

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

August 10, 2004

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE - Amanda Fields, a 10th-grade student at Lafayette High School

D. PRESENTATION

1. Virginia Department of Transportation Drainage Program

E. HIGHWAY MATTERS

F. PUBLIC COMMENT

G. CONSENT CALENDAR

1. Minutes - July 27, 2004, Regular Meeting
2. Revisions to Chapter 7, Standards of Conduct of the James City County Personnel Policies and Procedures Manual

H. PUBLIC HEARINGS

1. Case No. AFD-1-93. Williamsburg Farms Withdrawal
2. Case No. SUP-18-04. Precious Moments Playhouse - SUP Amendment
3. Case No. SUP-19-04. Williamsburg Winery - Gabriel Archer Tavern SUP Renewal
4. Case No. SUP-20-04. AJC Woodworks, Inc., - SUP Amendment
5. Case No. ZO-02-04. Zoning Ordinance Amendment - Manufacturing of Stone in M-1 and M-2

I. BOARD CONSIDERATION

1. Appointment of County Attorney

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Consideration of Appointments of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Colonial Community Criminal Justice Board

N. ADJOURNMENT

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JULY, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District
Jay T. Harrison, Sr., Berkeley District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Emily Tobler, a sixth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that the access ramp from Route 199 East onto I-64 East will be reconstructed and therefore will be closed between the hours of 10 p.m. and 6 a.m. during the week of August 2; stated that the railroad crossing on Airport Road (Route 645) has been smoothed over; stated that the railroad crossing on Lightfoot Road (Route 646) will also be smoothed; and stated that the Route 199 Jamestown Corridor project continues to move forward.

Mr. Hicks stated that an intersection warning sign will be posted on Season's Trace (Route 1530) to warn motorists of an obscured entrance onto Winter East (Route 1537).

Mr. Hicks stated that traffic engineers are reviewing signage to direct tourist traffic from Busch Gardens to local businesses.

Mr. Hicks stated that VDOT representatives will meet with Mr. Goodson and County staff to discuss the signage on Route 199 for Anheuser-Busch brewery traffic.

Mr. Hicks stated that Plantation Road improvements in the Roberts District may need environmental review prior to any work by VDOT.

Mr. Brown thanked Mr. Hicks and VDOT staff for the quick and professional response to the flooding of Walker Drive (Route 1533).

Mr. McGlennon thanked VDOT for addressing the drainage concerns along Brookhaven Drive (Route 1430).

Mr. Bradshaw thanked VDOT for repaving the Route 199 and I-64 ramps.

Mr. Bradshaw requested VDOT maintain the gutters and curbs in the Norge area where sediment and grass clippings are impeding Stormwater drainage.

Mr. Hicks stated that two sweepers are making their rounds in the Williamsburg Residency area, which are completing the cleaning of 40 miles of bike trails and will provide the Board with a status report of the sweeper work.

Mr. McGlennon inquired how the closure of the Route 199 East access ramp onto I-64 will affect traffic.

Mr. Hicks stated that traffic will be detoured while the ramp is closed, that media releases will be provided on the anticipated roadwork, and that the ramp work will be performed primarily at night.

Mr. Goodson thanked VDOT for the highway advisory broadcasting in the County over 610 A.M. radio.

E. PUBLIC COMMENT

1. Mr. Robert Duckett, Peninsula Home Builders Association, stated opposition to the proposed Chesapeake Bay Preservation Ordinance Policy modification, stated that the modifications do not address timeframes for staff to make a decision on disputes regarding perennial streams, and stated that it does not clarify who will be held responsible for notification to buyers that a perennial stream has been classified on their property; requested additional studies be performed to determine the appropriate thresholds; and requested clarification between site-specific and on-site specific determinations of perennial streams.

2. Mr. Ed Oyer, 139 Indian Circle, commented on the recent congestion on Route 60 East and recommended the road be increased to three lanes, requested the connector to Fort Eustis Boulevard be moved up on the priority list, and suggested that a private/public initiative be developed regarding the relocation of Route 60 East; commented on the complications associated with Mr. Bob Miller's request to expand Go-Karts Plus; and commented on an article in the newspaper regarding the expansion of York County schools.

F. CONSENT CALENDAR

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

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

1. Minutes
 - a. June 22, 2004 - Work Session
 - b. July 13, 2004 - Regular Meeting
2. Installation of "Watch for Children" Sign - Elmwood Subdivision

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN - ELMWOOD SUBDIVISION

- WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and
- WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and
- WHEREAS, residents of the Elmwood community have requested that a "Watch for Children" sign be installed on Elmwood Lane as illustrated on the attached drawing titled "Elmwood Subdivision 'Watch for Children Sign'."
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

3. Appropriation of Funds - Public Access Terminals - Clerk of the Circuit Court

RESOLUTION

APPROPRIATION OF FUNDS - PUBLIC ACCESS TERMINALS -

CLERK OF THE CIRCUIT COURT

- WHEREAS, the Board of Supervisors of James City County has been requested to authorize the expenditure of \$12,500 to acquire and install public access terminals in the office of the Clerk of the Circuit Court; and
- WHEREAS, these terminals would allow the public to access both City and County real property and tax collection information to facilitate business interactions with the Clerk's Office; and
- WHEREAS, the \$12,500 would be funded from the Courthouse Maintenance account, a City/County account funded by fees from court transactions, and City Council has already approved the expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes an expenditure of no more than \$12,500 to purchase and install public access terminals at the office of the Clerk of the Circuit Court, funded from the Courthouse Maintenance Fund, and appropriates the following to the Special Projects/Grants Fund:

Revenue:

Courthouse Maintenance Fund \$12,500

Expenditure:

Public Access Terminals – Clerk \$12,500

4. Appropriation of Grant Funds - VDEM National Terrorism Preparedness Exercise

RESOLUTION

APPROPRIATION OF GRANT FUNDS -

VDEM NATIONAL TERRORISM PREPAREDNESS EXERCISE

WHEREAS, James City County applied for and received a Federal grant in the amount of \$9,000 for the purpose of reimbursing expenses related to the County government participation in a National Terrorism Preparedness Exercise during the summer of 2004; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the grant period will be from June 1, 2004, to September 1, 2004.

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

Revenue:

V024-306-2631 VDEM-DP EXERCISE \$9,000

Expenditure:

VDEM-DP EXERCISE \$9,000

5. Expenditure of Grant Funds - Decontamination Shower Units

RESOLUTION

EXPENDITURE OF GRANT FUNDS - DECONTAMINATION SHOWER UNITS

WHEREAS, James City County and the City of Williamsburg jointly applied for and received a Federal grant in the amount of \$249,988 for the purpose of equipping members of their public safety

agencies with appropriate personal protective equipment and the purchase of two decontamination shower units; and

WHEREAS, representatives of these agencies have evaluated a number of different decontamination shower units based on the objective criteria of rapid deployment, quick setup time, being able to be pulled to an emergency scene by vehicles already within our fleet, reasonable cost, and versatility; and

WHEREAS, this committee has selected a decontamination shower unit which fully meets the selection criteria and is within the available funds; and

WHEREAS, Advanced Containment Systems, Inc., is the only source practicably available to provide the trailers with the features required to meet the police and fire agencies' needs as determined by the joint committee and the cost has been determined to be reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the expenditure of Federal grant funds in the amount of \$117,000 for the purchase of two decontamination shower units.

6. Fire and Rescue Services Mutual Aid Agreement Between James City County and York County

RESOLUTION

FIRE AND LIFE SAFETY MUTUAL AID AGREEMENT BETWEEN

JAMES CITY COUNTY AND YORK COUNTY

WHEREAS, James City County and York County provide mutual aid to each other on a regular operating basis; and

WHEREAS, a Mutual Aid Agreement has existed between the two localities since 1976; and

WHEREAS, the mutual aid provides for efficient and effective use of resources for each jurisdiction; and

WHEREAS, James City County and York County have revised the existing Mutual Aid Agreement to reflect current practices and policies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a Mutual Aid Agreement with York County for provision of fire, emergency medical, and emergency management functions.

G. PUBLIC HEARINGS

1. Case Nos. Z-15-03/MP-13-03/HW-2-03. The Station at Norge (Continued from June 22, 2004)

Mr. Matthew Arcieri, Planner, stated that Ms. Lou Rowland, on behalf of Stonehouse Station. L. P., has submitted an application to rezone approximately 10.167 acres located at 7721 Croaker Road and further identified as Parcel No. (1-21) on the James City County Real Estate Tax Map No. (13-4) from B-1, General Business, to R-5, Multifamily Residential, with proffers, for the construction of a new affordable apartment

housing complex. Additionally, a height limitation waiver is requested for the proposed three-story apartments buildings that will exceed 35 feet in height.

Staff found that with the submitted proffers, the proposal will not negatively impact surrounding property.

Staff found the proposal consistent with the Land Use and Housing policies of the Comprehensive Plan and consistent with the Comprehensive Plan Land Use Map designation.

Staff also found the affordable housing will be an added benefit in meeting the needs of the County.

At its meeting on March 1, 2004, the Planning Commission recommended denial of the proposal by a vote of 6-1.

Staff continued to recommend approval of the Rezoning and Master Plan applications, the acceptance of the voluntary proffers, and approval of the height limitation waiver.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, provided an overview of the applicant's proposal and the applicant's previous projects; concurred with staff's recommendation to approve the requests; stated that the B-1 zoning designation is not consistent with the Comprehensive Plan; stated that commercial developers and brokers do not feel the site is conducive to commercial use; endeavored to dispel concerns regarding the proposal; and requested the Board's approval of the proposal.

Mr. Brown inquired about the statement that the applicant was willing to amend the proffers to extend the time period from fifteen years to fifty years for all apartments on the property to be occupied by individuals or families whose incomes do not exceed sixty percent of the area median gross income in accordance with the applicable guidelines of the VHDA for Income Tax Credit program.

Mr. Geddy stated that the applicant is voluntarily offering to comply with the tax credit requirements for a period of fifty years.

Mr. Leo Rogers, Acting County Attorney, stated that the applicant has made no formal amendment to its proffers, and that the applicant would have to make an amendment to the proffers to reflect the extended time period, which can be done verbally.

Mr. Geddy and the applicant stood and verbally agreed to change the proffers accordingly.

The Board, Mr. Geddy, and the applicant, held a brief discussion regarding the maintenance requirements under the VHDA tax credit program, the change of the projects name, and Section 8 voucher tenants.

2. Mr. Jack Fitzpatrick, 233 Plains View Road, stated opposition to the proposal, stated concern for the safety of children on the railroad tracks where trains come around a corner with little line-of-site at high speeds, stated concern that raised shoulders for sidewalks along Croaker Road are not available to the increased pedestrian traffic, and commented on the number of calls to police there have been in other existing projects owned by the applicant.

3. Mr. Tony Dion, 102 Fairmont Drive, stated opposition to the proposal, cited lack of adequate safe pedestrian trails for the increased pedestrians as a concern and that the traffic speed on Croaker Road typically exceeds 55 mph, recapped the concerns of the Planning Commission members, and indicated the management of existing properties such as this proposal by the applicant are less than exemplary.

4. Ms. Terri Hudgins, 111 Knollwood Drive, spoke as the 2004 President of the Stonehouse District Citizen Association, stated concern for the safety of the residents with railroad tracks and traffic on Croaker Road, and stated concern that Section 8 Voucher tenants would be residents of the proposed housing project.

5. Mr. Mark Hanna, 208 Plains View Road, stated opposition to public housing, stated that the location and timing of the proposed development is not right, and stated that the proposal will bring increased traffic, school busses, and would impact the student population in area schools.

6. Dr. James Stam, 104 Woodmont Place, stated that citizens in Stonehouse have voiced their concern and opposition to this proposal, stated that the proposed development would result in serious safety concerns and strains on the County's limited resources, and requested the Board deny the application.

7. Mr. Jim Kennedy, 7681 Thacher Drive, stated support for the use of commercially zoned land to remain commercially zoned, stated opposition to the proposal that offers minimal proffers, fails the adequate public schools facility test, has minimal recreation, would increase the student population, and has no proffers for water, and stated concern that affordable housing is being concentrated in the Stonehouse District, recommended the Board create a steering committee for the Stonehouse district, and recommended the Board consider the special needs on schools associated with such a proposal.

8. Mr. Trip Ferguson, Associate Director, Advantis Real Estate Services Company, stated that Richmond Road was moving through a natural progress and growth towards Norge until Route 199 was completed and recommended support of this project to attract young professionals to keep retail growing and revitalize the Norge area.

9. Mr. Ed Oyer, 139 Indian Circle, stated that Pocahontas Trail has affordable housing located there, stated opposition to rezoning and density increases, and requested the Board deny the application.

10. Ms. Linda Rice, 2394 Forge Road, stated concern regarding the impact of the proposal on Croaker Road and on pedestrians, requested the Board preserve the rural character of the Stonehouse community, and requested the Board consider other projects such as the preservation of greenspace and the Purchase of Development Rights Program.

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

The Board and staff discussed the development of affordable housing throughout the County, safety concerns of pedestrians along Croaker Road, and the development of a multiuse trail along Croaker Road.

Mr. Bradshaw made a motion to adopt the resolutions and proffers as amended.

The Board and Mr. Rogers discussed the amended proffers and County policy on consideration of amended proffers.

Mr. Harrison stated that the Board will look to the Comprehensive Plan (Plan) as a guide to the development of the County as indicated by the citizens and that Plan indicates this project fits within the Plan's designation for the area, although it is questionable if this proposal is "affordable" and the right location for the proposal; suggested better uses for the site that complies with the Plan.

Mr. Bradshaw inquired why the designation of that site was not changed in the Comprehensive Plan if that area should have been changed to mixed use.

Mr. Harrison stated that in 1991 the land was designated in the Plan and in 2003 the designation was not changed.

Mr. Brown suggested that when the land was designated commercial, it was envisioned the area would become developed and busy, stated concern that the Board tells land owners acceptable uses of property according to the Comprehensive Plan then when the applicant comes forward to use the property as designated in the Plan the Board considers denying the application, and therefore has problems with the credibility of the Plan.

Mr. McGlennon stated concern that the proposal failed the Adequate Public Facility Schools test, the proposal does encourage and enhance the quality of life, and the proposal is isolated in an area where there is a need for residents to utilize a vehicle to access services in the community.

Mr. Bradshaw stated that the Comprehensive Plan land use designation for the site should have been changed when public input was given during the review of the Plan, commented on the impact of affordable housing on a community, the Comprehensive Plan clearly determined the area to be suitable for this area and affordable housing is an acceptable use, and commented that his understanding of the Planning Commission members' decision to recommend denial of the proposal focused on the proposal's failure to pass the Adequate Public Facility Schools test, not because of the Comprehensive Plan designation.

Mr. Goodson stated that the Comprehensive Plan supports this type of designated use at this site and therefore would support the application.

On a roll call vote, the vote was: AYE: Bradshaw, Brown, Goodson (3). NAY: Harrison, McGlennon (2).

RESOLUTION

CASE NO. Z-15-03/MP-13-03. THE STATION AT NORGE

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 were notified, and a hearing was scheduled on Zoning Case No. Z-15-03/MP-13-03, with Master Plan, for rezoning 10.167 acres from B-1, General Business, to R-5, Multi-Family Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on March 1, 2004, recommended denial of Case No. Z-15-03/MP-13-03, by a vote of 6 to 1; and

WHEREAS, the properties are located at 7721 Croaker Road and further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (13-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-15-03/MP-13-03 and accept the voluntary proffers.

RESOLUTION

CASE NO. HW-2-03. THE STATION AT NORGE

WHEREAS, Lou Rowland on behalf of The Station at Norge, L.P., has applied for a height limitation waiver to allow for the construction of 104 housing units approximately 39 feet above grade; and

WHEREAS, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Case HW-2-03; and

WHEREAS, the apartment housing complex will be constructed on property currently zoned R-5, Multifamily Residential, with proffers, and is further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (13-4); and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-2-03.

Mr. Goodson recessed the Board for a brief break at 7:58 p.m.

Mr. Goodson reconvened the Board at 8:04 p.m.

2. Ordinance to Designate Hospice Support Care of Williamsburg, Inc., Tax Exempt

Mr. Richard J. Sebastian, Director of Real Estate Assessments, presented an ordinance to exempt Hospice Support Care of Williamsburg, Inc. from real and personal property taxes in the County in accordance with Subsection 6(a)(6) of Article X of Constitution of Virginia and Section 58.1-3651 of the Code of Virginia to authorize exemptions from taxation, retroactive to the date of the application - July 1, 2003.

Mr. Sebastian noted that the resolution was corrected for a typo.

The Board and staff discussed other possible exemption applications and retroactive granting of the exemption.

Mr. Goodson opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution as amended.

The Board and staff held a brief discussion on the number of tax exemption requests the County may have and the Board's policy on tax exemptions.

The Board requested tax exemptions be placed as a work session item.

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

ORDINANCE NO.

HOSPICE SUPPORT CARE OF WILLIAMSBURG, INC.,

EXEMPTION FROM COUNTY REAL AND PERSONAL PROPERTY TAXES

WHEREAS, pursuant to Subsection 6(a)(6) of Article X of Constitution of Virginia and Section 58.1-3651 of the Code of Virginia, the Board of Supervisors is authorized to exempt, by classification or designation, real and/or personal property from taxation; and

WHEREAS, following a public hearing where citizens had an opportunity to be heard, the Board of Supervisors makes the following findings concerning Hospice Support Care of Williamsburg, Inc. ("Hospice"):

1. Hospice is a tax exempt organization under Section 501 (c) of the Internal Revenue Code of 1954; and
2. Hospice does not have a license from the Virginia Alcoholic Beverage Control Board to serve or sell alcoholic beverages; and
3. No director, officer or employee of Hospice is paid an unreasonable compensation in relation to the services provided by such person to Hospice; and
4. No net earning of Hospice inures to the benefit of any individual and Hospice. Hospice receives a significant portion of its funds from donations, contributions and local, State, or Federal grants; and
5. Hospice provides charitable and benevolent services for the common good of the residents of James City County and the Williamsburg area; and
6. Hospice does not engage in propaganda, attempt to influence legislation or participate in, or intervene in, any political campaign on behalf of any candidate for public office; and
7. Hospice does not currently own any personal property. Hospice does own the real property with improvements thereon located at 4445 Powhatan Parkway, designated as Parcel No. (1-1A) on James City County Real Estate Tax Map No. (38-3), with an assessed value of \$720,100 and an assessed tax of \$6,120.85 for Fiscal Year 2005; and
8. Hospice is an equal opportunity employer and service provider. Hospice does not have any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex or national origin; and
9. Hospice provides supportive service to terminally ill persons and their caretakers and endeavors to advance the understanding of death as an inseparable dimension of life.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that Hospice Support Care of Williamsburg, Inc. shall be exempt from real and personal property taxation for all real and personal property owned by Hospice Support Care of

Williamsburg, Inc., and used by it to perform its charitable and benevolent service to the community.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia that the tax exemption granted to Hospice Support Care of Williamsburg, Inc. shall be effective as of July 1, 2003, and shall remain in effect unless terminated by the Board of Supervisors or the charitable and benevolent use of such real or personal property changes.

H. BOARD CONSIDERATIONS

1. Case Nos. SUP-11-04 & MP-3-04. Freedom Park Master Plan (Deferred from July 13, 2004)

Mr. Christopher Johnson, Senior Planner, stated that Ned Cheely has applied on behalf of the James City County Division of Parks and Recreation to amend the existing master plan for Freedom Park and amend and restate the existing special use permit conditions for the 690-acre park located at 5535, 5537, and 5981 Centerville Road, zoned A-1, General Agricultural, and LB, Limited Business, and further identified as Parcel Nos. (1-6), (1-9), and (1-10) on the James City County Real Estate Tax Map No. (31-3).

Staff found the proposed use to be consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on June 7, 2004, the Planning Commission voted 7-0 to recommend approval of the applications.

Staff stated that the amended conditions will sufficiently mitigate the impacts created by the proposed development and recommended approval of the applications.

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CASE NOS. SUP-11-04 & MASTER PLAN 3-04. FREEDOM PARK MASTER PLAN

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, public recreation facilities are a specially permitted use in the A-1, General Agricultural, zoning district; and

WHEREAS, the properties are identified as Parcel Nos. (1-6), (1-9), and (1-10) on James City County Real Estate Tax Map No. (31-3); and

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case Nos. SUP-11-04 and MP-3-04; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 7, 2004, recommended approval of Case Nos. SUP-11-04 and MP-3-04 by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Master Plan No. 3-04 and the issuance of Special Use Permit No. 17-03 as described herein with the following conditions:

1. Development of the site shall be generally in accordance with the Freedom Park Master Plan dated April 2004 with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Prior to issuance of a land disturbing permit for any portion of the site, the applicant shall provide written evidence to the County which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
3. A minimum 150-foot buffer shall be maintained along all property lines of the park site. That buffer shall remain undisturbed with the exception of breaks for roadways and pedestrian connections, utilities, walking, hiking, and biking trails, and other uses specifically approved by the Development Review Committee.
4. All road improvements recommended by a traffic study conducted by Buchart-Horn, Inc., in January 2000 shall be constructed in accordance with development plans approved by the Virginia Department of Transportation (VDOT).
5. The applicant shall submit a traffic impact study to the County within three years of the date of approval of this application, unless a study is required by VDOT prior to that date. VDOT shall have the authority to delay requiring the traffic study to be submitted beyond the three-year time period if construction of the proposed facilities at Freedom Park occurs at a slower pace than expected.
6. The applicant shall conduct a perennial stream evaluation and receive approval from the Environmental Director prior to preliminary site plan approval being granted for any of the following uses proposed for the site: Historical areas 1, 2, and 3; Active recreation area; "Hotwater Lake" as shown; and the Environmental Education Center. If perennial streams are present on the site, a 100-foot buffer will be required around them and any wetlands contiguous and connected by surface flow to the stream.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Chesapeake Bay Preservation Ordinance Policies

Mr. Darryl Cook, Environmental Director, presented Chesapeake Bay Preservation Ordinance policy documents regarding perennial flow determinations and procedures and recommended the Board adopt the policies.

The Board and staff discussed the possibility of an added appeals process involving a mediator, definition of terms used in the policies for uniform interpretation of terms, notification letters to adjacent property owners to provide notice of application submittals for perennial stream determinations, and time frames for staff to make a determination on an application.

Mr. Goodson inquired if the policies would have to go before the Chesapeake Bay Local Assistance Board for approval.

Mr. Cook stated that only the change in threshold levels would have to go before the Chesapeake Bay Local Assistance Board.

Mr. McGlennon inquired how long of a delay in staff's review of applications would result from notices to adjacent property owners of applications for perennial stream determinations.

Staff indicated that notification to adjacent property owners that an application has been made would delay the review/approval process up to three weeks.

Mr. Bradshaw inquired if a determination is binding if there is a lack of notification to adjacent property owners that a determination is going to be made.

Mr. Rogers stated that the determination of perennial streams will be used as a database and resource for property owners and County staff and would not be binding on the adjacent property owners.

Staff stated that although a property owner may have a stream determined to be perennial, and adjacent property owner has the right to have a separate determination made for the stream on his property.

The Board and staff discussed notification to adjacent property owners of perennial stream determination decision and that adjacent property owners would consist of all properties down stream from the point of determination.

The Board concurred to have the policies include language related to evaluations of streams when adjacent property owners do not permit staff on their property, time limits for staff to review and make a determination on an application, notification letters to adjacent property owners that a stream has been determined to be perennial, and language providing technical definitions and meanings to terms in the policies.

Mr. McGlennon made a motion to adopt the resolution with the amended policies as directed by the Board.

On a roll call vote, the vote was: AYE: Bradshaw, Harrison, McGlennon (3). NAY: Brown, Goodson (2).

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE POLICIES

WHEREAS, the Board of Supervisors adopted on November 25, 2003, comprehensive revisions and amendments to sections of Chapter 23, Chesapeake Bay Preservation Ordinance, of the Code of the County of James City, Virginia; and

WHEREAS, the revised Chesapeake Bay Preservation Ordinance requires a site specific evaluation be performed to determine whether water bodies with perennial flow are present either on or adjacent to the development site; and

WHEREAS, the perennial flow evaluation must be made in accordance with County and State- approved methods; and

WHEREAS, a Work Session was held on June 22, 2004, with the Board where policies were presented regarding implementation of the Ordinance with respect to perennial flow determinations and procedures.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following policy documents regarding perennial flow determinations and procedures based on information presented at the Work Session:

- A. *Chesapeake Bay Ordinance Submission Requirements for Single Family Site Plans*
- B. *Chesapeake Bay Ordinance Guidance for Determining Water Bodies with Perennial Flow*

I. PUBLIC COMMENT

1. Mr. Richard Costello, 10020 Sycamore Landing Road, stated concern that professional engineers and consultants may be held up while staff and the applicant make a determination if a stream is perennial; stated concern that without specifics outlined in the policies, citizens may find streams to be arbitrarily determined to be perennial, and requested clarification on the notification to adjacent property owners on the determination that a stream is perennial.

The Board and staff concurred that language will be included in the policies regarding notification to adjacent property owners of the determination of a stream to be perennial.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board recess briefly for the James City Service Authority Board of Directors meeting, then reconvene to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of appointments of individuals to County Boards and/or Commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter in the Office of the County Attorney, and pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter for the annual evaluation of the County Administrator.

Mr. Wanner recommended at the conclusion of the Board's meeting, that it adjourn to 5 p.m. on August 10, 2004, for a Work Session, to be followed by the Regular Meeting at 7 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that the County received a National Association of Counties (NACo) award for the County's Purchase of Development Rights Program and for the Beyond the Bell program and he accepted the awards during the NACo conference.

Mr. Goodson recessed the Board at 10:02 p.m.

Mr. Goodson reconvened the Board at 10:07 p.m.

L. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of appointments of individuals to County Boards and/or Commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter in the Office of the County Attorney, and pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter for the annual evaluation of the County Administrator.

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

Mr. Goodson adjourned the Board into Closed Session at 10:07 p.m.

Mr. Goodson reconvened the Board into Open Session at 10:48 p.m.

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

On a roll call vote, the vote was: AYE: Bradshaw, Harrison, Brown, McGlennon, Goodson (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 motions, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; Section 2.2-3711(A)(1) to consider personnel matter involving the annual performance review of the County Administrator; and Section 2.2-3711 (A)(1), to consider a personnel matter involving the Office of the County Attorney.

Mr. Harrison made a motion to appoint Matthew J. Diedzic, Jr., to the Economic Development Authority for a four-year term, term to expire on July 27, 2008; and to appoint Diane Joyner to the Social Service Advisory Board for a four-year term, term to expire on July 1, 2008.

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

Mr. McGlennon made a motion to approve a salary increase of 4 percent and the continuation of additional five percent contribution to deferred compensation for the County Administrator, effective August 1, 2004.

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

M. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 5 p.m. on August 10, 2004.

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

At 10:50 p.m. Mr. Goodson recessed the Board to 5 p.m. on August 10, 2004.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: August 10, 2004

TO: The Board of Supervisors

FROM: Carol M. Luckam, Human Resource Manager

SUBJECT: Revisions to Chapter 7, Standards of Conduct of the James City County Personnel Policies and Procedures Manual

The attached revisions to the Standards of Conduct are the result of changes by the U.S. Department of Labor to the Fair Labor Standards Act (FLSA) regulations which go into effect on August 23, 2004. The changes allow employers to dock the wages of an exempt worker in whole-day increments, without jeopardizing the worker's exempt status, for inappropriate or illegal conduct, such as, sexual harassment, violence, drug or alcohol use, or other violations of the law.

In order to come into compliance with the new FLSA regulations, Section 7.5 C.3 has been revised to include wording that permits the disciplinary suspension of exempt employees for one or more work days.

Other changes to the Chapter are of a housekeeping nature. For example, the phrase "Department Head" has been changed to "Department Manager."

Staff recommends adoption of the attached resolution.

Carol M. Luckam

CML/gs
chap7ppp.mem

Attachments

RESOLUTION

REVISIONS TO CHAPTER 7, STANDARDS OF CONDUCT OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the U.S. Department of Labor has revised the Fair Labor Standards Act (FLSA) regulations; and

WHEREAS, the revisions take effect August 23, 2004; and

WHEREAS, the Standards of Conduct policy must be revised to conform with these changes and to be easier to understand and to use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the attached revisions to the personnel policies and procedures are adopted effective August 23, 2004.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

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CHAPTER 7

Standards of Conduct

[Section 7.1 Objective](#)

[Section 7.2 Applicable Regulations](#)

[Section 7.3 Management Responsibility](#)

[Section 7.4 Coverage of Personnel](#)

[Section 7.5 Disciplinary Measures](#)

[Section 7.6 Categories of Inappropriate Conduct](#)

CHAPTER 7

STANDARDS OF CONDUCT

Section 7.1 Objective

Regulations to govern the conduct of employees are necessary for the orderly operation of the County. Such regulations are to the benefit of and protect the rights and safety of all employees.

The County recognizes its continuing responsibility to develop and administer the necessary employment regulations and disciplinary measures in a fair and consistent manner. The County requires all employees to conform with these regulations and to otherwise conduct themselves in a responsible and professional manner.

Section 7.2 Applicable Regulations

Employees shall not conduct themselves in a manner which violates the public trust, discredits the County or its employees, or hinders the effective performance of the County's governmental or proprietary functions. The regulations referred to in this chapter and the conduct listed herein are not intended to be all inclusive for inappropriate conduct. Inappropriate conduct shall be disciplined consistent with the provisions of this chapter.

Section 7.3 Management Responsibility

Department heads *managers* shall be responsible for administering timely and consistent disciplinary measures for inappropriate conduct pursuant to the procedures set forth in this chapter. If the appropriateness of specific conduct is in question, the department heads *managers* shall consult with the ~~Director of Personnel~~ *Human Resource Manager* to determine if the conduct is inappropriate and the proper disciplinary measure to be administered.

Section 7.4 Coverage of Personnel

All ~~permanent and limited term~~ County employees, *in permanent- or limited-term, exempt or non-exempt positions*, including employees of a constitutional officer who has agreed to include the employees under the County's compensation plan and personnel policies, shall be subject to the disciplinary procedures in this chapter. Temporary and probationary employees may be discharged at the will of the County Administrator, without cause or hearing.

Section 7.5 Disciplinary Measures

- A. Application - Department heads *managers* and Supervisors shall apply disciplinary measures fairly and uniformly. It is the County's policy that discipline be a progressive process and disciplinary measures of less severity than discharge be taken to correct inappropriate conduct before

proceedings for discharge are initiated. However, discharge shall be appropriate for first violations of extreme misconduct. No employee has a right or guarantee to any progressive disciplinary measure.

B. Classification of Disciplinary Measures - Disciplinary measures include:

1. Verbal reprimands.
2. Written reprimands.
3. Suspensions.
4. Reductions in grade.
5. Demotions.
6. Discharge.

C. Definition of Disciplinary Measures.

1. Verbal Reprimand: A verbal communication directed to an employee for the purpose of making a final statement regarding inappropriate conduct. Any verbal reprimand shall be documented on Discipline Form A (see Appendix B) within two days of the reprimand and forwarded to the Human Resource Manager who shall place the document in the employee's personnel file.
2. Written Reprimand: A written communication directed to an employee for the purpose of making a final statement regarding inappropriate conduct. Any written reprimand shall be documented on Discipline Form B (see Appendix B) within two days of the reprimand and forwarded to the Human Resource Manager who shall place the document in the employee's personnel file. A copy of the written reprimand shall be delivered to the employee.
3. Suspension: A temporary separation *of one or more full work days* from employment for the purpose of reprimanding an employee for inappropriate conduct. *A "work day" is defined as the number of hours the employee is authorized to work in a 24-hour period.* A suspension may be with or without pay. An initial suspension shall not exceed ten working days. A second suspension within any twelve-month period shall not exceed twenty working days. Any suspension without pay for *work* days equivalent to more than one ~~full~~ work day shall result in the loss of the accumulation of sick leave and annual leave for that pay period.

4. Reduction in Grade Salary: The adjustment of an employee's wages to a lower ~~step of the salary grade~~ in the salary range to which he is assigned on the County pay plan for the purpose of reprimanding the employee for inappropriate conduct.
5. Demotion: Demotion in this chapter shall always mean disciplinary demotion. A disciplinary demotion is the assignment of an employee to a lower classified position for the purpose of reprimanding the employee for inappropriate conduct. Demotion shall not be used as a disciplinary measure if the employee cannot qualify for the lower position, or if such demotion would require the displacement of another employee. A demotion shall be accompanied by a reduction in grade range and salary.
6. Discharge: A dismissal from employment for the purpose of reprimanding an employee for inappropriate behavior. An employee who is discharged forfeits all accumulated sick leave.

D. Procedure

1. Normal procedure.
 - a. It shall be the responsibility of the department heads manager to document any inappropriate conduct thought to justify a suspension, reduction in grade range, demotion, or dismissal on Discipline Form C (see Appendix B) and to deliver it to the Human Resource Manager.
 - b. The Human Resource Manager shall conduct an investigation within five working days and document the findings on Discipline Form C.
 - c. If the Human Resource Manager determines that a lesser disciplinary measure is appropriate, he shall direct the department heads manager to take appropriate action.
 - d. If the Human Resource Manager determines that the disciplinary measure is warranted, he shall notify the employee of the proposed disciplinary measure in writing to avail him an opportunity to respond to the proposed disciplinary measure.
 - e. A hearing shall be requested in writing by an employee within two ~~working~~ days after receipt of such written notice or the right to a hearing shall be waived.

- f.* The Human Resource Manager shall meet with the employee within two working days after receipt of a timely written request for a hearing.
- g.* If the Human Resource Manager maintains that the disciplinary measure is warranted, he shall complete Discipline Form C to document his recommendation and deliver it to the County Administrator within two working days.
- h.* The County Administrator shall review Discipline Form C, and any other information he deems relevant, and impose the appropriate disciplinary measure within two working days of the receipt of Discipline Form C.
- i.* A written notice of the disciplinary measure shall be delivered to the employee.
- j.* The Human Resource Manager shall place a copy of the notice in the employee's personnel file.

2. Immediate Suspensions:

- a.* If a department ~~head~~ *manager* determines that an employee's inappropriate behavior poses an immediate threat to the safety or discipline of other employees, he shall immediately suspend such an employee.
- b.* No such suspension shall be imposed by a department ~~head~~ *manager* for more than three working days. If such action is taken, the department ~~head~~ *manager* shall on that day prepare Discipline Form C (see Appendix B) and deliver it to the Human Resource Manager. If the conduct occurs after official work hours, it shall be delivered the next official work day.
- c.* If the Human Resource Manager concurs in the action taken, he shall process the disciplinary measure in the same manner as provided above.
- d.* If the Human Resource Manager determines an immediate suspension is not warranted, he shall notify the employee in writing to return to work subject to the decision of the County Administrator as to the appropriate disciplinary measure.

e. If the Human Resource Manager determines it is necessary to extend an employee's immediate suspension pending the County Administrator's action, he shall notify the employee in writing of such extension.

f. No such suspension shall exceed ten working days.

3. Written Notices:

a. All disciplinary notices to an employee shall be hand-delivered to such an employee or delivered by certified mail to the employee's last known address as reflected in the records of the Human Resource Department.

b. It shall be the responsibility of all employees to notify the Human Resource Department promptly of any address change and the return receipt or the return of the notice letter shall satisfy any requirement of notification to the employee.

4. Employee Request.

a. All written requests by an employee for a hearing, as provided in this Chapter, shall be hand-delivered to the Human Resource Department or the department head *manager*.

b. All written requests delivered to a department head *manager* shall that day be delivered to the Human Resource Department.

5. Department Head *Manager* Absent. Whenever it is provided that any action is to be taken by a department head *manager*, and the department head *manager* is absent, such action shall be taken by the person exercising the department head's *manager's* authority during that period of absence.

6. County Administrator Absent. Whenever the County Administrator is absent, unless he otherwise designates, the Assistant County Administrator shall take any disciplinary measure required of the County Administrator in this Chapter.

7. Human Resource Manager Absent. Whenever it is provided that any action is to be taken by the Human Resource Manager, and the Human Resource Manager is absent, such action shall be taken by

the person exercising the Human Resource Manager's authority during that period of absence.

8. Discipline of Human Resource Department Employee. Whenever any disciplinary measure is initiated toward an employee of the Human Resource Department, the Assistant County Administrator shall exercise the duties of the Human Resource Manager in regard to that disciplinary measure.

E. Pending Criminal Charges.

1. Normal procedure.

- a. An employee shall report to the Human Resource Manager if he is charged with a felony or other criminal offense within one work day of the offense.

- b. If an employee is charged with a felony or other criminal offense of such nature that the employee's continued performance of County duties:

- (a) ~~p~~Poses an immediate threat to the discipline or effective performance of other employees, or
- (b) ~~h~~HAs an immediate adverse effect on the reputation of the County, or
- (c) ~~i~~mpairs the effective performance of any County function,

the Human Resource Manager shall investigate such matter, document the information on Discipline Form D (see Appendix B), and deliver it to the County Administrator within two working days.

- c. If the County Administrator determines a suspension is warranted, he shall notify the employee in writing of the proposed suspension and avail him ~~of~~ an opportunity to respond to the proposed action at a hearing.

- d. The hearing shall be requested in writing by the employee within two ~~work~~ days after receipt of such written notice or the right to a hearing shall be deemed waived.

e. The County Administrator shall meet with the employee within two working days after receiving the written request for a hearing.

f. The County Administrator may suspend such employee for all or any part of the time criminal proceedings are pending.

2. Immediate suspension. With the consent of the County Administrator, the Human Resource Manager may order an immediate suspension, when appropriate, pending his investigation and the determination of the County Administrator.

Section 7.6 Categories of Inappropriate Conduct

Typical inappropriate conduct has been listed in three categories to assist in administering disciplinary measures in a fair and consistent manner. Each category of conduct has a suggested corresponding measure. However, mitigating or aggravating circumstances may require a different disciplinary measure than suggested. Each disciplinary measure shall take into consideration the circumstances surrounding the misconduct, the employee's work history, and the impact of the misconduct on the effective operation of the County.

Category 1 Conduct

Category 1 includes inappropriate conduct, which in the initial instance is not severe in nature, but which requires corrective action to maintain a proper work environment. Category 1 offenses include, but are not limited to:

- A. Poor housekeeping which creates or contributes to inefficient, unsanitary, or unsafe work conditions.
- B. Careless workmanship which evidences unsatisfactory job performance.
- C. Careless or negligent maintenance, handling, or use of County property.
- D. Excessive absences or tardiness.
- E. Unjustified absence from the work station or department without a supervisor's permission.
- F. Stopping work before the specified end of a working day or starting work after the specified beginning of the work day.
- G. Horseplay, pranks, or non-work related activity during working hours.

- H. Posting or removal of notices, signs, or other writing in any form on any non-employee bulletin boards on County property without permission of the department head manager.
- I. Unauthorized solicitation of employees or others during working hours on County property.
- J. Unauthorized distribution of literature or any other material during working hours or on County property.
- K. Abusive or obscene language.
- L. Conviction of a traffic moving violation while operating a County vehicle.

Appropriate disciplinary measure for Category 1 Conduct occurring in any 12 month period:

First offense - verbal warning

Second offense - written warning

Third offense - suspension, reduction in grade, and/or demotion

Fourth offense - discharge

Category 2 Conduct

Category 2 Conduct includes inappropriate conduct severely disruptive to the proper operation of the County. Category 2 offenses include, but are not limited to:

- A. Refusal to follow a supervisor's instructions or perform assigned work.
- B. Violation of safety rules.
- C. Testing positive for alcohol at a level between .02 and .039.
- D. Failure to report to work without proper notice to supervisor.
- E. Unauthorized use of County vehicles or equipment or unauthorized removal of such from an employee's work station.
- F. Use of sick leave for any purposes other than as outlined in Section 5.4.E.2.a.

- G. Threatening, or interfering with the work of fellow employees or supervisors.
- H. Acceptance of gifts or gratuities from any person, company, or corporation, or any other act that constitutes a conflict of interest as defined in the Comprehensive Conflict of Interest Act, Code of Virginia, 1950, as amended.
- I. Failure to report known work-related illegal activity of any employee.
- J. Unauthorized non-County employment or activity which interferes with the performance of an employee's assigned duties and responsibilities.
- K. Fighting on County property or during the working day.
- L. Failure of a public safety employee designated in Section 2.9.1.B. to refrain from the use of tobacco products on or off duty.

Appropriate disciplinary measure for Category 2 conduct occurring in any 12 month period:

First offense - suspension, reduction in grade, and/or demotion

Second offense - discharge

Category 3 Conduct

Category 3 Conduct includes inappropriate conduct unacceptable to the proper operation of the County. Category 3 offenses include, but are not limited to:

- A. Use of alcohol or unlawful use or possession of controlled substances on County property during working hours.
- B. Testing positive for alcohol at a level of .04 or greater, or testing positive for drugs as defined in the County's Substance Abuse Policy, Chapter ~~2~~³, Section 2-12.
- C. Testing between .02 and .039 on an alcohol return-to-duty test, or on any subsequent alcohol follow-up testing.
- D. Failure to report to work without proper notice to supervision for three consecutive work days.

- E. Falsification of County records, including, but not limited to vouchers, time records, leave records, insurance claims, or the application for employment.
- F. Three or more garnishments involving more than one indebtedness during any 12 month period.
- G. Gambling on County property or during working hours.
- H. Theft or unauthorized removal of County property or employee property.
- I. Unauthorized possession of firearms or other weapons on County property or during working hours.
- J. Participation in any kind of work slowdown, sit down, or similar concerted interference with County operations.
- K. Unauthorized use of County documents, records, or confidential information.
- L. Job-related lying, stealing, or cheating.
- M. Any criminal conviction for an act occurring on or off the job which is related to job performance, or is of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the County's duties to the public or other employees, or which adversely affects the reputation of the County, or is conduct unbecoming of an employee.
- N. Failure to report to the Director of Human Resource being charged with a felony or other criminal offense within one work day of the offense.

The appropriate disciplinary measure for any Category 3 Conduct is discharge.

APPENDIX B

DISCIPLINARY FORMS

- A. Verbal Reprimand**
- B. Written Reprimand**
- C. Disciplinary Action**
- D. Pending Criminal Charges**

DISCIPLINARY FORM A
VERBAL REPRIMAND

Employee Name _____

Position Title _____

Department _____

Immediate Supervisor Name _____

Date Violation of Standard of Conduct Occurred _____

Description of Violation: _____

Date Discussed with Employee: _____

Signature of Supervisor _____ Date _____

Reviewed by Human Resource Manager

Signature _____ Date _____

DISCIPLINARY FORM B
WRITTEN REPRIMAND

Employee Name _____

Position Title _____

Department _____

Immediate Supervisor Name _____

Date Violation of Standard of Conduct Occurred _____

Description of Violation: _____

Date Discussed with Employee: _____

Signature of Supervisor _____ Date _____

Employee Statement: (Please Check One)

_____ I agree with my Supervisor's statement

_____ I disagree with my Supervisor's statement for the reason(s) given below: _____

Employee Signature _____ Date _____

Reviewed by Human Resource Manager

Signature _____ Date _____

Disciplinary Measure Recommended by Human Resource Manager: _____

Date Employee Notified of Right to Hearing _____

Hearing Waived _____

Date of Hearing _____

_____ Recommendation of Disciplinary Measure Stands

_____ Recommendation Changed to _____ for the following reason(s): _____

Signature of Human Resource Manager _____ Date _____

Date Reviewed by County Administrator _____

Disciplinary Measure to be Taken: _____

Signature of County Administrator _____ Date _____

DISCIPLINARY FORM D

Name of Employee _____

Position Title _____

Department _____

Offense Charged _____

Date of Offense _____

Place of Offense _____

Status of Case _____

Recommendation of Immediate Suspension Yes _____ No _____

Approved by County Administrator Yes _____ No _____ N/A _____

Findings of Investigation by the Human Resource Manager: _____

Recommendation of Human Resource Manager: _____

Signature of Human Resource Manager _____ Date _____

Proposed Action by County Administrator: _____

Comments: _____

Signature of County Administrator _____ Date _____

Date of Hearing _____

Hearing Waived _____

Action Taken by County Administrator: _____

Signature of County Administrator _____ Date _____

AppendixB_discforms.doc

AGRICULTURAL AND FORESTAL DISTRICT 1-93. Williamsburg Farms Withdrawal Staff Report for the August 10, 2004, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Building F Board Room; County Government Center
Planning Commission: July 12, 2004, 7:00 p.m.
Board of Supervisors: August 10, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III
Landowner: Patrick Duffeler
Proposed Use: Withdrawal of 75 acres from the Williamsburg Farm AFD. Approximately 5.3 acres will be combined with land not in the AFD to create four single-family lots. The remaining property will remain as open space.
Location: 5800 Wessex Hundred Road, Roberts District
Tax Map and Parcel Nos.: (48-4)(1-10B); (48-4)(1-10); (48-4)(1-12)
Primary Service Area: Inside
Parcel Size: 347.08 acres
Existing Zoning: R-8, Rural Residential
Comprehensive Plan: Low-Density Residential

STAFF RECOMMENDATION:

Staff finds the proposed withdrawal consistent with the surrounding zoning and development, and consistent with the Comprehensive Plan. Should this withdrawal be approved, the size of the Williamsburg Farms AFD would be 219.3 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. Staff also finds that the proposal satisfies all three criteria for withdrawals and recommends approval. On July 6, 2004, the AFD Committee recommended approval of the 75-acre withdrawal by a 7-0 vote.

Staff Contact: Matthew D. Arcieri, Planner Phone: 253-6685

Planning Commission Recommendation

On July 12, 2004, the Planning Commission recommended approval case by a vote of 6-0.

HISTORY

The Williamsburg Farms Agricultural and Forestal District was created in 1994 for a term of four years and consisted of two parcels totaling 311 acres. At the time of creation, 10 acres, which included the Gabriel Archer Tavern and a proposed inn, were excluded from the district. During the review of the district for renewal in 1997, a five-acre, unsubdivided tract on the eastern side of the District at the end of Conservancy Road was withdrawn leaving the AFD with approximately 306 acres. In 1999, the Board of Supervisors approved the withdrawal of an additional 4.5 acres at the end of Conservancy Road, leaving the AFD with approximately 301.5 acres. During the review of the district for renewal in 2002, an additional 7.2 acres was withdrawn along Jockey's Neck Trail, leaving the district with approximately 294.3 acres.

Mr. Vernon Geddy, III, has applied on behalf of the Williamsburg Winery, Ltd., to withdraw approximately 75 acres from the Williamsburg Farms AFD. Approximately 5.3 acres is intended to be combined with the 10 acres not in the AFD to create four single-family lots totaling approximately 12.5 acres. The remaining property will remain as open space and is actively cultivated as part of winery operations. The property intended for residential use is currently not used for agricultural purposes. The property is zoned R-8, Rural Residential, which permits minimum lot sizes of three acres; therefore, the subdivision is permitted by-right.

PUBLIC IMPACTS

Surrounding Zoning and Development

A majority of the property to be withdrawn is surrounded by other property in the Williamsburg Farms Agricultural and Forestal District, which is zoned R-8, Rural Residential, and is undeveloped or used in support of operations at the Williamsburg Winery. The property is bounded on the east by the Vineyards at Jockey's Neck subdivision, which is zoned R-1, Limited Residential, and designated Low-Density Residential on the Comprehensive Plan.

Utilities

The entire Williamsburg Farms AFD lies within the Primary Service Area (PSA) and is served by public water and sewer. The new single-family lots would be required to connect to public water and sewer.

Transportation and Access

The property to be withdrawn is accessed from Jockey's Neck Trail in the Vineyards subdivision.

COMPREHENSIVE PLAN

The withdrawal area is designated as Low-Density Residential on the 2003 Comprehensive Plan. 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, and the degree to which the development is consistent with the Comprehensive Plan.

ANALYSIS

On September 24, 1996, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels that are within the PSA. That policy and criteria are as follows:

FOR AGRICULTURAL AND FORESTAL DISTRICTS WITHIN THE PRIMARY SERVICE AREA, the Board of Supervisors will use the minimum standards listed below. These standards are different standards from the standards applied to those districts located outside the PSA. They are in recognition that lands within the PSA are intended for urban development at some point in the future and, therefore, are not expected to remain in agricultural and forestal use in the long term. Lands outside the PSA are intended to remain rural and the preferred use for rural lands is agricultural and forestal use.

1. Withdrawals will be approved no more than once per year, per AFD, per landowner. This means that an owner of multiple parcels within an AFD will be allowed only one withdrawal per year in the AFD.
2. The minimum acreage for withdrawals shall be 75 acres, either as a single parcel or in combination with more than one parcel. Individual landowners who own less than 75 acres must withdraw all of their parcel from the district. Parcels withdrawn as part of any one request need not be contiguous.
3. The new land use shall be in conformance with the Comprehensive Plan. A formal application to convert the use of the property shall accompany any request for withdrawal, such as an application for rezoning, special use permit, or any development plans. The application shall include a conceptual plan acceptable to the Director of Planning. The application for withdrawal and the application to convert the use of the property shall be submitted together and processed as a single development request.

The Board shall weigh each of the above criteria in its deliberation but may also use whatever criteria it deems appropriate for the individual case.

Each of these criteria has been evaluated by staff as follows:

Criteria 1: One Withdrawal per year

The applicant has not requested a withdrawal within the past year and has stated he will not seek another withdrawal this year. **The application meets this criteria.**

Criteria 2: Minimum Acreage

The applicant proposes withdrawing 75 acres in accordance with the Board policy. **The application meets this criteria.**

The withdrawal policy for agricultural and forestal districts inside the PSA was created by the Board of Supervisors with the understanding that eventually, in accordance with the Comprehensive Plan, all land inside the PSA is to be developed. Therefore, the minimum acreage requirement was created to prevent property from being held in an AFD for the tax benefit purposes, and withdrawing small pieces of property as opportunities to develop are presented. Staff also notes that although 75 acres are proposed to be withdrawn from the Williamsburg Farms AFD, a majority of this property will remain actively cultivated and will still qualify for an agricultural land use assessment—the tax burden on the Winery will not increase.

Criteria 3: Conformance with the Comprehensive Plan and acceptability of the development plan to the Director of Planning

As mentioned previously, the applicant has submitted a conceptual subdivision to create four lots, which meets zoning ordinance requirements for minimum acreage and road frontage. The District is designated as Low-Density Residential on the Comprehensive Plan. 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 and the degree to which the development is consistent with the Comprehensive Plan. **The application meets this criteria.**

Specifically, the applicant will continue to develop only four lots and leave the remainder of the property as cultivated open space. In addition, the Master Plan for the Vineyards, which includes the Winery, shows the area to be withdrawn as a mixture of vineyards and open space. Although 12 acres will become residential lots, the proposal is still substantially in accordance with the Master Plan as a majority of the property remains open space.

RECOMMENDATION:

Staff finds the proposed withdrawal consistent with the surrounding zoning and development, and consistent with the Comprehensive Plan. Should this withdrawal be approved, the size of the Williamsburg Farms AFD would be 219.3 acres and will still meet minimum acreage requirements for Agricultural and Forestal Districts. Staff also finds that the proposal satisfies all three criteria for withdrawals and recommends approval. On July 6, 2004, the AFD Committee recommended approval of the 75-acre withdrawal by a 7-0 vote. On July 12, 2004, the Planning Commission recommended approval of the case by a vote of 6-0.

Matthew D. Arcieri

CONCUR:

O. Marvin Sowers, Jr.

MDA/gs
afd-1-93.wpd

ATTACHMENTS:

1. Unapproved Planning Commission Minutes
2. Location map of 5.3 acres to be developed as single-family homes
3. Location of proposed 75-acre withdrawal
4. Minutes of the June 28, 2004, AFD Advisory Committee Meeting
5. Minutes of the July 5, 2004, AFD Advisory Committee Meeting
6. Resolution

UNAPPROVED MINUTES TO THE JULY 12, 2004 PLANNING COMMISSION MEETING

AFD-1-093 Williamsburg Farms Withdrawal

Mr. Arcieri delivered the staff report. Mr. Vernon Geddy III has applied to withdraw approximately six acres from the existing Williamsburg Farms AFD. This acreage will be combined with existing property not in an AFD to create four single family lots on Jockey's Neck Trail. The property is at **5800 Wessex Hundred** and can be further identified as Parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval.

Mr. Vernon Geddy III, the applicant, made himself available for questions and noted that Mr. Duffeler himself was a member of an adjacent subdivision.

Mr. Poole asked for background information into the withdrawal.

Mr. Geddy responded that the acreage number was changed as to avoid a policy debate and that a minimum withdrawal of 75 acres would open the area to development questions that were not intended.

Mr. Kale asked if rollback taxes would be paid on the withdrawal.

Mr. Geddy responded that they would be paid.

Mr. Poole opened the public hearing.

Ms. Susan Miller of the Vineyards Homeowners Board (VHB) related an earlier proposal presented to the VHB where Mr. Duffeler proposed splitting two lots rather than the current proposal of four lots. She stated that the VHB would like to see a study of environmental setbacks and easements included in the application.

Mr. Geddy stated that he was aware of the issues existing with the vineyards but that they were largely unconnected to the AFD withdrawal itself.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mr. McCleary asked if the lots were developed and if the next step in the process would be a rezoning?

Mr. Arcieri responded that the next step would be an administrative subdivision but that the DRC would hear the case if adjacent property owners had any concerns.

Mr. Fraley stated that the public was welcome to attend and comment on cases at DRC meetings.

Mr. Kale requested clarification into the eventual lot breakdown, whether the applicant was considering four or seven lots.

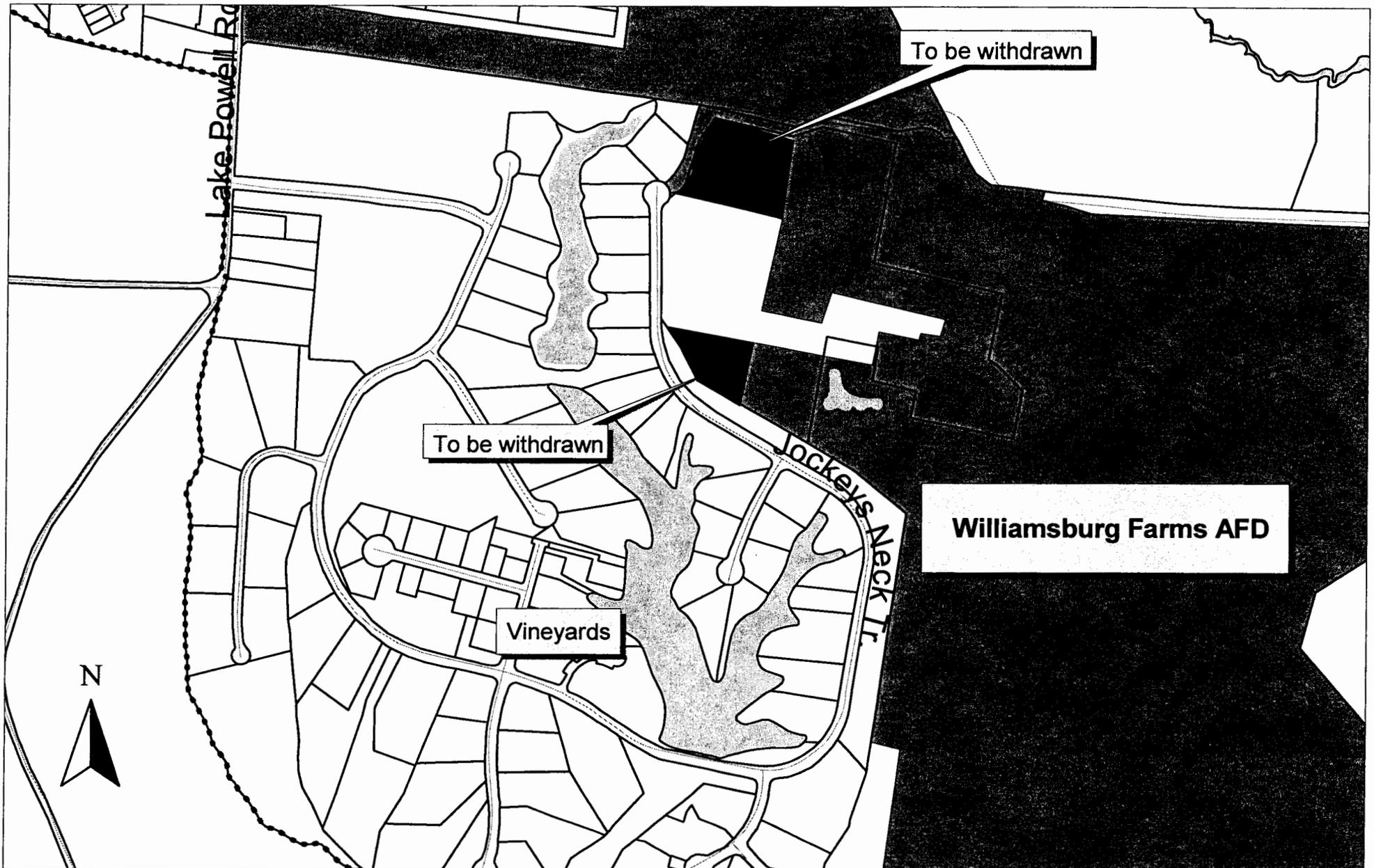
Mr. Geddy replied that the area consisted of four anticipated lots.

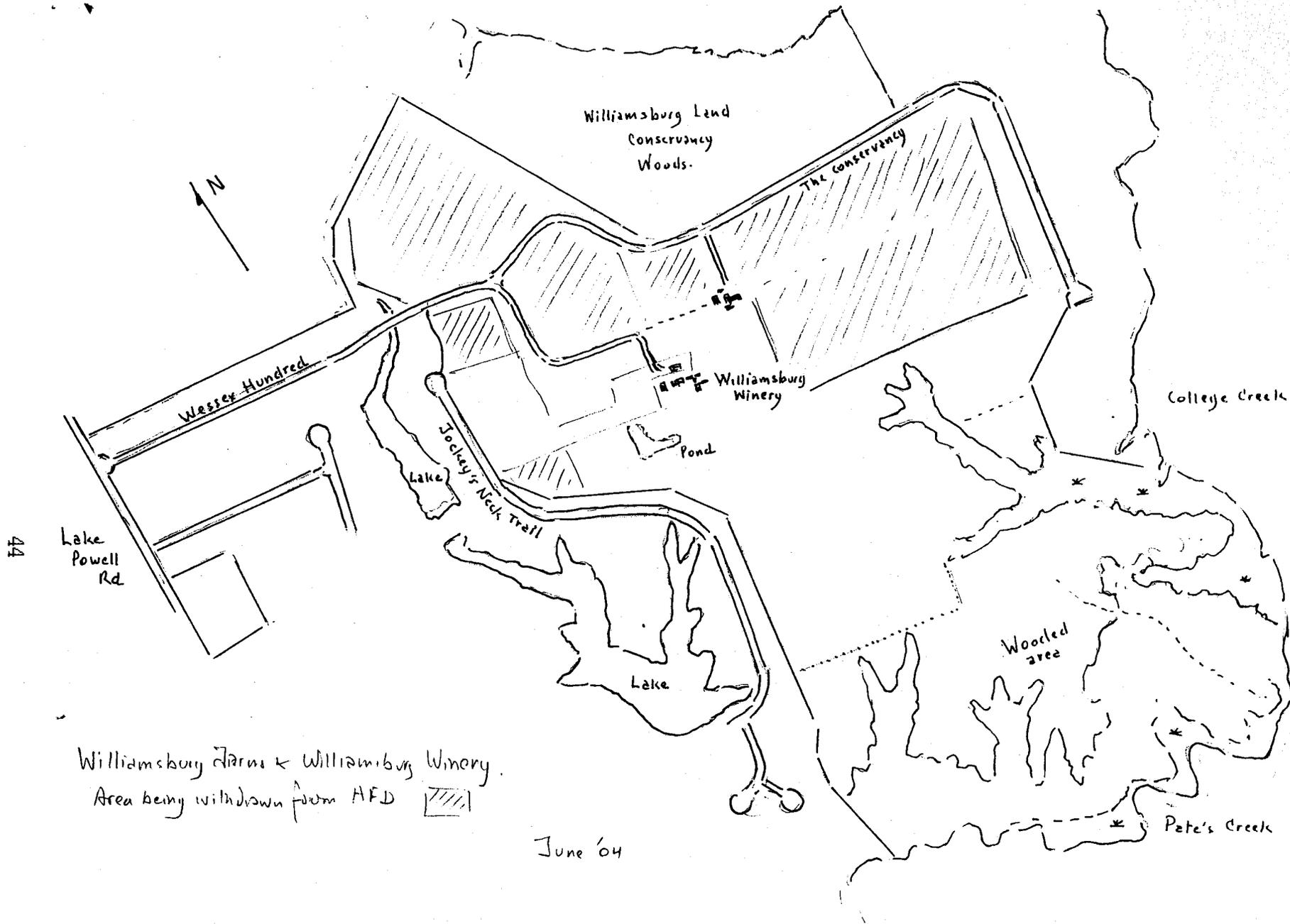
Mr. McCleary moved to approve.

Ms. Wildman seconded the motion.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). ABSENT: Billups.

AFD-1-93. Williamsburg Farms Withdrawal (5.3 acres to be developed as single family homes)





AT A MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF JUNE, TWO THOUSAND FOUR, AT 4:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. A. Bradshaw
Mr. R. Bradshaw
Mr. Ford
Ms. Garrett
Mr. Gilley
Mr. Hunt
Mr. Meadows
Mr. Richardson
Ms. Smith

Members Excused

Ms. Lowe

Also Present

Mr. Matthew Arcieri

2. Minutes

Minutes from June 9, 2004 were approved on a motion by Mr. Jack Hunt.

3. Old Business

No old business was discussed.

4. Case Discussion

AFD-1-94. Williamsburg Farms Withdrawal

Mr. Arcieri presented the staff report and recommended that the AFD Advisory Committee recommend denial of the proposed withdrawal of 6 acres. Staff's reason for this recommendation was that the proposal was not consistent with the Board of Supervisors Policy for withdrawals inside the PSA which states that a minimum of 75 acres must be withdrawn. Ms. Garret stated her concerns with property owners holding property inside the PSA in an AFD for tax breaks. Mr. Ford noted that the applicant would have to pay five years rollback in taxes plus penalty in interest. Mr. Patrick Duffler of the Williamsburg Winery provided the Committee with a brief overview of current operations and noted that the withdrawal was to be turned into four single family lots, the sale of which will help pay down the Winery's debt. He stated that it was not his intention to disrupt the Board's withdrawal policy. Mr. Ford noted that taking out 75 acres only to add back in 68 created extra work and since the proposal satisfied two criteria he supported it. Ms. Smith stated she felt the Committee should honor the Board's policy and she was concerned about the precedent it would set to allow the smaller withdrawal. Mr. Meadows concurred with Ms. Smith. Mr. Richard Bradshaw noted that under state law land could not be added back into the district for a period of 12 months at which time the district would be close to its January 2006 renewal. He also noted he felt the Committee should uphold the Board's policy. Mr. Vernon Geddy noted that the applicant had looked at withdrawal in January 2006 but needed the money this year to pay down debt. Following a motion to approve by Mr. Gilley the Committee recommended against approval of the proposed subdivision, by a

vote of 6-3. Mr. Geddy offered to withdraw 75 acres to be consistent with the Board of Supervisors policy. Mr. Richard Bradshaw noted that the applicant's taxes on withdrawing the additional land would not be affected provided the land withdrawn was actively cultivated. Mr. Andy Bradshaw and Mr. Ford asked that the Committee first see a plat of the proposed 75 acre withdrawal prior to voting for approval. Mr. Ford noted that it appeared the Committee would support the 75 acre withdrawal. There being no further discussion the Committee agreed to meet on Tuesday, July 6, 2004 at 4 p.m. to consider the amended proposal.

5. New Business

No old business was discussed.

6. Adjournment

Mr. Gilley adjourned the meeting at 4:43 P.M.

Robert E. Gilley, Chairman

Matthew Arcieri, Planner

AT A MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 6TH DAY OF JULY, TWO THOUSAND FOUR, AT 4:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. A. Bradshaw
Mr. R. Bradshaw
Mr. Ford
Ms. Garrett
Mr. Meadows
Mr. Richardson
Ms. Smith

Members Excused

Mr. Gilley
Mr. Hunt
Ms. Lowe

Also Present

Mr. Matthew Arcieri

2. Minutes

Minutes from June 28, 2004 were approved on a motion by Mr. Andy Bradshaw.

3. Old Business

No old business was discussed.

4. Case Discussion

AFD-1-94. Williamsburg Farms Withdrawal

Mr. Ford asked if any members had questions on the proposal by the Williamsburg Winery to withdraw 75 acres. Mr. Andy Bradshaw confirmed that the Director of Planning found the new proposal to be a viable development proposal. Mr. Arcieri confirmed this and noted that the proposal was also substantially consistent with the master plan for the Vineyards subdivision and Winery. Ms. Garrett noted she had discussed tax issue with Mr. Richard Bradshaw. Mr. Richard Bradshaw confirmed that the applicant will only pay rollback on the portions of the property to be used as single family lots. The portions of withdrawn property still in agricultural uses will not see a tax change. There being no further discussion, and following a motion by Mr. Richard Bradshaw and a second by Ms. Garrett, the Committee recommended approval of the proposed withdrawal, by a vote of 7-0.

5. New Business

No old business was discussed.

6. Adjournment

Mr. Ford adjourned the meeting at 4:14 P.M.

L. Carlyle Ford, Acting Chairman

Matthew Arcieri, Planner

ORDINANCE NO. _____

WILLIAMSBURG FARMS WITHDRAWAL

AGRICULTURAL AND FORESTAL DISTRICT (AFD-1-93)

WHEREAS, a request to withdraw 75 acres owned by Williamsburg Farms, Inc., and The Williamsburg Winery, Ltd., from AFD-1-93, generally identified as “Williamsburg Farms and Williamsburg Winery Area Being Withdrawn from AFD” prepared by Patrick Duffeler, dated June 2004, and further identified as a part of Parcels Nos. (1-10), (1-10B) and (1-12) on James City County Real Estate Tax Map No. (48-4) from the 294.3-acre Williamsburg Farms Agricultural and Forestal District has been filed with the James City County Board of Supervisors; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its June 6, 2004, meeting unanimously voted 7-0 to recommend approval of the 75-acre Williamsburg Farms withdrawal; and

WHEREAS, according to Section 15.2-4314, Code of Virginia, a Public Hearing was advertised and held by the Planning Commission at its July 12, 2004, meeting, and voted 7-0 to recommend approval of the Williamsburg Farms withdrawal; and

WHEREAS, according to Section 15.2-4214, Code of Virginia, a Public Hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and

WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board of Supervisors’ Withdrawal Policy for Agricultural and Forestal District Parcels Within the Primary Service Area, dated September 24, 1996.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby removes that 75 acres owned by Williamsburg Farms, Inc., and The Williamsburg Winery, Ltd., as referenced herein from the 294.3-acre Williamsburg Farms Agricultural and Forestal District.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

**SPECIAL USE PERMIT 18-04. Precious Moments Playhouse, Inc. - SUP Amendment
Staff Report for August 10, 2004, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Center

July 12, 2004, 7:00 p.m.
August 10, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant:

Ms. Evangelina Crump, Child Care Center Administrator
Precious Moments Playhouse, Inc.

Land Owner:

Evangelina and Timothy Crump

Proposed Use:

Amend the existing special use permit (SUP) conditions to increase the number of allowable children enrolled in the child day-care from 15 to 30; and extend operating hours from 7 a.m. to 6 p.m. from the current hours of 7 a.m. to 5 p.m.

Location:

103 Indigo Terrace, Jamestown District

Tax Map/Parcel No.:

(38-4)(2-02)

Parcel Size:

.51 acres

Zoning:

R-2, General Residential

Comprehensive Plan:

Low-Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff recommends the Board of Supervisors approve this SUP application with the conditions listed in the staff report replacing the existing conditions of SUP-4-80.

Staff Contact:

Karen Drake, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On July 12, 2004, the Planning Commission voted 6-0 to recommend approval of this SUP.

Proposal Changes Made after Planning Commission Consideration

None.

PROJECT DESCRIPTION AND PROPOSED OPERATION

Ms. Crump has applied to amend the existing SUP to expand the number of allowable children enrolled at Precious Moments Playhouse, Inc., from 15 to 30 and to extend operating hours from 7 a.m. to 6 p.m. from the existing operating hours of 7 a.m. to 5 p.m. Precious Moments Playhouse, Inc., is located at 103 Indigo Terrace and is zoned R-2, General Residential. A SUP is required for a child day-care center on R-2 zoned property.

The James City County Board of Supervisors granted the original SUP-4-80 on September 6, 1980, that permitted the conversion of a portion of the existing house into a child day-care facility contingent on securing the necessary permits and building upgrades. A child day-care facility has operated continuously on the property since 1980 under different ownerships.

Ms. Crump purchased the property in March 2003 and began operating Precious Moments Playhouse, Inc., in July 2003. A relative of Ms. Crump currently lives in the front section of the house at 103 Indigo Terrace, which is accessed by a separate entrance, while the Playhouse occupies the remaining square footage as seen in the attached photographs. Precious Moments Playhouse, Inc., is regulated by the Virginia State Health Department for the kitchen facilities that are used for preparation of snacks only. There is existing playground equipment in the fenced backyard.

Currently, Precious Moments Playhouse, Inc., is licensed by the Virginia Department of Social Services for 15 children, ages 3 to 12 years with no more than five of those children in care under the age of 2½. A letter is attached from the Department of Social Services verifying that the existing child day-care facility where Precious Moments Playhouse, Inc., is located has been licensed in the past with various capacities of children under care, including more than 30 children. While a building expansion is not proposed, Ms. Crump must apply with James City County Code Compliance for a new certificate of occupancy for 30 children. The new certificate of occupancy would then be forwarded to the Department of Social Services. At this writing, Ms. Crump has submitted her request for a new certificate of occupancy to Code Compliance for review.

Ms. Crump wishes to expand the number of children to help maximize the student-teacher ratios and accommodate children currently on the waiting list. Ms. Crump proposes to use five child care slots to increase preschool enrollment, five child care slots to serve school-aged siblings of children already enrolled, and the remaining five slots to accommodate emergency drop-in and respite care services to families and local community service agency referrals. Ms. Crump wishes to extend operating hours to 6 p.m. so that if a parent is late picking up a child after work she will remain in compliance with the proposed SUP conditions.

There are currently four full-time employees and one part-time employee working at Precious Moments Playhouse, Inc., and this number of employees is not proposed to change. Adjacent neighbors support Ms. Crump's application as documented in the attached letter of support.

PUBLIC IMPACTS

Environmental Impacts: The Environmental Division has no comments.

Public Utilities: The site is served by public water and sewer.

Traffic: The traffic impact study requirement for this application was waived. The Virginia Department of Transportation (VDOT) commented that as proposed, the SUP should not have an adverse effect on current or future VDOT right-of-way. Staff concurs with VDOT and notes that due to schedules, children will be picked up or dropped off at varying times. Ms. Crump notes that schedules vary and that several children arrive together in carpools or with siblings.

COMPREHENSIVE PLAN

- ◆ Land Use Map Designation: Low-Density Residential.
 - **Staff Comments:** While child care establishments are not normally consistent with low-density residential development, staff acknowledges that a child day-care center has operated since 1980 at this site, which is relatively close to an arterial road.

CONCLUSIONS & CONDITIONS

On June 22, 2001, the Planning Commission recommended a policy on child day-care centers within neighborhoods. The policy states that if there are significant impacts on a neighborhood as a result of a child day-care center, staff shall recommend denial of any child day-care center. To staff's knowledge, no problems have arisen as a result of Precious Moments Playhouse, Inc., location within the Indigo Terrace subdivision. Also, State and County agencies do not oppose the SUP application. Staff notes that if this application is approved, this SUP with the new conditions would become more conforming to current standards and policies. Of note is Condition No. 3, which places a time limit on the permit in order to allow any future issues to be addressed if necessary. Staff, therefore, recommends the Board of Supervisors approve this special use permit application with the conditions included in the attached resolution that would replace the existing conditions of SUP-4-80.

Karen Drake

CONCUR:

O. Marvin Sowers, Jr.

KD/gs
sup-18-04amend

ATTACHMENTS:

1. Planning Commission Minutes (Unapproved)
2. Location Map
3. Photographs of Precious Moments Playhouse, Inc., June 2004
4. Letter from the Department of Social Services
5. Letter of support from neighbors
6. James City County Planning Commission's Policy Committee: Child Day-Care Centers located in the Interior of Residential Neighborhoods, June 22, 2001
7. Resolution

UNAPPROVED MINUTES TO THE JULY 12, 2004 PLANNING COMMISSION MEETING

CASE NO. SUP-20-04 Precious Moments Playhouse

Ms. Karen Drake presented the staff report. Ms. Evangelina Crump has applied to amend the existing Special Use Permit for Precious Moments Playhouse to increase the number of allowable children in the day care center from 15 to 30 and extend the operating hours from 7am to 5pm to 7am to 6pm. Precious Moments Playhouse is located at **103 Indigo Terrace** on .51 acres of land zoned R-2 General Residential and designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map. The parcel is located in the Jamestown District and can be further identified as parcel (2-2) on JCC Tax Map (38-4). Staff concurred with the request.

Mr. Fraley requested clarification of the maximum occupancy of the playhouse presented in the staff report.

Ms. Drake responded that, due to changes in ownership, the maximum permitted occupancy had changed.

Ms. Crump stated that changes in designation had also changed occupancy.

Mr. Fraley requested further clarification.

Mr. McCleary noted that, since the facility at one time had been approved for 56 children, the new occupancy of thirty was acceptable.

Mr. Kale asked if the SUP renewal carried the same conditions as the previous SUP.

Ms. Crump made herself available for questions.

Mr. Poole closed the public hearing.

Mr. McCleary credited the applicant for including a petition from the adjacent property owners, who supported the application.

Mr. Kale moved to approve the application.

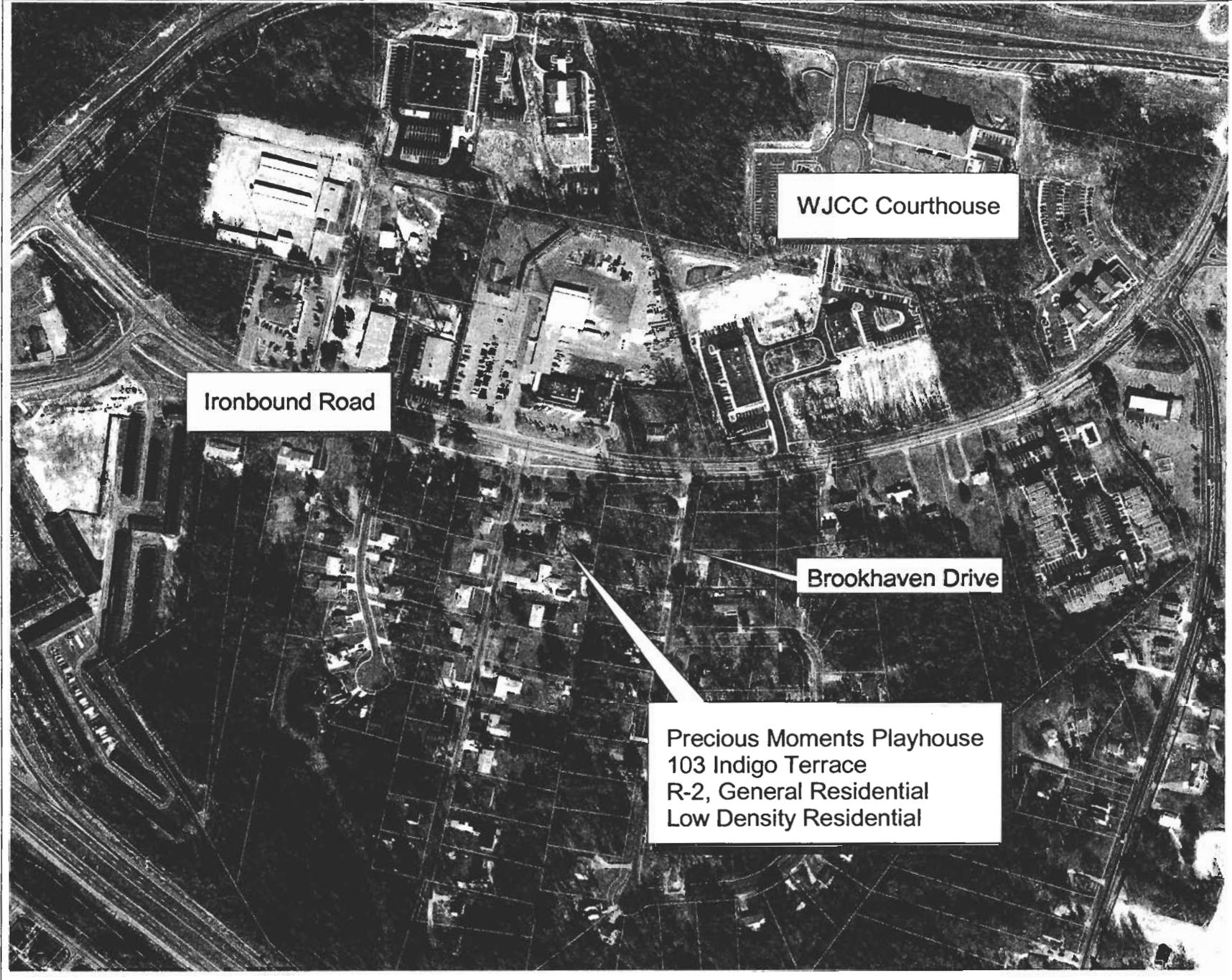
Mr. Hunt seconded.

Ms. Wildman stated her support for the applicant.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). ABSENT: Billups.

SUP-18-04. Precious Moments Playhouse SUP Amendment

Photo Copyright 2002 State of Virginia



SUP-18-04. Precious Moments Playhouse Amendment 103 Indigo Terrace



Left: Driveway to Precious Moments Playhouse.



Right: Driveway for the private residence to which the Playhouse is attached.



Left: Playhouse entrance on left side of the house.



Right: View of the right side of the house as you exit the neighborhood.

SUP-18-04. Precious Moments Playhouse Amendment 103 Indigo Terrace



Left:
Playground
equipment in
the back yard.

Right:
Backyard view
to the right.

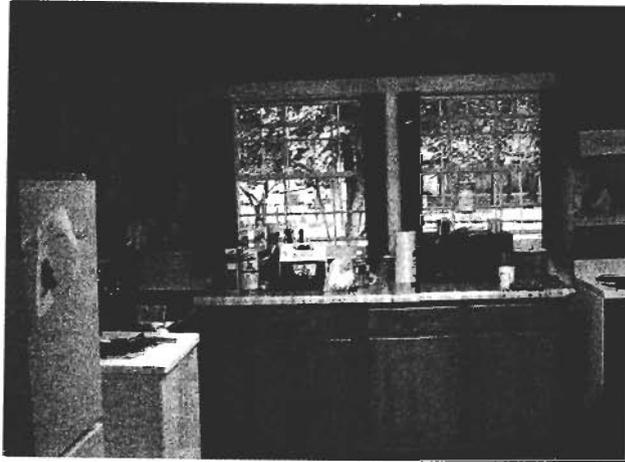


Left: Backyard
view to the left.

Right: View of
backyard from
Brookhaven
Drive.



SUP-18-04. Precious Moments Playhouse Amendment 103 Indigo Terrace



Left: Kitchen.

Right:
One of the
classrooms.



PENINSULA LICENSING OFFICE
1671065 BOULEVARD, SUITE 6-B
NEWPORT NEWS, VA 23606-4242
TELEPHONE (757) 594-7594
FAX (757) 594-1593



COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES



June 29, 2004

Ms. Evangelina Crump
Precious Moments Playhouse
103 Indigo Terrace
Williamsburg, VA 23185

Dear Ms. Crump:

As per your request, the property located at 103 Indigo Terrace, Williamsburg, Virginia was formerly licensed as Braxton's Learning Center, operated by Joycie Braxton. The license was effective from 1983 through 1998 with a capacity of fifty-six (56) children. This capacity was based on the Minimum Standards for Licensing requiring twenty-five (25) square feet of indoor space per child. From 1999 through 2002 the center was licensed as Precious Moments Little Playhouse operated by Precious Moments Little Playhouse, Inc. with a capacity of twelve (12).

If there are any further questions, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Kelly".

Ms. C. Kelly, Licensing Inspector
Peninsula Licensing Office
(757) 594 - 7587

Precious Moments Playhouse, Inc.

Licensed Early Beginnings Playschool Program

Tax ID# 72-1568522



A Letter of Support



Subject: Increase the Capacity of Children Served
Extend the Closing Hour of Operation to 6:00pm

Dear Neighbor(s):

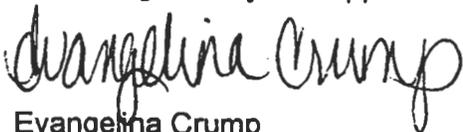
I would like to request your signature support to increase the number of children served at the child care center to 30 children. Our current special use permit allows us to serve up to 15 children with the center closing at 5:00pm.

It is our desire to provide family centered and supportive child care services to larger families and local community service agencies. At least, five child care slots will be used to increase our preschool enrollment; five child care slots will serve school aged siblings of children already attending our center full-time; and the remaining five slots will accommodate an emergency drop in and respite care service to families and local community services agency referrals.

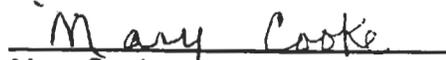
The increase in numbers should not have a significant impact on the traffic in our community. Most of the additional children that we would be serving will be part of families that we are already providing child care services.

Please show your support of our mission by signing your name below. This letter will then be submitted to the James City County Planning Division for further approval by the James City County Board of Supervisors and Zoning Office.

Thanks again for your support.



Evangelina Crump
Property Owner
Child Care Center/Administrator

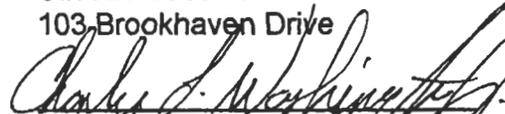

Mary Cooke
100 Indigo Terrace

Relocated to the State of Maryland
Eliza Hamm
101 Indigo Terrace


Brian and Katrina Wise
102 Indigo Terrace


William and Pauline Edwards
105 Indigo Terrace


Olvette Bassett
103 Brookhaven Drive


Charles and Estelle Washington
105 Brookhaven Drive

James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. ~~Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:~~
 - there shall be a three-year time limit in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

RESOLUTION

CASE NO. SUP-18-04. PRECIOUS MOMENTS PLAYHOUSE, INC. - SUP AMENDMENT

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

WHEREAS, Ms. Evangelina Crump has applied to amend the special use permit allowing for a child day-care center to be operated at 103 Indigo Terrace; and

WHEREAS, the property is located on land zoned R-2, General Residential, and can be further identified as Parcel No. (2-2) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, the Planning Commission, following its Public Hearing on July 12, 2004, 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. 18-04 as described herein with the following conditions that replace the existing conditions of SUP-4-80:

1. No more than 30 children other than the owner's children shall be present at the child day-care facility.
2. Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. This special use permit shall be valid for a period of 36 months from the date of approval during which the child day-care owner shall be responsible for obtaining and maintaining all necessary County and State permits to operate the center.
4. Within six months of the date of issuance of this special use permit and prior to operating with an increased enrollment of 30 children, the owner shall obtain a new certificate of occupancy from James City County Code Compliance validating that Precious Moments Playhouse, Inc., can operate with a maximum of 30 children.
5. Within six months of the date of issuance of this special use permit, the owner shall have a water conservation plan approved by the James City Service Authority.
6. No additional signage shall be permitted which relates to the use of the property as a child day-care center.
7. No additional exterior lighting shall be permitted which relates to the use of the property as a child day-care center.

8. No commercial food preparation or laundry services shall be provided as part of the operation of the child day-care center.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

sup-18-04amend.res

SPECIAL USE PERMIT -19-04. Williamsburg Winery - Gabriel Archer Tavern SUP Renewal Staff Report for the August 10, 2004, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Building F Board Room; County Government Center
Planning Commission: July 12, 2004, 7:00 p.m.
Board of Supervisors: August 10, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III
Landowner: Patrick Duffeler
Proposed Use: Renew SUP-16-03 to continue operation of the Gabriel Archer Tavern at the Williamsburg Winery
Location: 5800 Wessex Hundred Road, Roberts District
Tax Map and Parcel No.: (48-4)(1-10B)
Primary Service Area: Inside
Parcel Size: 35.08 acres
Existing Zoning: R-8, Rural Residential
Comprehensive Plan: Low-Density Residential
Staff Contact: Matthew Arcieri - Phone: 253-6685

STAFF RECOMMENDATION

Staff finds that the applicant has completed a majority of the previous special use permit (SUP) conditions and continues to make a good-faith effort to satisfy the previous conditions, addressing long standing utility and building issues. The additional time under SUP-19-04 should allow the applicant to complete building inspections, connect the waterline, and pay necessary fees and bills. The proposal is also acceptable from a land use perspective. Staff recommends the approval of this SUP with the attached conditions.

PLANNING COMMISSION RECOMMENDATION

On July 12, 2004, the Planning Commission recommended approval by a vote of 5-1.

PROJECT DESCRIPTION

Mr. Vernon Geddy, III, has applied to renew the SUP on behalf of Williamsburg Farms, Inc., to permit the continued operation of a restaurant, Gabriel Archer Tavern, at the Williamsburg Winery. A restaurant is a specially permitted use in the R-8, Rural Residential, district in which the property is located. The restaurant operated from 1996 through January 13, 2004, without a SUP. The SUP approved by the Board of Supervisors on January 13, 2004, expired on April 30, 2004.

Gabriel Archer Tavern is located in a building that was originally a garage with an apartment; the garage area was converted into a restaurant in 1996. It is open Sunday to Wednesday, 10 a.m. to 4 p.m. and Thursday to Saturday 11 a.m. to 9 p.m. The existing restaurant has one bathroom, a kitchen, and indoor and outdoor seating with 72 seats. A small expansion, which has been partially constructed, will add a bathroom and increased kitchen space. The square footage of the indoor restaurant (not including the expansion) is approximately 1,456 square feet with 1,024 square feet of outdoor dining under the covered back porch. A parking lot used by visitors to the winery operation is shared with the Tavern. The entrance to the property is on Lake Powell Road; the Tavern is located approximately three-fourths of a mile down a private road.

Condition No. 1 of the previously approved SUP (SUP-16-03, approved by the Board of Supervisors on January 13, 2004) set five requirements to be completed by April 30, 2004. As of the writing of this report, the status of these conditions is as follows:

- a. The Tavern shall have an approved site plan for water and sewer.

Staff Comment: This condition has been met. Final site plans for water and sewer, as well as the site plan for the tavern, have been approved.

- b. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code with all final inspections completed and approved.

Staff Comment: This condition has been partially met. The Tavern has a building and plumbing permit. Since the Planning Commission meeting, the Tavern has received a mechanical and electrical permit. It has not received any final inspections.

- c. The Tavern shall have connected to the James City Service Authority (JCSA) public water system.

Staff Comment: This condition has not been met. As noted above, the applicant does have an approved site plan that will allow this to occur.

- d. The Tavern shall have paid all connection fees for water service.

Staff Comment: This condition has not been met. As noted above, the applicant does have an approved site plan that will allow this to occur.

- e. The Tavern shall have all connection fees and sewer service bills paid up to date.

Staff Comment: This condition has been partially met. The Tavern has paid all bills and back charges to the JCSA. The tavern has not yet been billed by Hampton Roads Sanitation District (HRSD); staff anticipates this bill will be completed prior to the case reaching the Board of Supervisors.

COMPREHENSIVE PLAN

The parcel on which the Winery and Tavern are located is inside the Primary Service Area (PSA) and is designated Low-Density Residential on the 2003 Comprehensive Plan Land Use Map. Non-residential uses should not alter, but rather complement the residential character of the Low-Density Residential area in which they are located. Such uses should be located on collector or arterial roads at intersections. Traffic, noise, lighting, and other impacts should be similar to surrounding or planned residential uses. Very limited commercial establishments should be located where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.

CONCLUSIONS AND CONDITIONS

Staff finds that the applicant has completed a majority of the previous SUP conditions and continues to make a good-faith effort to satisfy the previous conditions, addressing long standing utility and building issues. The additional time under SUP-19-04 should allow the applicant to complete building inspections, connect the waterline, and pay necessary fees and bills. The proposal is also acceptable from a land use perspective. There are two proposed changes from the previously approved SUP. They are an update of Condition No. 1 to reflect the remaining issues to be resolved and the rewritten noise condition that allows the applicant more flexibility while continuing to protect adjacent property owners. Staff recommends approval of this SUP with the attached conditions. On July 12, 2004, the Planning Commission recommended approval of the case by a vote of 5-1.

Matthew D. Arcieri

CONCUR:

O. Marvin Sowers, Jr.

MDA/adw
sup19-04wne.wpd

ATTACHMENTS:

1. Unapproved Planning Commission Minutes
2. Location Map
3. Copy of SUP-16-03
4. Resolution

UNAPPROVED MINUTES TO THE JULY 12, 2004 PLANNING COMMISSION MEETING

Case No. SUP-19-04. Williamsburg Winery – Gabriel Archer Tavern.

Mr. Matt Arcieri presented the staff report. Mr. Vernon Geddy has applied for a special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of the restaurant Gabriel Archer Tavern which is operated by and in conjunction with the Williamsburg Winery. The existing special use permit for the tavern expired on April 30, 2004. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The property is at **5800 Wessex Hundred** and can be further identified as Parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval of the application.

Mr. McCleary confirmed with Mr. Arcieri that the tavern was still operating even though the permit had expired.

Mr. Fraley stated that, to him, it did not seem that the requirements had been sufficiently met.

Mr. Arcieri stated that two of the conditions were contingent on other deadlines.

Mr. McCleary asked what would happen if the SUP expired.

Mr. Arcieri stated that the continued operation of the tavern would then become an enforcement issue.

Mr. Rogers gave some background to the case, that the County has worked with the applicant to continue the use, and that injunction against the business would be the final alternative should the SUP expire. That injunction would only apply to the use and the County could not force the applicant to obtain the SUP approval necessary to continue the current use.

Mr. Patrick Duffeler, the business owner, spoke to the issues surrounding the Tavern and the steps the he and the County had taken to resolve them. He re-iterated his desire to work with staff to meet the conditions necessary to continue operation and that he had given his best effort as quickly as possible to do so.

Mr. Poole opened the public hearing.

Seeing none, Mr. Poole closed the public hearing.

Mr. Hunt motioned to approve the application.

Mr. McCleary seconded the motion.

Mr. Poole recognized the recommendation of staff and the importance of supporting small business in JCC.

Mr. McCleary expressed his concerns regarding the application and, though

stating that he would vote in favor of the application, that he had serious reservations.

Mr. Kale stated that he would not vote in favor of the application until the necessary requirements had been met.

Ms. Wildman stated that she would not vote in favor of the application as the conditions for approval had not been met.

Mr. Duffeler stated that the timeline set forth during the initial SUP process was unreasonable due to delays in the revision and approval process.

Mr. Fraley asked Mr. Sowers to provide more insight into staff's recommendation of approval.

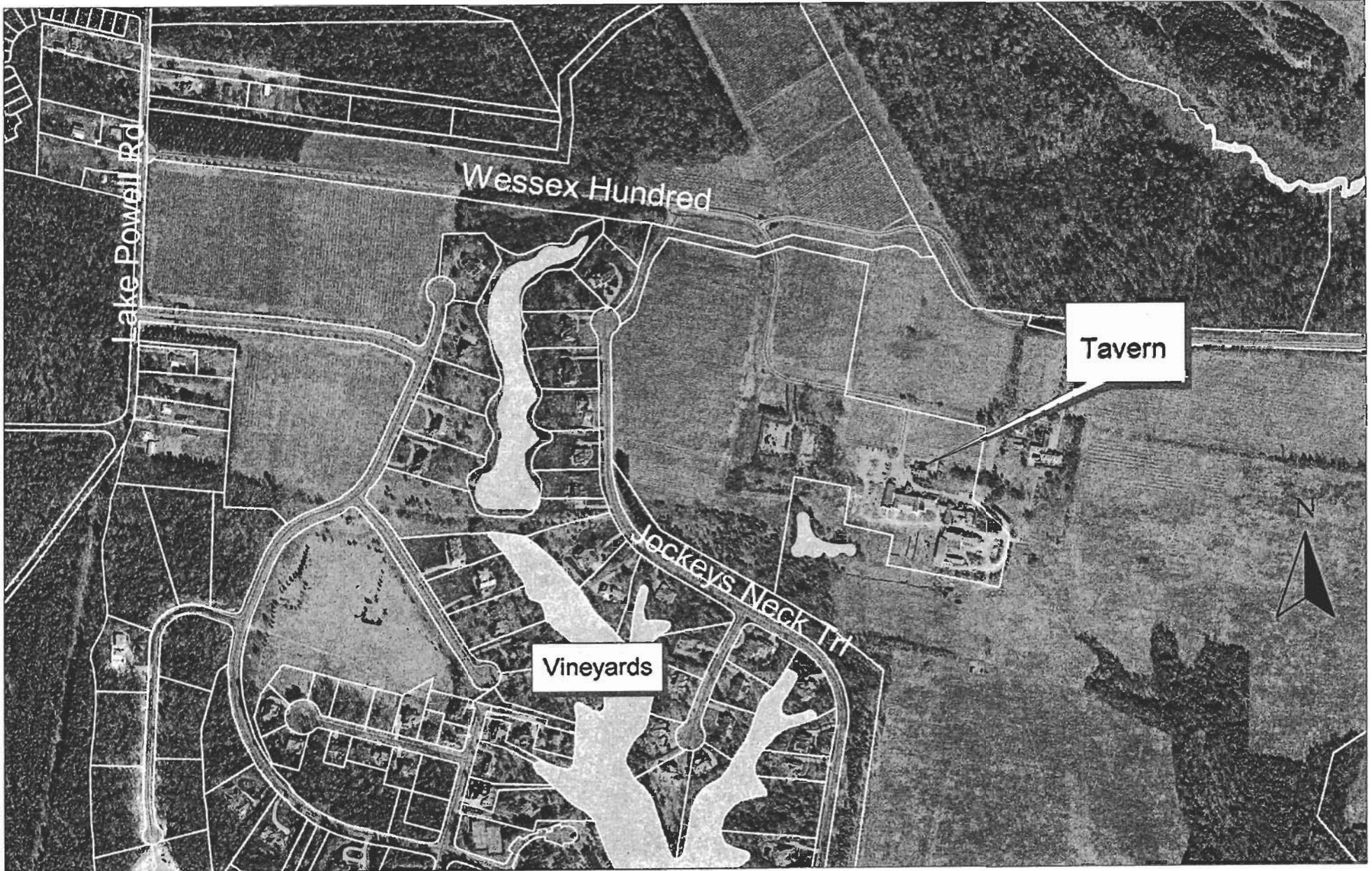
Mr. Sowers responded that the case for approval had been made already in the public hearing.

Mr. Vernon Geddy, the applicant, related that the initial deadlines had been considered reasonable at the time but that the process had taken longer than anticipated due to delays in the site plan process.

Mr. Fraley stated that, despite serious reservations, that he would support the case.

In a roll call vote the Planning Commission approved the application by a 5-1 vote; AYE: (5) Wildman, McCleary, Fraley, Hunt, Poole NAY: (1) Kale; ABSENT: Billups

SUP-19-04, Williamsburg Winery, Gabriel Archer Tavern



RESOLUTION

CASE NO. SUP-16-03. WILLIAMSBURG WINERY - GABRIEL ARCHER TAVERN

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. Vernon Geddy III of Geddy, Harris, Franck And Hickman, L.L.P., has applied on behalf of Williamsburg Farms, Inc., for a special use permit to allow the continued operation of Gabriel Archer Tavern consisting of approximately 2,500 square feet including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery; and

WHEREAS, taverns are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, at 2638 Lake Powell Road, and can be further identified as Parcel No. (1-10) on James City County Real Estate Tax Map No. (48-4); and

WHEREAS, the Planning Commission, following its public hearing on December 8, 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-16-03 as described herein with the following conditions:

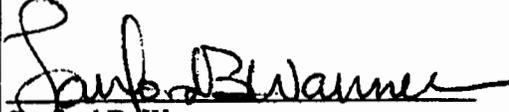
1. Prior to April 30, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, ("the Tavern"):
 - a. The Tavern shall have an approved site plan for water and sewer;
 - b. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code with all final inspections completed and approved;
 - c. The Tavern shall have connected to the James City Service Authority public water system;
 - d. The Tavern shall have paid all connection fees for water service; and
 - e. The Tavern shall have all connection fees and sewer service bills paid up to date.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers shall be permitted in connection with the operation of the Tavern.

4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
BRADSHAW	AYE
HARRISON	AYE
BROWN	AYE
MCGLENNON	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of January, 2004.

sup-16-03 (011304)

RESOLUTION

CASE NO. SUP-19-04. WILLIAMSBURG WINERY -

GABRIEL ARCHER TAVERN SUP RENEWAL

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, restaurants are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 12, 2004, recommended approval of Case No. SUP-19-04 by a 5-1 vote to permit the continued operation of the Gabriel Archer Tavern, consisting of approximately 2,500 square feet, including indoor and outdoor dining areas located on the first floor of a two-story structure near the Williamsburg Winery; and

WHEREAS, the property is located at 5800 Wessex Hundred Road and further identified as Parcel No. (1-10B) on James City County Real Estate Tax Map No. (48-4).

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. 19-04 as described herein with the following conditions:

1. Prior to December 31, 2004, all of the following conditions shall be met for Gabriel Archer's Tavern, ("the Tavern"):
 - a. The Tavern shall have acquired all necessary building and accessory permits to bring the Tavern into compliance with the Virginia Uniform Statewide Building Code, with all final inspections completed and approved;
 - b. The Tavern shall have connected to the James City Service Authority (JCSA) public water system, paid all connection fees for water service, and a plat with easements dedicated to the JCSA must be submitted and recorded prior to waterlines being accepted by the JCSA;
 - c. The Tavern shall have all sewer service bills paid up to date.
2. The Tavern shall have no more than 72 seats; expansion of the Tavern shall require an amendment to this SUP and an approved site plan.
3. No outdoor amplified music or loud speakers in connection with the operation of the Tavern shall be audible outside the boundaries of the property.
4. The Tavern shall only operate between 10 a.m. and 9 p.m.
5. The special use permit is not severable. Invalidation of any word, phrase, clause,

sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

sup19-04wne.res

**SPECIAL USE PERMIT 20-04. AJC Woodworks, Inc. - SUP Amendment
Staff Report for the August 10, 2004, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Center

July 12, 2004, 7:00 p.m.
August 10, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Tony Casanave, AJC Woodworks, Inc.
Land Owner: Tony and Alona Casanave
Proposed Use: The woodworking shop for the manufacture of furniture and cabinetry (Amendment to SUP-11-03)
Location: 8305 Richmond Road; between Anderson's Corner and Toano, Virginia
Tax Map/Parcel No.: (12-4)(1-3)
Parcel Size: 1.52 acres
Existing Zoning: A-1, General Agricultural
Comprehensive Plan: General Industry
Primary Service Area: Inside
Surrounding Zoning: A-1, General Agricultural

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. With the proposed amended conditions to the structure's height limit and to side yard landscaping, staff believes any impacts on nearby historic and residential properties will be mitigated. Staff recommends the Board of Supervisors approve this special use permit (SUP) with the conditions in the attached resolution.

Staff Contact: Sarah Weisiger, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On July 12, 2004, the Planning Commission recommended approval of this case by a vote of 7-0.

Proposal Changes Made after Planning Commission Consideration

None.

DESCRIPTION OF PROJECT

Mr. Tony Casanave has applied to amend two conditions and alter the layout plan of SUP-11-03 for the construction of 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.

Mr. Casanave proposes to build a conventional structure 50 feet x 80 feet, approximately 19 feet in height above natural grade. The proposed building would be constructed of vinyl siding and include a basement garage/storage area. Mr. Casanave seeks to amend the original SUP condition limiting the building height to 15 feet. He also seeks to change a condition which would narrow the buffer along the northern property line and include additional plantings.

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 lots behind the existing house and garage are wooded and undeveloped back to the CSX railroad tracks. Single-family homes are on the adjacent parcels to the north and south. Hickory Neck Church is located approximately 400 feet across Route 60.

The proposed building would be constructed of conventional materials and would have a steeper-pitched roof than the metal building that was proposed with the original SUP. An amended condition, Condition No. 9, limits the building height to 20 feet and requires building materials and colors to be compatible with existing structures. Staff finds that this is a positive change. Also, staff finds that the changes to the width of the landscape buffer along the northern side of the property from 25 feet to 15 feet will be adequately mitigated by enhanced landscaping and a landscape plan to be approved by the Planning Director as stated in Condition No. 4.

COMPREHENSIVE PLAN DESIGNATION

The west side of Route 60, including the parcel which is the subject of this SUP, is designated as General Industry on the Comprehensive Plan Land Use Map. Richmond Road is designated as a Community Character Corridor (CCC) in the Comprehensive Plan.

General Industry areas are intended to be suitable for industrial uses that require buffering from adjoining uses because of their potential for creating dust, noise, odor, and other adverse environmental effects.

Community Character Corridors are intended to promote the rural, natural, or historic character of the County. The west side of Route 60 is a Wooded or Suburban CCC and the east side is considered an Open/Agricultural CCC.

Staff comments: Staff finds that the proposal is consistent with the type of uses recommended for areas designated General Industry. Staff finds that because the building will be behind an existing dwelling, the enhanced landscaping and conditions for the proposed building are sufficient to ensure that the workshop will be compatible with recommendations for Community Character Corridors.

CONCLUSIONS & CONDITIONS

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. With the proposed amended conditions to the structure's height limit and to side yard landscaping, staff believes any impacts on nearby historic and residential properties will be mitigated. Staff recommends the Board of Supervisors approve this SUP with the conditions in the attached resolution.

Sarah Weisiger

CONCUR:

O. Marvin Sowers, Jr.

SW/g
sup-20-04amend

ATTACHMENTS:

1. Unapproved Minutes
2. Location Map
3. Master Plan
4. Proposed Building Specifications
5. Resolution

UNAPPROVED MINUTES TO THE JULY 12, 2004 PLANNING COMMISSION MEETING

CASE SUP-20-04 AJC Woodworks Modifications.

Ms. Weisiger presented the staff report. Mr. Tony Casanave has applied to amend a special use permit for a woodworking shop at **8305 Richmond Road** in Toano. The property is zoned A-1, General Agricultural. Mr. Casanave seeks to amend two conditions to an existing SUP. He proposes to amend a condition to allow a structure approximately nineteen feet in height. The applicant also proposes to change a condition to narrow the width of a landscape buffer along the northern property line. The property is designated General Industry on the Comprehensive Plan Land Use Map. Staff recommended approval of the application.

Mr. McCleary confirmed that the only SUP conditions to be changed were a four-foot expansion of the facility and a narrowed buffer.

Ms. Weisiger responded that those were the only changes.

Mr. Hunt related the experience of an adjacent property owner who did not support narrowing the buffer.

Mr. Kale asked when this case had been originally considered.

Mr. Poole responded that it had been considered in 2003.

Mr. Kale asked what the purpose of the house in front of the workshop was.

Ms. Weisiger responded that it was for residential use.

Mr. Poole opened the public hearing.

Seeing none, Mr. Poole closed the public hearing.

Mr. Poole said that he was comfortable with the application when it was first considered in 2003, and that the changes in the application did not change the overall use.

Mr. McCleary stated his support for the application, and noted that the landscape buffer would be approved by a separate landscape plan.

McCleary moved to approve the application.

Ms. Wildman seconded.

Ms. Wildman asked if there had been any concerns about the noise.

Mr. Sowers responded that he was not aware of any complaints.

Mr. McCleary noted that condition 7 of the SUP restricted noise and operating hours of the business.

Mr. Kale asked what prompted the proposed changes to the SUP.

Mr. Tony Casanave, the applicant, responded that site layout requirements had dictated a narrowing of the buffer.

Mr. Hunt suggested that Mr. Casanave meet with the aforementioned adjacent property owner.

Mr. Kale confirmed that Mr. Casanave had not received any complaints.

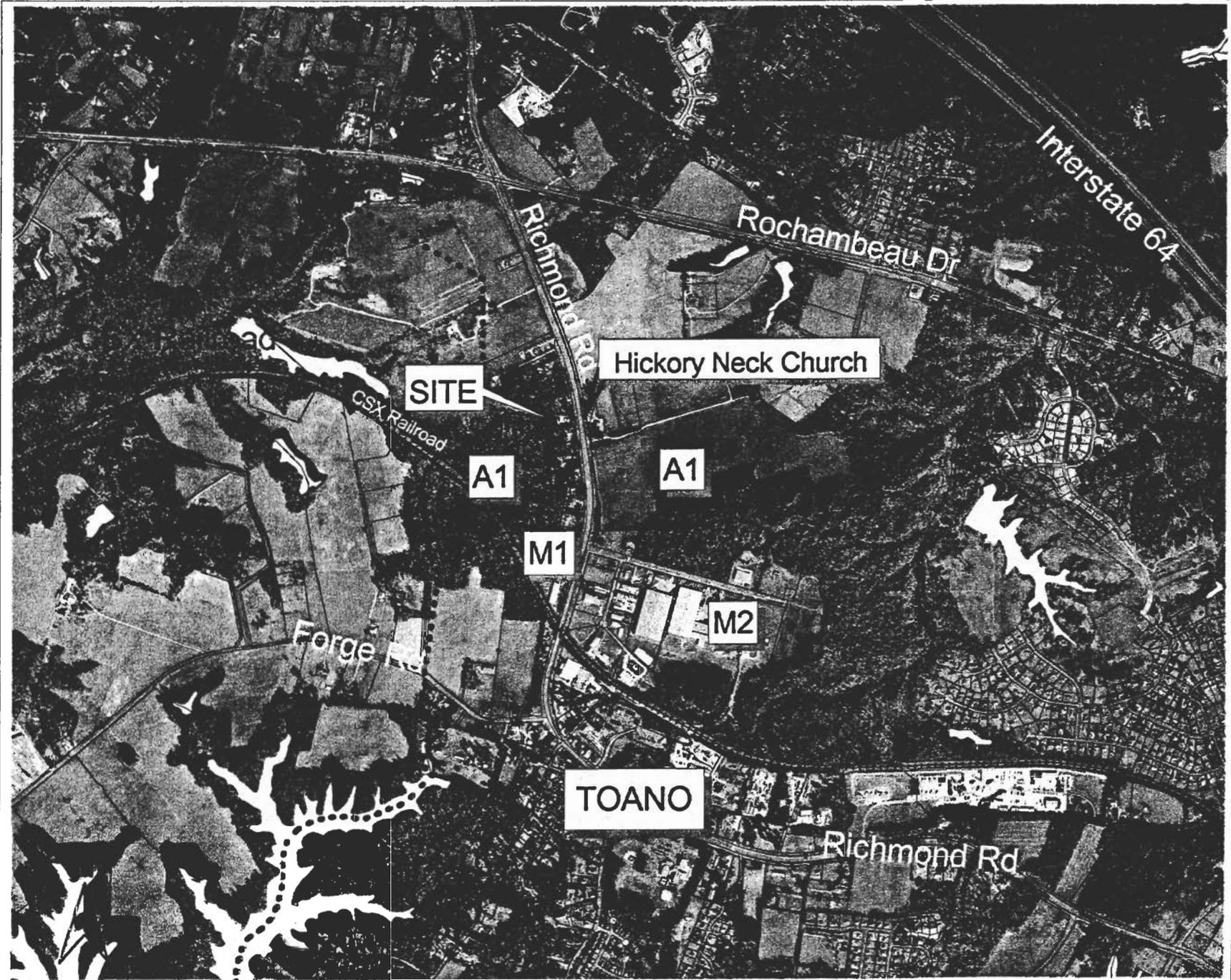
In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). ABSENT: Billups.

Case No. SUP-20-04. AJC Woodworks Modification - SUP Amendment



1000 0 1000 2000 Feet

Photo Copyright 2002 State of Virginia

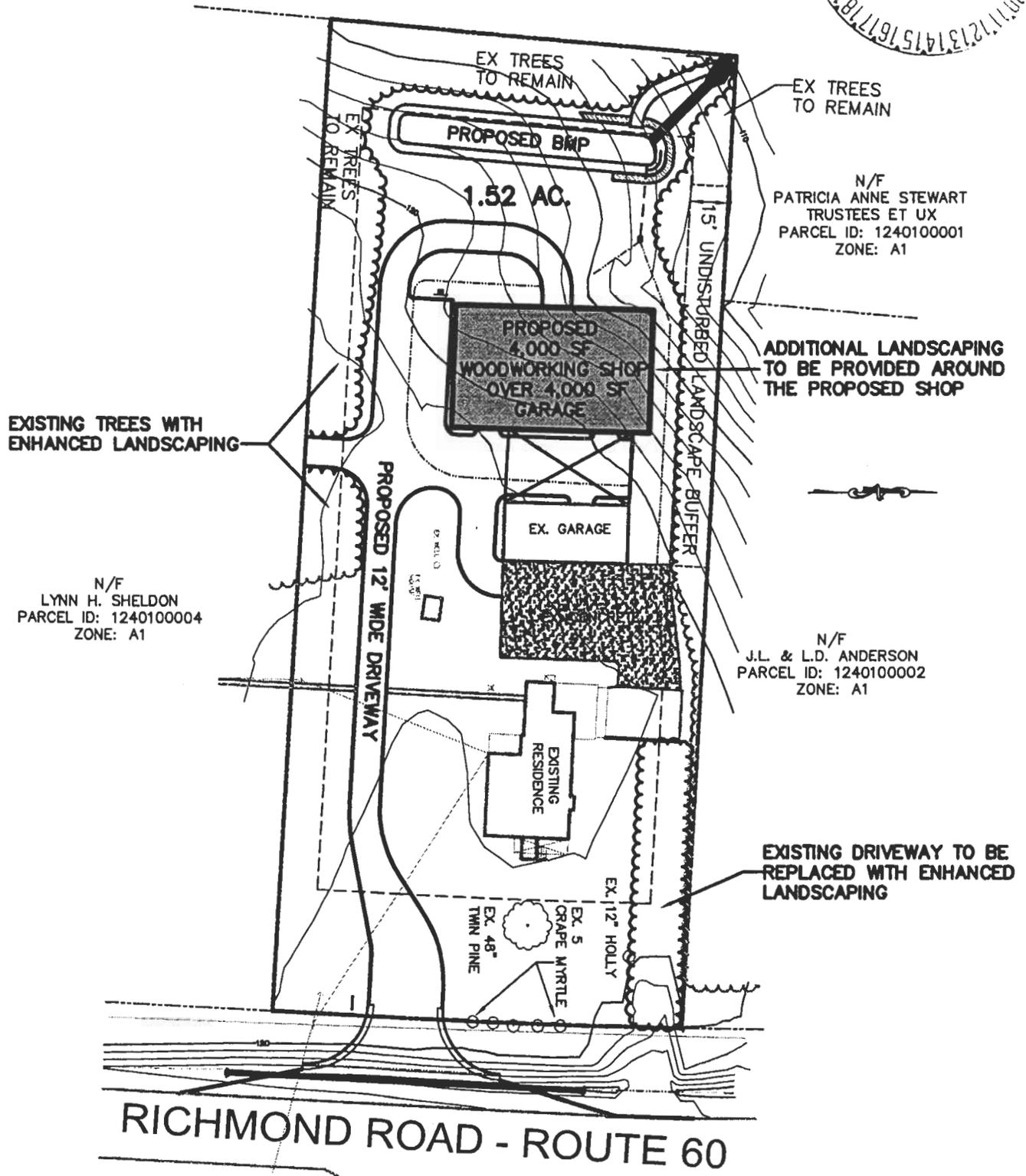


SUP-20-04

AJC WOODWORKS, INC. 8305 RICHMOND RD.

MASTER PLAN FOR SUP 20-04
PARCEL ID: 1240100003

6/29/04 RECEIVED
ZONE: A1 PLANNING DEPARTMENT

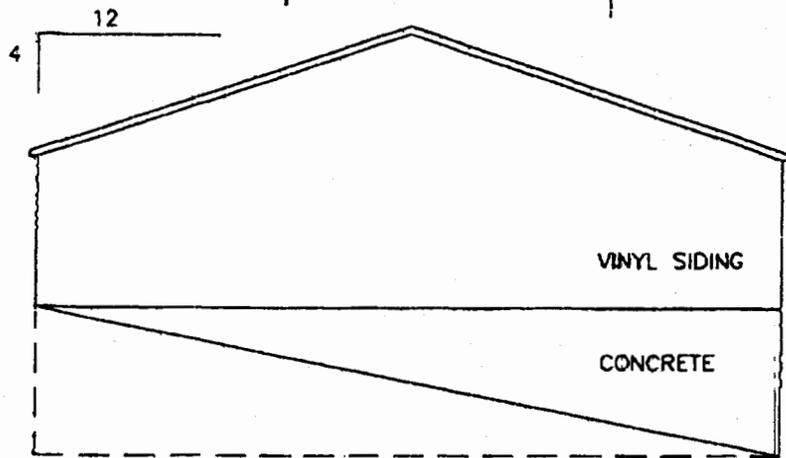


N/F
LYNN H. SHELDON
PARCEL ID: 1240100004
ZONE: A1

N/F
J.L. & L.D. ANDERSON
PARCEL ID: 1240100002
ZONE: A1

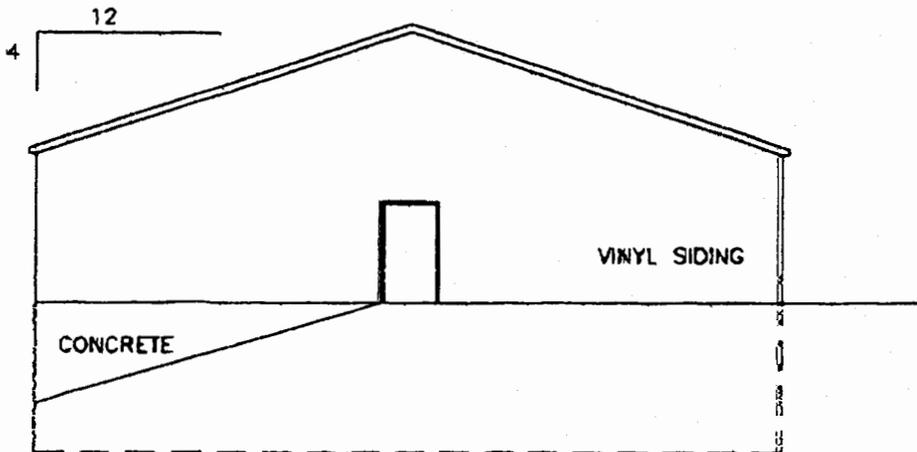
N/F
PATRICIA ANNE STEWART
TRUSTEES ET UX
PARCEL ID: 1240100001
ZONE: A1

N/F
HICKORY NECK EPISCOPAL CHURCH
PARCEL ID: 1240100010A
ZONE: A1



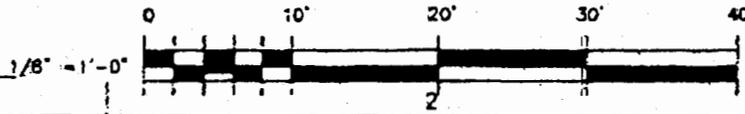
SIDE ELEVATION

SCALE: 1/8" = 1'-0"



SIDE ELEVATION

SCALE: 1/8" = 1'-0"



RICHMOND ROAD
WILLIAMSBURG, VA 23188

A/E PROJECT NO:	
CAD FILE NAME:	
DESIGNED BY:	-
DRAWN BY:	-
EDITED BY:	-
CHECKED BY:	-

SCALE: AS SHOWN PLOT SCALE:

SHEET TITLE

CASANAVE WOODSHOP

ELEVATIONS

REVIEWED BY:	REVIEWED BY:	REVIEWED BY:
PROJECT ENG	BRANCH CHIEF	BRANCH CHIEF

APPROVING OFFICER

DATE

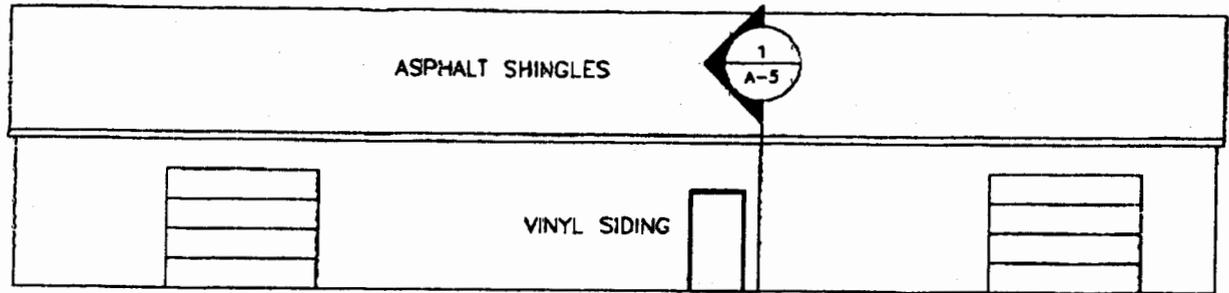
PROJECT NUMBER	DRAWING NUMBER
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DISCIPLINE/SHT NO

A-4

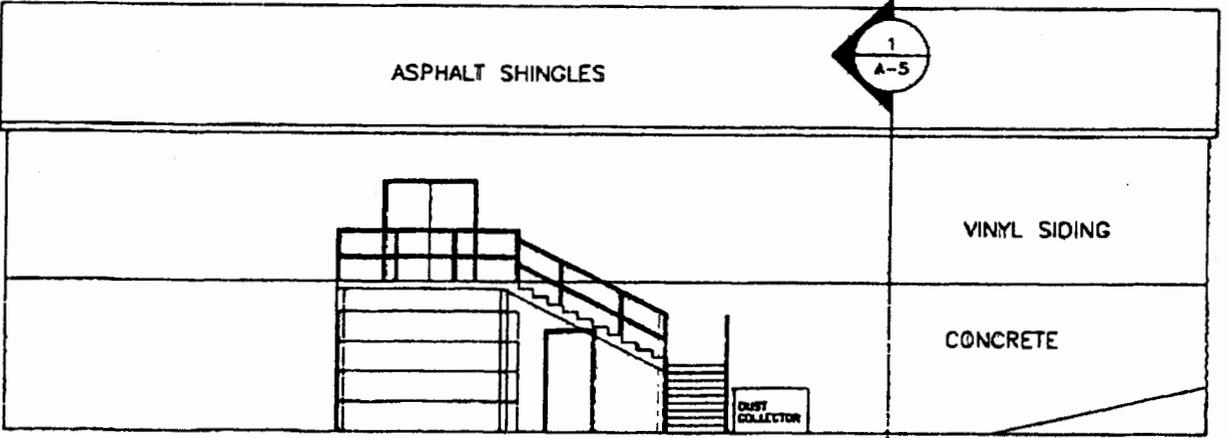
SHEET 4 OF

4
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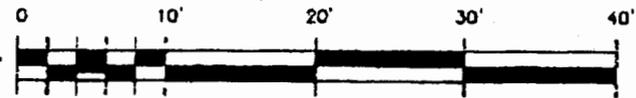
FRONT ELEVATION

SCALE: 1/8" = 1'-0"



REAR ELEVATION

SCALE: 1/8" = 1'-0"



8305 RICHMOND ROAD
 WILLIAMSBURG, VA 23188

A/E PROJECT NO:	
CAD FILE NAME:	
DESIGNED BY:	-
DRAWN BY:	-
EDITED BY:	-
CHECKED BY:	-

SCALE: AS SHOWN PLOT SCALE:

SHEET TITLE

CASANAVE WOODSHOP

ELEVATIONS

REVIEWED BY:	REVIEWED BY:	REVIEWED BY:
PROJECT ENG	BRANCH CHIEF	BRANCH CHIEF

APPROVING OFFICER	DATE
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PROJECT NUMBER	DRAWING NUMBER
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DISCIPLINE/SHT NO	SHEET 3 OF
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A-3

RESOLUTION

CASE NO. SUP-20-04. AJC WOODWORKS, INC. -

SUP AMENDMENT

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

WHEREAS, Mr. Tony Casanave has applied for a SUP amendment to allow for the construction of a woodworking shop to be approximately 8,000 square feet including a basement garage/storage area; and

WHEREAS, the previously approved SUP was approved for a building for use as a woodworking shop to be located behind an existing 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 July 12, 2004, voted 7-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-04 as described herein with the following conditions:

1. The property shall be developed generally in accordance with the Master Plan titled: "AJC Woodworks, Inc., 8305 Richmond Road," dated June 29, 2004, with minor changes approved by the Development Review Committee.
2. This SUP 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. Along the property line to the north and parallel to the area of the proposed workshop and parking area, enhanced landscaping, consisting of evergreen shrubs to be planted eight feet on center, shall be provided along the edge between the disturbed area and the undisturbed wooded buffer as shown on the Master Plan. Along the property line to the south and parallel to the area of the proposed workshop and proposed parking area, landscaping shall provide transitional screening and shall be planted in accordance with the General Area Landscape Standards Section 24-94 of the Zoning Ordinance. Additional landscaping shall be required in the area of the existing driveway to sufficiently buffer views of the workshop from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and shall 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, 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 Planning Director.
9. The height of the proposed building shall not exceed 20 feet above natural grade. The building materials and colors of the structure shall be compatible with those of the existing structures. The colors and building materials for the structure shall be submitted to and approved by the Planning Director prior to final site plan approval.
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.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

sup20-04amend.res

M E M O R A N D U M

DATE: August 10, 2004
TO: The Board of Supervisors
FROM: Christy H. Parrish, Senior Zoning Officer
SUBJECT: Case No. ZO-02-04. Zoning Ordinance Amendment - Manufacturing of Stone in M-1 and M-2

Staff has been requested to forward an amendment to include the manufacture of previous prepared stone products in the M-1, Limited Business/Industrial District and M-2, General Industrial District. Currently, the Zoning Ordinance allows the manufacture of stone products by Special Use Permit in the M-2 District only.

The proposed amendment would add *stone* to the existing use of “manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn” to Section 24-411, Permitted Uses in the M-1, Limited Business District and Section 24-436, Permitted Uses in the M-2, General Industrial District. This amendment also modifies the use of “manufacture of cement, lime, gypsum, bricks and stone products” in Section 24-437, Uses permitted by special use permit in the M-2 General Industrial District to read, “manufacture of cement, lime, gypsum, bricks, and *non-previously* prepared stone products.”

A business located in Newport News has indicated its desire to relocate to James City County. Staff conducted a site visit of that business, who manufactures kitchen and bathroom countertops from large slabs of granite, which have been quarried and polished. They estimate that 80 percent of its work is for new residential construction and 20 percent is for residential remodeling. They desire to relocate to James City County to expand their facility and be closer to clients.

Outside storage includes slabs of granite, forklift, and an air compressor to operate the majority of the tools in the shop. Each slab of granite is cut to a specified size and then the edges are polished. Most cutting tools are used with water, therefore, no dust is created. All water is reused and is cleaned through a filtration system located inside the shop.

Staff finds this amendment provides consistency and flexibility within industrial zoning districts. This use, in staff’s view, would be similar to uses such as “manufacture or fabrication of sheet metal products” and “manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn” which are both permitted uses in the M-1 and M-2 zoning districts. Staff feels that this change will not negatively affect or impact any surrounding properties. On July 12, 2004, the Planning Commission voted 6-0 to approve the ordinance amendment. Staff recommends approval of this amendment.

Christy H. Parrish

CONCUR:

O. Marvin Sowers, Jr.

CHP/tlc
m1m2stone.mem

Attachments:

1. Unapproved Planning Commission minutes
2. Ordinance Amendment

UNOFFICIAL PLANNING COMMISSION MINUTES

July 12, 2004

C. ZO-02-04 - Zoning Ordinance Amendment Manufacture of Stone Products

Ms. Christy Parrish presented the staff report. Ordinance to amend JCC Code by amending Section 24-411, Permitted Uses; Section 24-436, Permitted Uses; Section 24-437, Uses Permitted by Special Use Permit Only; to add the permitted use of manufacture of previous prepared stone products; and by adding clarifying language to the current use of manufacture of cement, lime, gypsum, bricks and stone products. Staff recommends approval of the ordinance amendment.

Mr. Poole asked if the Economic Development Department had been consulted in this amendment.

Ms. Parrish responded that the Economic Development had worked closely with staff on this issue.

Ms. Wildman expressed her support for the amendment.

Mr. McCleary cited the small-business-friendly nature of the amendment.

Mr. McCleary moved for approval.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, Poole, McCleary, Hagee, Hunt, Kale; NAY: (0). Not Present: Billups.

m1m2stone.min

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24 ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, PERMITTED USES; BY AMENDING DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, PERMITTED USES; AND SECTION 24-437, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning is hereby amended and reordained by amending Section 24-411, Permitted uses; Section 24-436, Permitted uses; and Section 24-437, Uses permitted by special use permit only.

Division 11, Limited Business/Industrial District, M-1

Sec. 24-411. Permitted uses.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, ~~and~~ yarn, *and stone*.

Division 12. General Industrial District, M-2

Sec. 24-436. Permitted uses.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, ~~and~~ yarn, *and stone*.

Sec. 24-437. Uses permitted by special use permit only.

Manufacture of cement, lime, gypsum, bricks and *non-previously prepared* stone products.

Ordinance to Amend and Reordain
Chapter 24. Zoning
Page 2

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

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MEMORANDUM

DATE: August 10, 2004
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Appointment of the County Attorney

The position of the County Attorney will be vacant, effective September 1, 2004. The Board has reviewed the Office of the County Attorney and has determined that Leo P. Rogers, Jr., has proven his effectiveness and is deserving of the appointment of County Attorney, effective September 1, 2004.

I recommend the Board appoint to the position of County Attorney, Leo P. Rogers, Jr., effective September 1, 2004. A resolution is attached for your consideration.

Sanford B. Wanner

SBW/gs
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Attachment

RESOLUTION

APPOINTMENT OF COUNTY ATTORNEY

WHEREAS, the Board of Supervisors has established the office of the County Attorney pursuant to Virginia Code Section 15.2-1542; and

WHEREAS, effective September 1, 2004, the position of County Attorney will be vacant; and

WHEREAS, Leo P. Rogers, Jr. has served as Assistant County Attorney from March 17, 1990, to July 17, 1994, and as Deputy County Attorney from July 17, 1994, to June 22, 2004, and as Acting County Attorney since June 22, 2004; and

WHEREAS, the Board of Supervisors unanimously supports the appointment of Leo P. Rogers, Jr., who has proven both his effectiveness and his commitment to the community; and

WHEREAS, details regarding salary and benefits are contained in an employment agreement signed by Mr. Rogers and the Board Chairman dated August 10, 2004.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Leo P. Rogers, Jr. is hereby appointed to the position of County Attorney for James City County effective September 1, 2004.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of August, 2004.

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