODWORKS

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. Tony Casanave has applied for a special use permit to allow a building for use as a woodworking shop to be approximately 4,000 square feet located behind a house and garage at 8305 Richmond Road; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission, following its public hearing on June 2, 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-11-03 as described herein with the following conditions:

1. The property shall be developed generally in accordance with the master plan titled, "AJC Woodworks Master Plan for 8305 Richmond Road SUP-11-03," dated May 19, 2003, with minor changes approved by the Development Review Committee.
2. This special use permit is for the use as a woodworking shop for the manufacture of wood products. The property shall not be used as a retail store or shop.
3. A site plan shall be submitted to and approved by the Planning Director.
4. A minimum 25-foot-wide undisturbed wooded buffer as shown in the Master Plan shall remain along the property line to the north, parallel to the area of the proposed workshop and parking area. In addition, enhanced landscaping consisting of evergreen shrubs to be planted ten feet on center shall be provided along the edge between the disturbed area and the undisturbed wooded buffer. Along the property line to the south, landscaping shall provide transitional screening of a total width of 25 feet, parallel to the area of the proposed workshop and proposed parking area. Additional landscaping is required to sufficiently buffer views of the workshop from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and must be approved by the Planning Director.
5. Only one entrance shall be allowed onto Route 60. The property shall have a commercial entrance that is designed to accommodate a shoulder bike lane as approved by the Planning Director.

6. Hours of operation including the operation of power tools and truck deliveries and pickups shall be limited to 7:30 a.m. to 7:00 p.m., Monday through Saturday.
7. All walls and doors shall have insulation for noise reduction. Plans and specifications shall be approved by the Planning Director prior to issuance of a building permit. Workshop doors and windows shall be closed while power tools are in operation.
8. One freestanding sign shall be permitted on site. The sign shall be limited to no larger than 16 square feet with a maximum height of 7 feet. The sign may only be externally illuminated by ground mounted lights concealed by landscaping. The sign shall be approved by the Planning Director.
9. The height of the proposed building shall not exceed 15 feet over natural grade.
10. The existing residence shall continue to be used primarily as a single-family dwelling but may contain an accessory office for the woodworking shop. Any exterior modifications to the dwelling shall be approved by the Planning Director.
11. 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 8th day of July, 2003.

sup-11-03.res

UNAPPROVED MINUTES TO THE JUNE 2, 2003, PLANNING COMMISSION MEETING

CASE NO. SUP-11-03 AJC Woodworks.

Ms. Sarah Weisiger presented the staff report. She stated that Mr. Tony Casanave had applied for a special use permit for the manufacture and sale of wood products at 8305 Richmond Road. His purchase of the property is conditional upon approval of this request. No showroom or retail business would be allowed on the property, its hours of operation would be limited, and the building would be insulated for noise reduction. The property is zoned A-1, General Agricultural. The properties to the rear are undeveloped. Residential properties are adjacent on the north and south sides while Hickory Neck Church is located across Route 60 to the east. The property is designated General Industry in the Comprehensive Plan and would generate few additional vehicle trips. Ms. Weisiger noted that VDOT would require the applicant to provide an entrance for commercial vehicles. Staff recommends approval of this case.

Mr. McCleary asked for clarification that Mr. Casanave would not operate a retail establishment.

Ms. Weisiger replied that retail was not permitted under the conditions of the case.

Mr. Poole asked whether the applicant was comfortable with these conditions.

Ms. Weisiger replied that he was.

Mr. Hunt asked how much of an upgrade to the entrance was needed.

Ms. Weisiger said the master plan for the property shows the relocated commercial entrance and the removal of the existing driveway.

Mr. Joe Poole, III, opened the public hearing.

Mr. Burt Geddy of 8297 Richmond Road, said that he and his wife both supported this application as neighbors to the property.

Hearing no other requests to speak, Mr. Joe Poole, III, closed the public hearing.

Ms. Wildman said she supported the application and that it was an appropriate use with appropriate conditions placed upon it.

Ms. Wildman moved to approve the SUP.

Mr. McCleary seconded the motion.

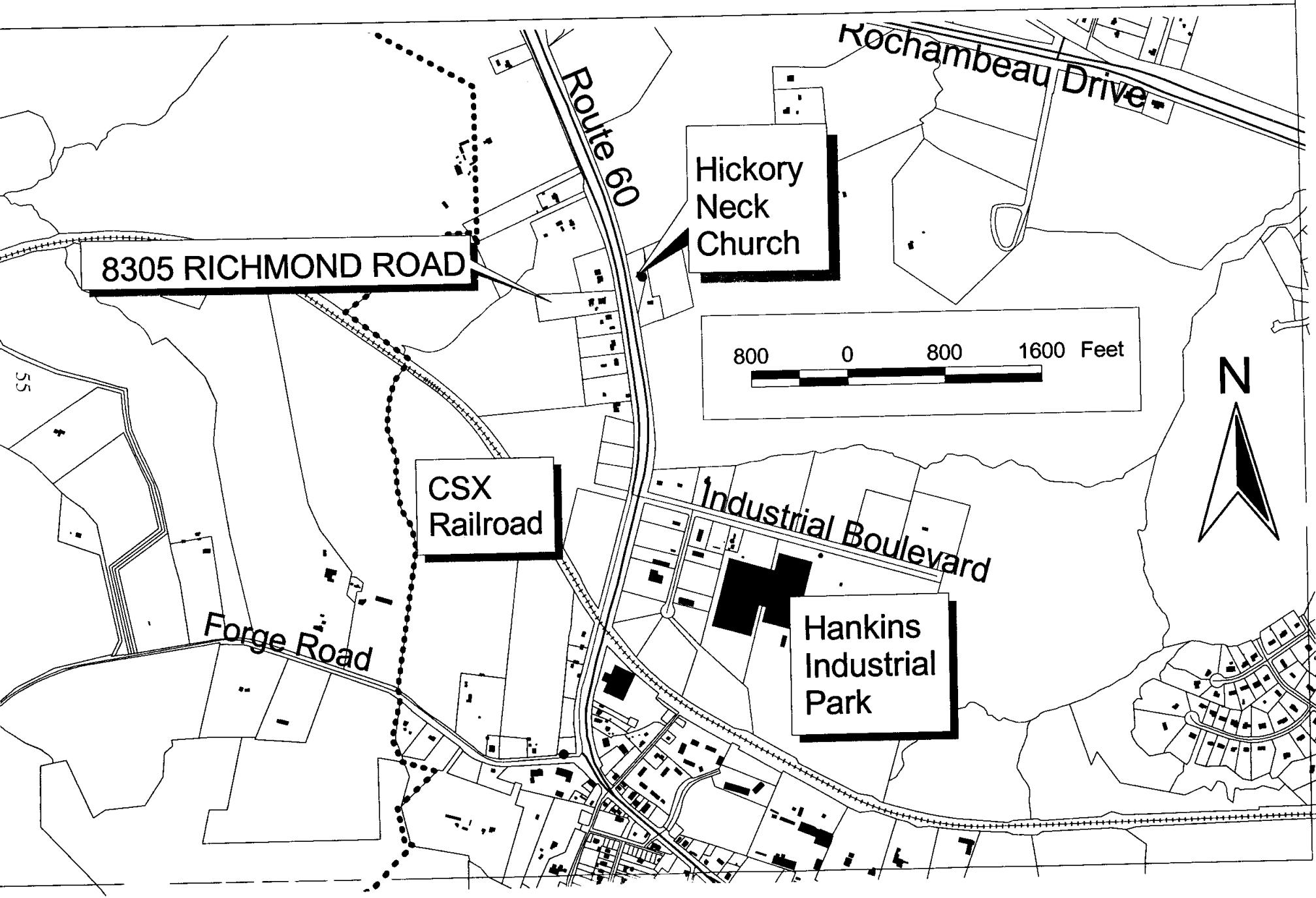
Mr. Poole said he also supported approval and that he liked the fact that the residential

unit was remaining on the property.

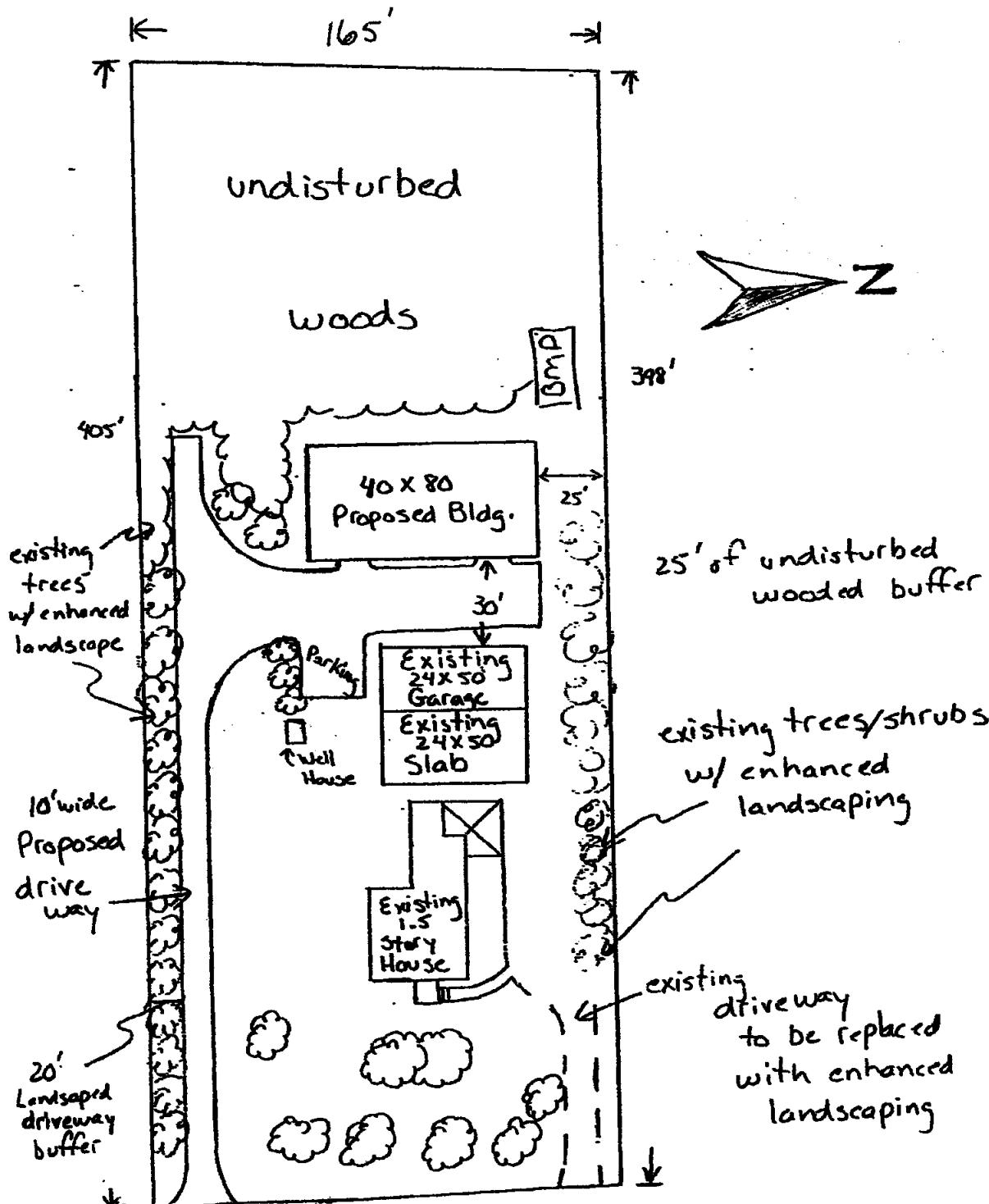
In a roll call vote, motion to approve passed (6-0).



SUP-11-03. AJC Woodworks



AJC Woodworks Master Plan for 8305 Richmond Rd. SUP 11-03



UNAPPROVED MINUTES TO THE JUNE 2, 2003, PLANNING COMMISSION MEETING

CASE NO. SUP-11-03 AJC Woodworks.

Ms. Sarah Weisiger presented the staff report. She stated that Mr. Tony Casanave had applied for a special use permit for the manufacture and sale of wood products at 8305 Richmond Road. His purchase of the property is conditional upon approval of this request. No showroom or retail business would be allowed on the property, its hours of operation would be limited, and the building would be insulated for noise reduction. The property is zoned A-1, General Agricultural. The properties to the rear are undeveloped. Residential properties are adjacent on the north and south sides while Hickory Neck Church is located across Route 60 to the east. The property is designated General Industry in the Comprehensive Plan and would generate few additional vehicle trips. Ms. Weisiger noted that VDOT would require the applicant to provide an entrance for commercial vehicles. Staff recommends approval of this case.

Mr. McCleary asked for clarification that Mr. Casanave would not operate a retail establishment.

Ms. Weisiger replied that retail was not permitted under the conditions of the case.

Mr. Poole asked whether the applicant was comfortable with these conditions.

Ms. Weisiger replied that he was.

Mr. Hunt asked how much of an upgrade to the entrance was needed.

Ms. Weisiger said the master plan for the property shows the relocated commercial entrance and the removal of the existing driveway.

Mr. Joe Poole, III, opened the public hearing.

Mr. Burt Geddy of 8297 Richmond Road, said that he and his wife both supported this application as neighbors to the property.

Hearing no other requests to speak, Mr. Joe Poole, III, closed the public hearing.

Ms. Wildman said she supported the application and that it was an appropriate use with appropriate conditions placed upon it.

Ms. Wildman moved to approve the SUP.

Mr. McCleary seconded the motion.

Mr. Poole said he also supported approval and that he liked the fact that the residential

unit was remaining on the property.

In a roll call vote, motion to approve passed (6-0).

**REZONING-2-03/Master Plan-1-03. Hiden Property Proffer Amendment
Staff Report for July 8, 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

Planning Commission:	Building C Board Room; County Government Complex April 7, 2003 - 7:00 p.m. Building C Board Room
	May 5, 2003 - 7:00 p.m. Building C Board Room
Board of Supervisors:	June 2, 2003 - 7:00 p.m. Building C Board Room July 8, 2003 - 7:00 p.m. Building C Board Room

SUMMARY FACTS

Applicant:	Vernon M. Geddy, III
Land Owner:	Robert M. Oliver, Powhatan Crossing, Inc.
Proposed Use:	The applicant wishes to amend the existing proffers to permit 400 age-restricted units in place of the 350 approved timeshares on the southern portion of the property.
Location:	4100 Monticello Avenue (South of Monticello Woods), Powhatan District
Tax Map and Parcel Nos.:	(37-4)(1-10); (37-3)(1-9)
Primary Service Area:	Inside
Parcel Size:	218.3 acres
Existing Zoning:	PUD-R, Planned Unit Development, Residential
Comprehensive Plan:	Low-Density Residential; Conservation Area
Surrounding Zoning:	North: Monticello Woods, PUD-R, Planned Unit Development, Residential West: Greensprings, R-4, Residential Planned Community East: Powhatan Plantation, PUD-R, Planned Unit Development, Residential Powhatan Crossing, R-1, Limited Residential South: R-8, Rural Residential
Staff Contact:	Matthew D. Arcieri - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the revised proffers and master plan are consistent with surrounding development and zoning and the Comprehensive Plan. Staff believes that the cash proffers proposed sufficiently address impacts, including water, of the additional fifty units. Finally, the proposal has addressed the recommendations of the Powhatan Creek Watershed Study and the environmental protections afforded by this proposed plan exceed that provided under the current approved plan. On June 2, 2003, the Planning Commission recommended by a vote of 4-2 to approve the case. Staff recommends approval of this rezoning and master plan amendment and acceptance of the voluntary proffers.

Description of Project

Mr. Vernon Geddy, III, on behalf of Powhatan Crossing, Inc., has applied for a Master Plan Amendment and rezoning for the Hiden Property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers. Approval of the proposal would permit the development of 400 age-restricted units on the southern portion of the property in place of the approved 350 timeshares. Of the 400 units, 275 would be single-family units and the remaining 125 would be multifamily units. The proposed overall density for the southern property under this proposal is increased from 3.46 dwelling units per acre to 3.7 dwelling units per acre.

No changes are proposed for the northern portion of the property and, unless otherwise noted, descriptions and analysis throughout the remainder of this report deal only with the southern property.

History

On November 12, 1997, the Board of Supervisors approved rezoning the 388-acre Hiden property from R-8, Rural Residential, to PUD-R, Planned Unit Development, Residential, with proffers. Construction of Monticello Avenue extended bisected the property into a northern portion of approximately 170 acres and a southern portion of approximately 218 acres. On the northern portion, the approved proffers allow the development of 150 single-family detached units. The approved proffers allow for construction of 350 timeshare units on the southern property. Since approval, development of the Hiden property has occurred only on the northern portion known as the Monticello Woods community.

This case was deferred by the Planning Commission at the April 7, 2003, meeting in order to allow time for staff and the applicant to address outstanding issues regarding this proposal.

Proffers

The following has been proffered by the applicant. Staff finds that the voluntary proffers offset potential impacts of the additional fifty units. Staff comments on specific proffers appear when warranted and are further evaluated throughout the rest of this report.

1. Density: The northern portion of the property (Monticello Woods) remains unchanged from the approved proffers and will contain 150-single family dwelling units. The southern portion of the property will contain 400 dwelling units rather than 350 timeshares. These units will be age-restricted to persons fifty-five years of age or older.
2. Road Improvements: The owner will contribute \$2,800 for each of the first 250 lots or units on both the northern and southern property for a total contribution of \$700,000. This proffer remains unchanged from the approved proffers and the owner has currently paid this proffer for 52 lots in Monticello Woods.
3. Traffic Signal: The owner will install a traffic signal at the request of the Virginia Department of Transportation (VDOT) and the County. This proffer remains unchanged from the approved proffers. In addition, the owner will conduct an updated traffic signal warrant analysis at 75 percent buildout.
4. Monticello Avenue Greenbelt: A 150-foot greenbelt is designated along both sides of Monticello Avenue. This proffer remains unchanged from the approved proffers.
5. Environment Protections: The owner will grant, free of charge, a conservation easement on 147.8 acres (68 percent of the property) to the Williamsburg Land Conservancy or the County. This proffer remains unchanged from the approved proffers although the percent of the property protected by the easement has increased in order to satisfy the recommendations of the Powhatan Creek Watershed Management Plan. Stormwater runoff from all paved areas or buildings over 150 square feet must go into a Best Management Practice (BMP).
6. Greenway: As under the approved plan, the owner will grant the County an easement as shown on the Master Plan for the County to construct a greenway. As part of this proposal, the owner will grant the County parking opportunities for the general public to access the greenway.

7. Recreation: As under the approved plan, the owner will provide recreational areas of at least 2.5 acres with the location and design subject to review and approval by the Development Review Committee. Upon final subdivision or site plan approval of 235 units, the owner will contribute \$19,600 to the County for recreation capital improvements. Upon final subdivision or site plan approval of 100 lots on the northern property (Monticello Woods), the owner will contribute \$14,200 to the County for recreation capital improvements. These monies may be used toward construction of the proffered greenway.

8. Cash Contributions for Community Impacts:

- a. Water: The owner will contribute \$750 for each of the first 50 lots on the southern property for a total contribution of \$37,500.
- b. General Impacts: The owner will contribute \$700 for each of the first 50 lots on the southern property for a total contribution of \$35,000.
- c. Powhatan Creek Impacts: The owner will contribute \$500 for each of the first 50 lots on the southern property for a total contribution of \$25,000.

A total of \$97,500 is proffered to mitigate the impacts of the additional fifty units and impacts on Powhatan Creek.

9. Water Conservation: As part of the revised proffers, the owner will develop and enforce water conservation standards to be submitted and approved by the James City Service Authority (JCSA).

Surrounding Zoning and Development

The surrounding property has a variety of residential uses. Directly north is Monticello Woods, which is part of the original Hiden rezoning and is zoned PUD-R, Planned Unit Development, Residential. Powhatan Plantation timeshares are due east of the property in an area zoned PUD-R, Planned Unit Development, Residential. Powhatan Crossing subdivision is on the southern end of the property's eastern boundary. It is a low-density residential subdivision zoned R-1, Limited Residential. The property to the west across the mainstem of Powhatan Creek is part of Greensprings Plantation and contains a golf course, timeshares, and single-family homes. Greensprings across the mainstem of Powhatan Creek is zoned R-4, Residential Planned Community. The southern portion of the property is adjacent to undeveloped R-8, Rural Residential Property. These parcels have access onto Powhatan Springs Road, Ingram Road, and John Tyler Highway.

Properties zoned PUD-R, Planned Unit Development, Residential, are required to maintain a fifty-foot perimeter buffer with adjacent properties. In addition, the owner has proffered a 100-foot buffer between the southern property and the Powhatan Crossing community.

Physical Features and Environmental Considerations

The 218.3-acre southern portion of the Hiden Property is bordered on the west by Powhatan Creek. While there are timbered upland areas suitable for development, much of the site contains broad, forested wetlands and areas subjected to periodic inundation by the creek. These features plus areas of steep slopes render 111.2 acres or 50.9 percent of the property non-developable. Most of the environmentally sensitive areas would be placed in a conservation easement and conveyed to the County or another approved land conservation entity.

Of the remaining 107.1 acres, 54.5 will be developed for residential use. This represents 25 percent of the total property. The remainder of the developable area will be part of buffers along Powhatan Creek, Monticello Avenue, and adjacent properties. By definition, projects in the PUD-R, Planned Unit Development, Residential district must leave 35 percent of the gross area as open space. This proposal leaves 75 percent of the property as open space.

A Phase I archaeological study of the property has been conducted and accepted by the County per the conditions of the existing proffers. Although the study noted the "extremely high likelihood" that a number of prehistoric campsites are located along the edge of Powhatan Creek, these areas have been protected by the 100-

foot resource protection area (RPA) buffer. The expanded RPA buffer proposed by the applicant as part of the amended master plan will offer further protection to any sites.

Powhatan Creek Watershed Study

The 22-square-mile Powhatan Creek watershed, which discharges into the James River near Jamestown Island, is a State and national treasure with its historic past and present biodiversity. It was recently ranked as having the greatest significance in biodiversity among natural areas in the Lower Peninsula of Virginia. Rare, threatened, and endangered plants such as the small whorled pogonia and Virginia least trillium are found here. The Creek is a bald eagle habitat and an important heron nesting area. Continued development pressures, however, threaten the vitality of the watershed. In November 2001, Development Management completed a watershed study for Powhatan Creek to help prevent further degradation of water quality and maintain the high quality of streams and sensitive areas using land use, conservation tools, and stormwater management. The James City County Board of Supervisors approved, in concept, adoption of the eight goals and 21 priorities associated with the draft Powhatan Creek Watershed Management Plan by resolution dated February 26, 2002.

Recommendations of the Powhatan Creek Watershed Management Plan for this property (located along the non-tidal mainstem of the Powhatan Creek) are:

- Increase the width of mainstem buffers to 300 feet to preserve contiguous forest and prohibit invasive species;
- Allow for clustering - maintaining the same density to increase preservation of the mainstem contiguous forest without reducing the number of units built by the developer; and
- Limit impervious cover.

The applicant states that this proposal addresses the requirements of the Powhatan Creek Watershed Management Plan by offering the following benefits:

- The incorporation of stormwater management facilities/best management practice designed to honor James City County's stormwater management goals, and maintain high stream quality;
- Reserving 100-foot RPA buffers along Powhatan Creek; and
- Reserving buffers adjacent to headwater streams of the Powhatan Creek (RPA extensions).

In addition, the proposal provides expanded RPA buffers along Powhatan Creek where possible. Providing the full 300-foot expanded buffer along Powhatan Creek would severely limit the owner's ability to develop this property. Working with Development Management, the owner has provided an expanded buffer along much of the site. One critical area on the property for an expanded buffer is along the northern reaches of Powhatan Creek where developable areas come close to open water. Here the expanded buffer is vital to providing additional forested habitat at times when water levels in the Creek are high. The proposal includes expanded buffers in these areas varying from an average of 200 feet to an average of 300 feet.

The applicant has proffered a cash contribution of \$25,000 (\$500 for the first fifty units) to be used for off-site stream restoration and stormwater management to help offset the impact of not being able to implement the full 300-foot buffer along Powhatan Creek. This proffer money may be used toward restoration of a 3,000-foot-long offsite stream channel which is upstream of the project but in severe need of restoration. While \$25,000 will not fully fund the restoration, staff believes it is a reasonable pro-rata contribution.

The James City County Environmental Division has reviewed the amended proffers and Master Plan and agrees that the proposal meets the objectives of the Powhatan Creek Watershed Study. In summary, the environmental protections afforded by this proposed plan exceed that provided under the current approved plan.

Traffic Impacts

According to the traffic study submitted by the applicant, the 350 timeshares approved for the southern portion of the property would generate 2,051 vehicle trips per day. The 400 proposed residential units would generate 3,828 vehicle trips, an increase of 87 percent. Despite this increase, the traffic study shows that the through lanes on Monticello Avenue will operate at a Level of Service B.

The applicant's traffic study also states these trip generation numbers are high given that the development will be age-restricted. This is based on a comparison with Ford's Colony which, with its older residential character, has shown approximately 60 percent of conventional single-family trip generation. At a 60 percent trip generation rate, the increase in traffic from 350 timeshares to 400 age-restricted units is 12 percent.

The applicant's traffic consultant has provided additional traffic generation counts from the Heritage Hunt age-restricted community in Prince William County. At the time the counts were taken, 745 units had been occupied on this project. The traffic counts taken for this project indicated that Heritage Hunt generated about 25 percent of conventional single-family trip generation.

The applicant has provided a paper "Senior Housing Trip Generation and Parking Demand Characteristics" which was presented at the 1996 annual meeting of the Institute of Transportation Engineers. Data gathered from age-restricted communities in California, Arizona, and Florida produced a weighted daily trip generation rate of 5.64 trips ends a day for senior housing developments (a traditional single-family development produced a daily trip generation rate of 9.55 trips per day). The study concludes that senior housing generates two-thirds the amount of traffic compared to a typical single-family development. At a 67 percent trip generation rate, the increase in traffic from 350 timeshares to 400 age-restricted units is about 25 percent.

Although the applicant has proffered installation of a traffic signal if required by VDOT and the County, given that Monticello Avenue is a major east-west thoroughfare, installation of a signal would be detrimental to traffic flow on this road and impair intercounty mobility. The traffic signal warrant analysis submitted by the applicant shows that signal warrants are met only by 100 percent trip generation and only for the peak hour warrant. Using the 60 percent rate, the traffic counts do not come close to warranting a traffic signal nor is a signal likely to be warranted under the approved timeshares. Given the uncertainty surrounding these counts, the applicant has proffered conducting a traffic signal warrant analysis at 75 percent buildout using actual traffic counts. However, development could still proceed beyond that point, resulting in the need for a signal should traffic generation be higher than the 60 percent rate.

Based on the information provided by the applicant regarding traffic generation at other age-restricted communities, staff accepts that the proposal will generate less traffic than a non age-restricted development and is not likely to require installation of a traffic signal.

Public Utilities

The property is located inside the Primary Service Area and will be served by public water and sewer. Water service would be provided by the 12-inch water main located along Monticello Avenue. An interconnection with the existing water system of Powhatan Crossing is also planned. The water models submitted with this application indicate there is sufficient water capacity for this proposal. Sewer connections will be made into the existing 21-inch gravity sewer paralleling the eastern bank of Powhatan Creek. This sewer line terminates at Lift Station 1-2. Renovations already underway to this station as well as the completion of the 30-inch Monticello Avenue force main will provide adequate sewer capacity.

The applicant's analysis of the water demand for 350 timeshares versus 400 age-restricted units identifies a ten percent reduction in water demand. This is due to each housing unit using 225 gallons per day (based on the usage assumed with the Colonial Heritage project) versus the 300 gallons per day used by a timeshare. The proposal also assumes that all single-family lots will be irrigated. The applicant has proffered water conservation measures to be approved by JCSA prior to subdivision or site plan approval.

The applicant is also proffering \$37,500 (\$750 for the first fifty units) to mitigate the impacts on the water supply of developing the additional fifty units on the property. This proffer amount of \$750 per unit is identical to the amount proffered by Colonial Heritage.

Fiscal Impacts

Based on the fiscal impact analysis submitted by the applicant, the proposed age-restricted community, primarily due to the lack of school age children, would result in a net fiscal benefit to the County. In addition, the project would provide a higher fiscal benefit than the approved 350 timeshares. A comparison of total positive benefits through the eight-year projected buildout is as follows:

Net Fiscal Impacts - Age Restricted versus Timeshare

	Year 2	Year 4	Year 6	Year 8
400 Age-Restricted Units	\$287,000	\$618,000	\$962,000	\$1,039,000
350 Time Share Units	\$169,000	\$506,000	\$514,000	\$ 524,000

On a per unit basis, after buildout a timeshare will generate a positive \$1,500 net fiscal impact while the proposed age-restricted units generate a positive \$2,600 net fiscal impact. James City County Financial and Management Services has reviewed the Fiscal Impact Statement submitted with these applications and agrees that lack of school children results in a positive fiscal benefit.

The applicant is also proffering \$35,000 (\$700 for the first fifty units) to mitigate impacts on County emergency, library and other services generated by developing an additional fifty units on the property. This proffer amount per unit is generally based on the amount proffered by Colonial Heritage.

Comprehensive Plan

The majority of the Hiden Property is designated Low-Density Residential on the Comprehensive Plan Land Use Map. Low-density areas are residential developments on land suitable for such developments with overall densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential development with greater density than one unit per acre is not recommended unless it offers particular benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Such design may include maintaining open fields, retaining natural vegetative buffers around water bodies or wetlands, preserving historic sites, creating adequate recreational areas, designing effective pedestrian circulation to include trail systems, and ensuring that the common land adjoins open space on adjacent parcels. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

The applicant states that this proposal meets the criteria for a density higher than one dwelling unit per acre by offering the following benefits:

- A development that provides large areas of open space throughout the development;
- A development that retains natural vegetative buffers around water bodies and wetland environments;
- A development that provides recreational amenities for this community;
- A development that provides common lands that neighbor open spaces located on adjacent parcels;
- A development that is harmonious with surrounding land developments; and
- A development which meets the definition of a “residential cluster development.”

Portions of the property adjacent to the Powhatan Creek are designated as Conservation Area. Conservation areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands surrounding or adjacent to conservation areas can also be sensitive, and development of these lands should consider negative impacts and methods to mitigate or eliminate these impacts. Wetlands, marshes, flood hazard areas, steep slopes, critical plant and wildlife habitats, and stream banks are types of conservation areas. Lands designated for conservation are intended to remain in their natural

state. Examples of preferred land uses include hunting and fishing clubs, fish and game preserves, parks, and other open space that complement the natural environment.

The Comprehensive Plan also designates Monticello Avenue as a Community Character Corridor. Through proffers, this proposal provides the recommended 150-foot greenbelts along both sides of the road.

Staff finds this proposal consistent with the Low-Density Residential and Conservation Area designation of the Comprehensive Plan.

Recommendation

Staff finds the revised proffers and master plan are consistent with surrounding development and zoning and the Comprehensive Plan. Staff believes that the cash proffers proposed sufficiently address impacts, including water, of the additional fifty units. Finally, the proposal has addressed the recommendations of the Powhatan Creek Watershed Study and the environmental protections afforded by this proposed plan exceed that provided under the current approved plan. On June 2, 2003, the Planning Commission recommended by a vote of 4-2 to approve the case. Staff recommends approval of this rezoning and master plan amendment and acceptance of the voluntary proffers.

Matthew D. Arcieri

CONCUR:

O. Marvin Sowers, Jr.

MDA/gb
z-2-03&mp-1-03.wpd

Attachments:

1. Planning Commission Minutes
2. Location Map
3. Proffers
4. Community Impact Statement (separate)
5. Master Plan (separate)
6. Letter from the Friends of Powhatan Creek dated May 5, 2003
7. Letter from Sarah Kadec
8. Resolution

R E S O L U T I O N

REZONING-2-03/MASTER PLAN-1-03.

HIDEN PROPERTY PROFFER AMENDMENT

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 Nos. Z-2-03/MP-1-03, with Master Plan, for rezoning 228.2 acres from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 2, 2003, recommended approval of Case Nos. Z-2-03/MP-1-03, by a vote of 4-2; and

WHEREAS, the properties are located at 4100 Monticello Avenue and further identified as Parcel Nos. (1-10) and (1-11) on James City County Real Estate Tax Map No. (37-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-2-03/MP-1-03 and accept the voluntary proffers.

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

ATTEST:

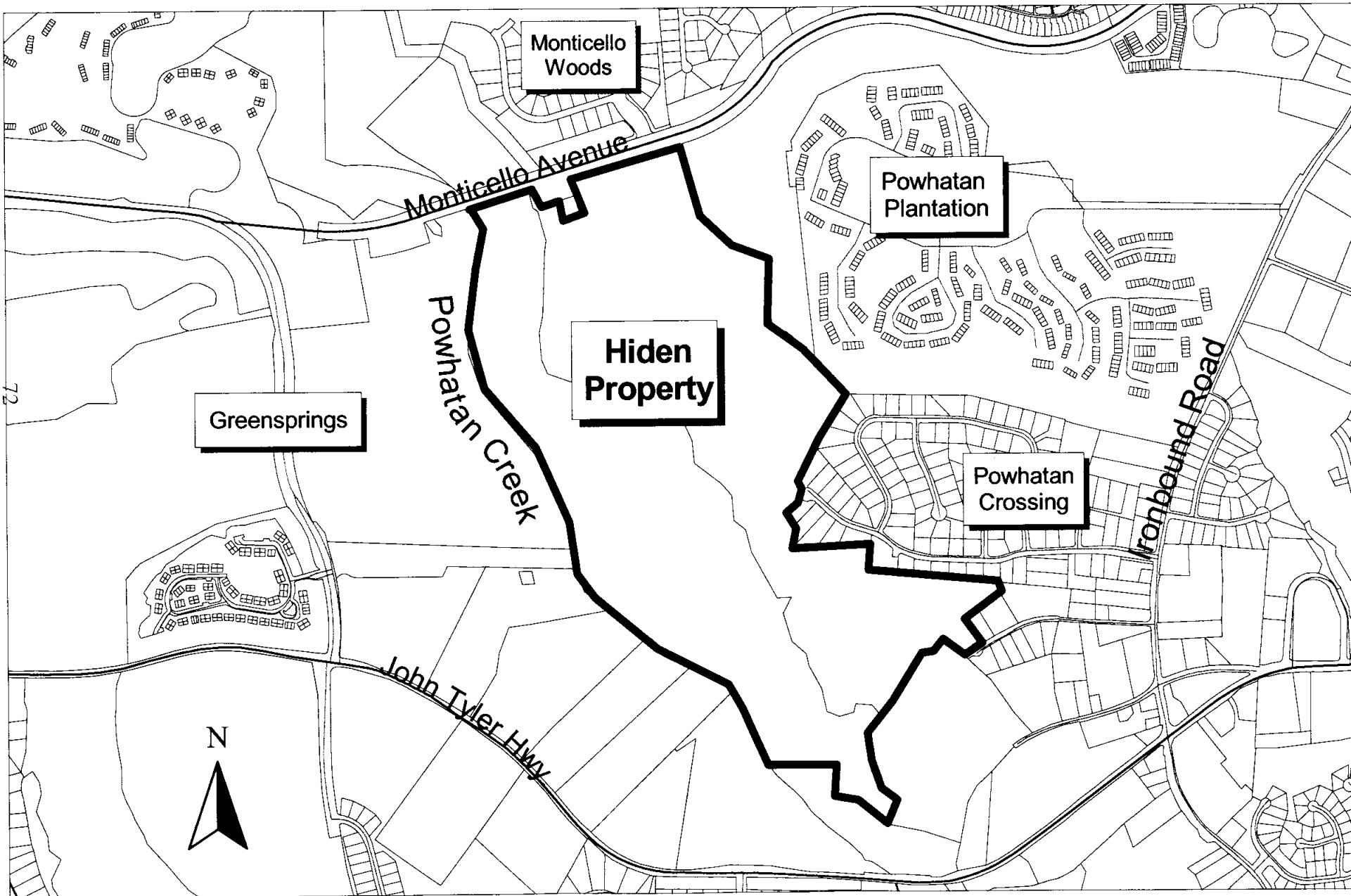
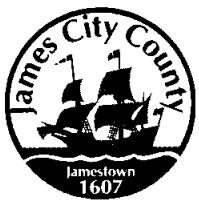
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of July, 2003.

z-2-03&mp-1-03.res

Z-2-03/MP-1-03

Hiden Property Proffer Amendment



AMENDED AND RESTATED

HIDEN PROPERTY PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made as of this
23 day of April, 2003, by POWHATAN CROSSING, INC., a Virginia
corporation, (together with its successors and assigns, the
"Owner").

RECITALS

A. Owner is the present or former owner of certain real property (the "Property") in James City County, Virginia consisting of approximately 403.7 acres more particularly described on Exhibit A attached hereto and made a part hereof.

B. In 1997 the Owner applied for and James City County (the "County") granted a rezoning of the Property from R-8, Rural Residential District, to PUD-R, Planned Unit Development-Residential District, with proffered conditions as set forth in Hiden Property Proffers dated October 29, 1997 and recorded in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 97019406 (the "Original Proffers"). In connection with the rezoning, Owner submitted and the County approved a Master Plan in accordance with the County Zoning Ordinance entitled "Master Plan Hiden Property" and dated September 10, 1997 and revised October

15, 1997 (the "Original Master Plan").

C. Owner has now applied for an amendment to the approved Original Master Plan for the Property pursuant to the County Zoning Ordinance and, in connection therewith, desires to amend and restate the Original Proffers.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the applied for amendment to the Original Master Plan and the Original Proffers and pursuant to Section 15.2-2297, et seq. of the Code of Virginia, 1950, as amended, and Section 24-16, et seq. of Chapter 20 of the Code of James City County, Virginia, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the applied for amendments are not granted by the County, these Amended and Restated Proffers shall thereupon be null and void and the Original Proffers and Original Master Plan shall remain in full force and effect.

CONDITIONS

1. Owners Association. All owners of lots or units within the Property by virtue of ownership of their lot or unit shall be members of a property owners association with the power to levy mandatory assessments. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents")

creating and governing the association(s) shall be submitted to and reviewed by the County Attorney. The Governing Documents shall require that the association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, private roads and parking areas, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments and for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

2. Density. (a) There shall be no more than 150 single family lots permitted in Area 1 on the Property.

(b) There shall be no more than 400 dwelling units permitted in Area 2 on the Property. All dwelling units developed in Area 2 shall be age restricted to persons fifty-five (55) years of age or older ("Restricted Units") in accordance with the following parameters:

(i) It is the intent of the parties that Restricted Units shall be occupied by persons fifty-five (55) years of age or older and that no Restricted Units shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen

(18) shall be entitled to occupy Restricted Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph (ii) below.

(ii) Each Restricted Unit within the Property shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. §3601 et seq. and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. §3601 et seq.; the Virginia Fair Housing Law Va. Code §36-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a declaration of restrictive covenants and property owners' association documents applicable to the Restricted Units and each deed to a Restricted Unit shall make reference to such provisions.

(c) Any accessory commercial uses located in Area 2, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Area 2. Commercial uses shall not be advertised from any public right-of-way.

3. Road Improvements. (a) Monticello Avenue. (i) Owner shall make a contribution of \$2,800.00 to the County for each of the first 250 lots or units shown on subdivision plats or site plans of the Property. Such contributions shall be made available by the County for use by the District for the construction of Monticello Avenue or used by the County for any other project included in the County's capital improvement program, the need for which is generated in whole or in part by the development of the Property. Such contributions shall be made at the time of final subdivision plat or site plan approval for such lots or units.

(ii) There shall be no more than two entrances into the Property from Monticello Avenue, one into the portion of the property south of Monticello Avenue and one into the portion of the property north of Monticello Avenue. The two entrances shall be aligned. Owner shall construct right and left turn lanes on both approaches at the entrances to the Property from Monticello Avenue at the time such entrances are constructed.

(iii) At the request of the County, Owner shall install a traffic signal at the intersection of Monticello Avenue and the entrances to the Property at the earlier of (i) when Virginia Department of Transportation ("VDOT") signal warrants are met or (ii) when development has commenced on either side of Monticello Avenue and the County has issued certificates of occupancy for more than 55 lots or dwelling units utilizing the entrances onto Monticello Avenue; provided that VDOT and the County approves the installation of the traffic signal at that time. When certificates of occupancy for 412 dwelling units on the Property have been issued and if the traffic signal has not been installed at that time, Owner shall cause an updated traffic signal warrant analysis using actual traffic counts shall be submitted to VDOT and the County.

(b) All road improvements proffered hereby shall be constructed in accordance with VDOT standards.

(c) Unless otherwise approved by the Director of Planning, Owner shall reserve a public right-of-way to provide a pedestrian connection from the Powhatan Secondary development to the Property and shall dedicate such right-of-way to the County upon the written request of the County Administrator.

4. Monticello Avenue Greenbelt. At the time of the

conveyance of the Monticello Avenue right-of-way to the County or the District, the Owner shall designate 150-foot greenbelt buffers along the Property's Monticello Avenue frontage measured from a right-of-way line assuming a 120 foot right-of-way for Monticello Avenue (measured 60 feet on either side of the centerline of the right-of-way). The greenbelt buffers shall be exclusive of any lots or units and shall be undisturbed, except for, with the approval of the Development Review Committee, utilities, drainage improvements, community entrance roads as shown generally on the Master Plan, pedestrian/bicycle trails, lighting, entrance features and signs.

5. Archaeology. A Phase I Archaeological Study for Master Plan area shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National

Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

6. Environmental Protections. (a) The Owner and/or the owners association shall grant, free of charge, to the Williamsburg Land Conservancy, another County approved land

conservation entity and/or the County a conservation easement with terms consistent with these Proffers over the area designated on the Master Plan as Conservation Area generally in the locations shown on the Master Plan. The exact boundaries of the Conservation Area shall be shown on subdivision plats and/or site plans of the Property based on the buffer line and Conservation Area shown and set out on the map entitled "Master Plan Amendment for Hiden Property for Jamestown, LLC" made by AES Consulting Engineers, Project No. 9254, dated 2/24/03, revised 4/25/03. The conservation easement over the Conservation Area shown on each individual subdivision plat or site plan shall be granted at the time of final approval thereof by the County. The Conservation Area shall remain undisturbed and in its natural state, preserving indigenous vegetation except as set forth below. With the prior approval of the Environmental Division or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Conservation Area; (ii) select hand clearing and pruning of trees shall be permitted in the Conservation Area to permit sight lines or vistas, and (iii) utilities, roads, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area. No stormwater best management practices

("BMPs") shall be permitted in the 100 foot Resource Protection Area ("RPA") imposed by County ordinance along the main stem of Powhatan Creek. With the prior approval of the County Environmental Division on a case by case basis, BMPs may be located in other RPAs and elsewhere in the Conservation Area, including RPA extensions shown on the Master Plan, but shall not be located in nor impact the channel flow unless specifically approved by the Environmental Division. The greenway proffered in Proffer 7 below and County trails and passive recreational facilities and structures located therein shall be permitted within the Conservation Area. If vegetation is removed from the Conservation Area it shall be replaced by indigenous vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Owner, at the request of the County, shall retain an environmental consultant acceptable to the County to prepare a three tiered restoration plan for the areas indicated on the "Revised Environmental Constraints Map Hiden Property" made by Williamsburg Environmental Group, Inc. and dated 8/1/97 and revised 9/16/97 where timbering operations resulted in the removal of trees from or land disturbance within the Conservation Area to provide for the restoration of ground cover, shrubs and trees for that

portion of the Conservation Area as determined to be necessary by the consultant. If temporary stormwater BMP's are located in the Conservation Area, the restoration plan shall include a replanting plan for such BMP areas. The restoration plan shall include a phasing plan to ensure areas of the Conservation Area being restored have been stabilized prior to the commencement of development on adjacent developable areas. The restoration plan shall be submitted to the Environmental Division for review and approval. Owner shall implement the recommendations of the approved restoration plan. Road and utility crossings shall be generally perpendicular through the Conservation Area and Owner shall endeavor to design utility systems that do not intrude into the Conservation Area. The Conservation Area shall be maintained by Owner unless the Williamsburg Land Conservancy, the other County approved land conservation entity or the County assumes responsibility therefor under its easement or the Conservation Area is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. The Conservation Area shall be exclusive of Lots.

(b) All stormwater runoff from paved parking areas or roads and from all building structures over 150 square feet in Area 2 of the Property shall be directed into BMPs unless otherwise

approved by the Environmental Division

7. Greenway. Owner shall grant the County an easement within the Conservation Area for a greenway through the Property in the general location shown on the Master Plan as "James City County Greenway Trail" as subdivision plats or site plans for adjacent Property are approved and/or recorded. The County shall be entitled to construct a trail with a minimum 10' wide travel path (which will be open to the general public during daylight hours only), including necessary bridges, if any, through the James City County Greenway Trail and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The location of the "James City County Greenway Trail" shall be varied within the Conservation Area by the Environmental Division to ensure the ability to construct a viable trail network. Owner shall grant the County suitable parking opportunities (through shared use of parking facilities required by site improvements) to the general public using the trail.

8. Recreation. (a) Owner shall provide the recreational facilities listed below in Area 1 shown on the Master Plan and make the cash contributions to the County described below before the County is obligated to approve final subdivision plats for

more than 100 lots in Area 1:

- Parkland, including one playground of at least 1.9 acres.
- Cash contribution of \$9,900 in lieu of multi-purpose courts.
- Cash contribution of \$4,300 in lieu of playing fields.

(b) Owner shall provide the recreational facilities listed below in Area 2 shown on the Master Plan and make the cash contributions described below to the County before the County is obligated to approve final subdivision plats or site plans for more than 235 dwelling units in Area 2:

- Recreation areas of at total of least 2.5 acres.
- Cash contribution of \$13,650 in lieu of multi-purpose court.
- Cash contribution of \$5,950 in lieu of playing fields.

The recreational facilities in Area 2 may be open only to owners in Area 2.

(c) All cash contributions proffered by this Proffer 8 shall be used by the County for recreation capital improvements, which may include trails within the greenway proffered in Proffer 7. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee. All recreational facilities proffered hereby shall be conveyed to and maintained by the owners association and shall be open to all

members of the association in good standing.

(d) Owner shall construct a shoulder lane bikeway in accordance with VDOT standards along both sides of the main public collector roads within the Property north of Monticello Avenue.

9. Entrance Signs. The entrance signs, lighting, landscaping and entrance features at the entrances to the Property from Monticello Avenue shall be subject to the review and approval of the Director of Planning before a sign permit for such signs is issued. The entrance signs shall be monument type signs.

10. Powhatan Crossing Buffer. The Owner shall maintain a buffer along the Property's common boundary line with the Powhatan Crossing subdivision with the width and in the locations shown on the Master Plan. This buffer shall be exclusive of any lots and shall be undisturbed, except for, with the approval of the Development Review Committee, berms, landscape features, walls or fences or utility easements.

11. Cash Contributions for Community Impacts. (a) A contribution of \$750.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on

the County from the physical development and operation of Area 2 of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of Area 2 of the Property.

(b) A contribution of \$700.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of Area 2 of the Property, including, without limitation, for emergency services equipment replacement and supply, traffic signal preemption equipment, library uses, and public use sites.

(c) A contribution of \$500.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of Area 2 of the Property,

including, without limitation, stream stabilization or other stormwater management projects in the Powhatan Creek watershed.

(d) The contributions described above, unless otherwise specified, shall be payable for each of the dwelling units developed within Area 2 of the Property at the time of final subdivision plat or final site plan approval by the County for the particular phase or section of dwelling units.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI,

then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

12. No Access to Powhatan Crossing. Prior to final approval of the first subdivision plat or site plan for development on the Property, Owner shall (i) convey to the Powhatan Crossing Homeowners Association by quitclaim deed all its right, title and interest in and to the access easement from Powhatan Crossing Drive to the Property adjacent to the recreational lot in Powhatan Crossing, (ii) install a permanent cul de sac at the end of Powhatan Crossing Drive, and (iii) convey to the Powhatan Crossing Homeowners Association by quitclaim deed a strip of land between the permanent cul de sac and the Property such that the public road and the Property are no longer adjacent.

13. Water Conservation. The Owner and/or the owners association shall be responsible for developing water conservation standards to be submitted to and approved by the JCSA and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources, including groundwater. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

14. Height Limitation. There shall be no building greater than two and one-half stories in height located within 300 feet of the Powhatan Crossing subdivision.

15. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

16. Severability. If any condition or part thereof set forth herein shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the invalidity or unenforceability of such condition or part thereof shall not invalidate any other remaining condition contained in these Proffers.

WITNESS the following signatures and seals:

POWHATAN CROSSING INC.

By: *[Signature]*

Title: Pres.

STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me
this 23rd day of April, 2003 by C. LENIS WALTER, II as
President/Vice President of Powhatan Crossing, Inc.

Patricia M. Conner

NOTARY PUBLIC

My commission expires:

Dec. 31, 2004

Exhibit A

All that certain piece, or parcel of land described as the "Thomas & Martin Tract" containing 390.69 acres, more or less, but said land is sold in gross and not by the acre. The subject property is bordered by the Powhatan Swamp, Powhatan Crossing Subdivision, Powhatan Plantation and Powhatan Secondary Subdivision, as shown on that certain plat, entitled "P.W. Hiden Estate, Plat of Survey of the Thomas & Martin Tracts, Being Part of Powhatan Plantation, situated in Jamestown District, James City County, Virginia, Surveyed, November, 1944...", a copy of which plat is attached hereto and incorporated herein by reference, for a more complete description of the property sold herein.

Subject however to all easements, restrictions and conditions of record affecting the Property or apparent on the ground.



May 5, 2003

Mr. A. Joe Poole, III
Chair, James City County Planning Commission
Williamsburg, VA

Dear Chairman Poole:

The Friends of the Powhatan Creek Watershed respectfully submit this statement to the James City County Planning Commission concerning the Hiden Property Amended Proffers and Master Plan (Z-02-03/MP-1-03). As an organization dedicated to the preservation of the unique resources of the Powhatan Creek Watershed, the Friends are pleased that the applicant has addressed several elements of the Powhatan Creek Watershed Management Plan, namely Resource Protection Area extensions along tributary streams and expanded riparian buffers along the mainstem of Powhatan Creek. We are delighted that these and other conservation areas will be afforded a high level of protection by placing them under conservation easements and excluding them from platted lots. Furthermore, we view the establishment of restoration plans for timbered and temporary disturbance areas and the cash proffers for implementing the Powhatan Creek Watershed Management Plan (e.g. off-site stream restoration) as positive developments. The attention that this project pays to the implementation of the Powhatan Creek Watershed Management Plan is an excellent precedent for imminent growth and development in the watershed.

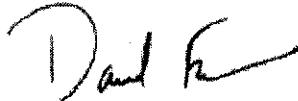
The Friends do express some concerns about this Planned Unit Development. The Powhatan Creek Watershed Management Plan recommends a 300-foot buffer along the mainstem of the creek and the amended proffers fall short of this goal. The Amended Master Plan offers a higher density development (400 units) than the original plan (350 units) with a result of more impervious surface and higher stormwater runoff. Since the full 300-foot buffer is not proposed, we recommend that the applicant incorporate better site design principles that limit impervious cover, such as: limiting clearing of forests and native vegetation to the minimum necessary to build lots, allow access, and provide fire protection; narrower roads with grassy swales and vegetated islands in cul-de-sacs; limiting parking to the minimum needed and using bioretention areas and filter strips to treat parking lot runoff; shared and shorter driveways; and limiting sidewalks to one side of the street.

Mr. A. Joe Poole, III
James City County Planning Commission
May 5, 2003
Page Two

We urge close monitoring and inspection of this project as it unfolds. If a success, this project could set an excellent precedent for lower-impact development in the watershed. If a failure, it could lead to further degraded water quality and habitat for the ecologically diverse Powhatan Creek.

In closing, the Friends of the Powhatan Creek Watershed applaud the applicant for consistency with the Powhatan Creek Watershed Management Plan and look forward to its successful implementation that will preserve the integrity and character of the watershed and its communities.

Sincerely,



David Fuss
Vice-President, Friends of the Powhatan Creek Watershed
3008 Chelsford Way
Williamsburg, VA 23185

cc: George Billups
Wilford Kale
John Hagee
Peggy Wildman
Joe McCleary
Matt Arcieri

Mr. Chairman and Members of the Board, I am Sarah Kadec, at 3504 Hunters Ridge in the Powhatan Crossing development.

Despite the enhanced environmental steps taken to reduce impact on the Powhatan Creek in the current proffers for the Hiden property development, there are a number of concerns remaining. The current proposal is for an age restricted 400 unit single- and multi-family development in lieu of the earlier approved 350 timeshares.

It seems that word is out that age restricted developments will get quicker approval. I believe this is a very unwise move, for we need fresh new ideas that younger individuals and families will bring to issues before the community. Age restricted developments carry with them an increased need for emergency services, medical care, and senior services that would be provided by the County, though it would have no impact on schools. But timeshares also have no impact on schools, and do bring income into the County through employment (in the case of Hiden, 483 jobs), taxes and visitor spending (estimated in the timeshare impact studies at \$6.2 million per year). Potential industry and business will not move into an area without some significant employable population, thus continued age restricted developments will not help the County attract new industry. There are a number of features in the current plan that would seem to complicate life for those over 55. One would be the concern for security when the public shares a considerable section of the development. In the current proposal, it is assumed that the County would accept responsibility for closing the trail after daylight hours and ensuring that it and the public parking were not used at night.

Age restricted developments are presumed to use less water than other housing, but the impact study for this project indicates that irrigation systems will be available on all lots. This will certainly increase the demand for water. It seems essential that a careful analysis be made of our current water supply and its ability to support additional development of any nature.

Density for the timeshares was 3.46 units per acre; while the new project's density is 3.7 according to the attorney for the developer, though the impact study shows a density of 3.8 per acre. The conceptual plan for the timeshare development left the entire lower part of the property undeveloped, with the 350 timeshare units of 1200 – 2200 square feet each grouped tightly in the largest section of the developable land. This provided more open space to protect the Creek and absorb run-off. The conceptual plan for the current proposal shows 191+ lots (not 275) of 1/5 acre each for 2500 square foot single- and multi- family homes, using all of the developable area. The resultant impervious cover will create more run-off and will greatly reduce recharging of the underground aquifers. As you consider this request and any other on the Powhatan Creek, it is important that you remember Floyd and its effect on developments downstream such as 1607, St. George's One Hundred and a flooded Route 5. At the time the application for the 1607 development was being considered, it seems that no one had the correct map showing that this was in a flood zone. It would be sad, if in a few years, anyone on this board could say they did not know of the potential danger of further increases in impervious cover and run-off from development along the Powhatan Creek.

The developer has indicated his intention to restore the areas defaced in 1997 in an unauthorized logging, if the County requests it. The plan for this restoration should be requested and then approved by the County before construction of any units begin.

The developer says that the project is not viable with less than 400 units, selling at \$285,000 each, for a total of \$114,000,000. Yet using the best figures I could get from both proffers this is questionable. The timeshare development was considered viable with 350 units, selling at \$150,000 each, with a total of \$52,500,000, less than half the current proposal's sales value. \$733,800 was proffered for the timeshares; \$831,300 for the single and multi-family units, \$100,000 more than in the earlier proffers. Even considering the purchase price of \$1 million for the property and construction costs of \$83,800,000 (using this figure for both projects since figures for this earlier project were not available to me), the proposed housing would generate an income of \$28,565,800 more than for the timeshares. Dropping to 350 units would still generate an income of \$14,315,800.

The improved environmental proffers are important to the County and to the well-being of the Powhatan Creek Watershed. However, I am very much opposed to the increased number of units (by 50) and the age restrictions placed on the project. Therefore, I respectfully request that you deny the amendment to develop 400 single and multi-family age-restricted housing.

MINUTES TO THE MAY 5, 2003, PLANNING COMMISSION MEETING

CASE NO. Z-2-03/MP-1-03 Hiden Property Proffers Amendment.

Mr. Matthew Arcieri presented the staff report. He stated that Mr. Vernon Geddy, III on behalf of Powhatan Crossing, Inc. has applied for a Master Plan Amendment and rezoning for the Hiden Property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers. Approval of the proposal would permit the development of 400 age restricted units on the southern portion of the property in place of the approved 350 timeshares. Of the 400 units, 275 would be single family units and the remaining 125 would be multi-family units. The proposed overall density for the southern property under this proposal is increased from 3.46 dwelling units per acre to 3.7 dwelling units per acre. No changes are proposed for the northern portion of the property. Staff finds the revised proffers and master plan are consistent with surrounding development and zoning and the Comprehensive Plan. Staff believes that the cash proffers proposed sufficiently address impacts, including water, of the additional fifty units. Finally, the proposal has addressed the recommendations of the Powhatan Creek Watershed Study and the environmental protections afforded by this proposed plan exceed that provided under the current approved plan. Staff recommends approval of this case.

Mr. Joe Poole, III, opened the public hearing.

Mr. Vernon Geddy spoke on behalf of the owner. He explained how he and the owner felt this was a win-win situation for both the County and the owner. He went through a comparison of the old master plan proffers to the new ones that were being presented, and how this proffer agreement would be setting a good precedent in regards to environmental protection.

Mr. Wilford Kale asked how the road way was going to cross over the area of wetlands, and if the Chesapeake Bay Act had any play in the new proffers.

Mr. Vernon Geddy replied an arched bridge crossing would be constructed and yes, the Bay Act had a lot of influence on the new proffers. One example was the addition of RPA extensions.

Mr. Joe Poole asked if there was any other data available other than the Heritage Hunt community in regards to the traffic study. He also wanted to know why the owner wanted to change from time-shares to an age-restricted community.

Mr. Vernon Geddy replied that the data for Heritage Hunt was the only one available. He explained Mr. Waltrip, the owner, wanted the change in order to make the project viable.

Mr. Joe McCleary asked Mr. Geddy if he had visited the Heritage Hunt age-restricted community. When Mr. Geddy replied no, Mr. McCleary explained that in Heritage Hunt,

they have every amenity available to them with in the community, so they are not likely to leave as frequently. He felt the two communities, Heritage Hunt and the Hiden property, were nothing alike and couldn't be used as a comparison in regards to the traffic study.

Mr. Geddy explained there will be extensive amenities also in the Hiden community, and made the point that even if traffic doubled it still would only be 50% of ITE rates.

Mr. Hampton Jesse of 3500 Hunter's Ridge stated several concerns regarding the age-restricted community and amended proffers and his opposition to this development. He also mentioned that the development must have strict and tight controls to make sure it turns out correctly, since Mr. Waltrip had a history of BMP problems on other properties he developed. He stated that the BMP in Powhatan Crossing does not work, that this project has the same developer, and he should post a bond and fix Powhatan Crossing's BMP first.

Mr. David Fuss of 3008 Chelsford Way, speaking on behalf of the Friends of Powhatan Creek, stated they were very pleased with the amended proffers and their attention to the Powhatan Creek watershed, and that they set a good precedent for future development proffers. He also stated that they hoped the developer would adhere to better site design principles.

Mr. Geoff Tobey of 4477 Powhatan Crossing spoke about his concerns regarding the increased density and asked that voting be deferred.

Ms. Julie Leverenz of 3313 Running Cedar Way, speaking on behalf of the Historic Route 5 Association, expressed her appreciation of the County and the owner working closely together to mitigate impacts. She also stated her concerns regarding guarantees in the number of multi-family housing units and potential access to Powhatan Springs Road.

Hearing no other requests to speak, Mr. Joe Poole, III, closed the public hearing.

Mr. Donald Hunt stated he was of the opinion the amendments are a positive move, and was in favor of it.

Mr. John Hagee asked if any of the provisions in the prior submission have been included in the amendments.

Mr. Marvin Sowers stated that yes, the Powhatan Creek Watershed Study stricter guidelines and recommendations have been incorporated.

Mr. John Hagee stated his opinion that the County should spend the money to closely monitor this project to make sure it is done correctly.

Mr. Wilford Kale asked Mr. Geddy questions concerning the density changes and whether or not the Development Review Committee would have the final review of the

site plan.

Mr. Vernon Geddy stated the standards would have to remain the same and it would depend on what would physically fit on the land. Also, the DRC would have the final review.

Mr. Joe McCleary asked about the number of entrances.

Mr. Vernon Geddy replied that in regards to a southern entrance, the owner has deeded that land to Powhatan Crossing, so an entrance in that area could not occur..

Mr. Joe McCleary stated his concern about letting another age restricted community be developed, especially when it comes to future support for the schools and school children. He reserved the right to change his mind in the future.

Mrs. Peggy Wildman seconded Mr. McCleary's statements and listed her concern regarding available medical care for Medicaid patients that move into the County and environmental issues.

Mr. Joe Poole, III, stated his preference for a one month deferral. He listed some of his concerns that he wanted further time to look into.

Mr. Joe McCleary made a motion to defer.

Mrs. Peggy Wildman seconded the motion.

Mr. Wilford Kale stated his support for approval of the proposed amendments. He wanted it to go on record he would vote for approval of this case, since he would not be able to attend the Planning Commission meeting in June.

Mr. John Hagee stated he was not fond of age restricted communities.

Mr. Joe Poole, III, stated his preference to defer the case to have more time to review it and address some of the issues that were discussed, including traffic, number of multi-family units and entrances.

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

UNAPPROVED MINUTES TO THE JUNE 2, 2003, PLANNING COMMISSION MEETING

CASE NO. Z-2-03/MP-1-03 Hiden Property Proffers Amendment.

Mr. Matthew Arcieri presented the staff report. He stated that Mr. Vernon Geddy, III on behalf of Powhatan Crossing, Inc. has applied for a Master Plan Amendment and rezoning for the Hiden Property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers. Approval of the proposal would permit the development of 400 age restricted units on the southern portion of the property in place of the approved 350 timeshares. This case was deferred at the May 5, 2003 meeting of the PC pending the submittal of further traffic studies. The resulting evidence submitted by the applicant notes that age-restricted communities create about 2/3 of the traffic that would result from a more traditional single family development. The application is consistent with Zoning and Comprehensive Plan Land Use designation for that area, as well as the Powhatan Creek Watershed Study. Mr. Arcieri noted that Darryl Cook and Mike Woolson of the Environmental Division were available to answer any questions. Staff recommends approval of this case.

Mr. Joe Poole, III, opened the public hearing.

Mr. Vernon Geddy spoke on behalf of the applicant. He noted that Mr. Rich Costello of AES Consulting Engineers had obtained two additional sources of traffic information for similar communities that confirmed the results of previous studies. He noted that traffic generation would only be 2/3 of what it would be for a development of single-family homes. Mr. Geddy stated that an extrapolation of the studies done for Williamsburg Landing provided the same conclusion. He read a list of benefits of the 400-unit proposal that included less water usage than originally proposed, slightly higher daily trip generation offset by fewer peak-hour trips, and a better fiscal impact.

Mr. Poole noted that the proposed changes would create 2,256 trips per day as opposed to the 2,051 that would be generated under the previously approved plan. He also stated that the traffic during peak hours was lower under the proposed plan according to numbers presented by the applicant

Mr. McCleary asked whether this would be a gated community.

Mr. Geddy replied that it would.

Ms. Wildman asked how many families would be housed in a multi-family unit under this proposal.

Mr. Costello said the number varies.

Ms. Wildman asked for a range.

Mr. Costello said it would be between 4 and 10 families per building, but that is could be higher if the units were three stories tall.

Mr. Billups asked if the height of the proposed units was three stories.

Mr. Costello replied that the height would be 35 feet or less, roughly 2 ½ stories.

Mr. Billups asked how the density of this development would compare with James City County as a whole.

Mr. Costello replied that the net density would be 3.7 units/acre and that cluster developments can go up to 4 units/acre under the existing ordinance.

Ms. Wildman asked whether the road layout would limit Fire Department access.

Mr. Costello said the Fire Department must approve the plans.

Mr. Poole asked whether VDOT would require new traffic studies for this project.

Mr. Costello said the need for a traffic light would be re-examined at 70% build-out but expressed confidence that no traffic light would be needed.

Hearing no other requests to speak, Mr. Joe Poole, III, closed the public hearing.

Mr. Hagee made a motion to approve the request. Mr. Billups seconded this motion.

Ms. Wildman expressed concerns over the influx of senior citizens into the County affects the need for and availability of services. She also worried how this demographic shift might be affecting the youth in the County. She said that the most recent age-restricted communities approved for development will bring in many people age 55 and over. This means there are more people to take care of and that there are important health issues to consider. She read a list of services needed by the elderly including senior centers, Meals on Wheels, doctors, fire, EMS, and Social Services. She said it was important to realize that the elderly population is already outpacing the growth of the younger population in the County and that it was important to consider where the community will go in the coming years.

Mr. Poole said he appreciated the provisions the applicant had made for this case, but that he had had no time to study any of the traffic information in advance of the meeting. He said the benefits of the development were not enough to warrant approval without better proffers. He wants to ensure that the appropriate infrastructure is in place and noted that the applicant did not provide this information sufficiently in a timely manner. He said he would not support approval of this case.

Mr. Billups said he saw this as a short-range growth pattern and felt there would be problems down the road with the transfer of property to heirs and the exclusion of those under 55. He said he was not sure this proposal or Colonial Heritage by U.S. Homes met the standards of fair housing laws and expressed his wish to abstain from voting.

Mr. Hunt said he remembered a previous conversation about the transfer of property to heirs.

Mr. McCleary clarified the provisions for people under 55 living in such communities with an older spouse, or owning the property and renting it out until they reach that age.

Mr. Hagee said the applicant had done well to provide extra benefits in the way of environmental protections, cash proffers, and buffers. He said this was an exemplary submission. While he expressed concern over the age-restricted nature of the community, he said he would not deny the case because of it. He noted that it was important to allow all types of people to move into the County and that this proposal provided more open space than a traditional development.

Mr. McCleary seconded Mr. Hagee's comments but said this would be the last time he ever approved an age-restricted development. He said people need to find other ways to develop.

Ms. Wildman said that despite grave concerns about the implications of this age-restricted development, the applicant had done a good job with the application. She said she could not support it just because this type of development is cheaper for the developers.

In a roll call vote, motion to approve passed (4-2). AYE: McCleary, Hagee, Hunt, Billups (4); NAY: Wildman, Poole (2).