

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**March 22, 2005**

**7:00 P.M.**

- 
- A. ROLL CALL**
  - B. MOMENT OF SILENCE**
  - C. PLEDGE OF ALLEGIANCE** - Grant Dallman, a third-grade student at D. J. Montague Elementary School
  - D. HIGHWAY MATTERS**
  - E. PRESENTATIONS**
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    - 2. Volunteer Recognition - Ann Yankovich - Third Quarter, FY 05 .....1  
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  - F. PUBLIC COMMENT**
  - G. CONSENT CALENDAR**
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- c. SUP-10-05. Toano Middle School
- d. SUP-11-05. Clara Byrd Baker Elementary School
- e. SUP-12-05. D. J. Montague Elementary School
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**K. REPORTS OF THE COUNTY ADMINISTRATOR**

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**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. Board of Zoning Appeals
- b. Clean County Commission
- c. Wetlands Board/Chesapeake Bay Board
- d. Cash Proffer Steering Committee

**N. ADJOURNMENT**

MEMORANDUM

DATE: March 22, 2005  
TO: The Board of Supervisors  
FROM: Carol A. Schenk, Human Resource Specialist I  
SUBJECT: Volunteer Recognition - Ann Yankovich - Third Quarter, FY 05

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James City County is fortunate to have outstanding volunteers who donate their time and talents to enhance our community. This quarter, staff would like to recognize Ann Yankovich for her work at Olde Towne Medical Center.

Since the inception of Olde Towne Medical Center, Mrs. Yankovich has been a mainstay in providing care to the citizens of James City County. In fact, Ann was one of the founders of the clinic and served on the Board of Directors for many years. Her drive and concern for the community made the concept of Olde Towne Medical Center become a reality and stay vibrant. She was an enthusiastic and inspirational board member and is a true community leader.

Ann's recent contributions have been as a nurse in the Olde Towne Medical Center Immunization Clinic. Ann retired as the Director of Nurses for the Williamsburg-James City County School System and brought those skills to the clinic. She has been involved with the training of immunization clinic volunteers and is an inspiration for new volunteers.

We are very honored and privileged to have Mrs. Yankovich as a citizen in our community.

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Carol A. Schenk

CONCUR:

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Carol M. Luckam

CAS/tlc  
yankovich.mem

**AT A JOINT MEETING OF THE JAMES CITY COUNTY BOARD OF SUPERVISORS, THE WILLIAMSBURG CITY COUNCIL, AND THE WILLIAMSBURG-JAMES CITY COUNTY SCHOOL BOARD, HELD ON THE 9TH DAY OF FEBRUARY, 2005, AT 2:05 P.M. AT THE QUARTERPATH RECREATION CENTER AT 202 QUARTERPATH ROAD, CITY OF WILLIAMSBURG, VIRGINIA.**

**A. ROLL CALL**

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

Sanford B. Wanner, County Administrator

**B. DISCUSSION ITEMS**

1. Community Population and Fiscal Capacity Outlook

Mr. Wanner provided an overview of the County's population estimate of approximately 55,200, which reflects an increase of 14.7 percent since 2000; commented that migration of people to the County continues to be the biggest contributor of population growth, and indicated that the building permit activity has also increased from 523 permits issued in 1983 to 1,120 permits issued in 2004.

Mr. Wanner stated that the County's fiscal capacity is dependent on the real estate property tax to generate new revenue and that alternative revenue sources are few and under scrutiny by the General Assembly; commented that the County's current debt position and projected debt issues over the next 12 months for the third high school, the Thomas Nelson Community College on- and off-site improvements and the community stadium, would not push the outstanding debt over \$2,000 per capita; and the bond rating agencies will be rating the County this year for the high school bonds.

Mr. Wanner reviewed the four County fiscal policies in place relating to debt; commented that the County will soon exceed the debt per capita and the Board will need to reevaluate the five things the County spends money on: School operating, Non-School operating, debt service, School capital, and County capital.

Mr. Jack Tuttle, Williamsburg City Manager, gave a presentation on the City's population and fiscal capacity outlook; commented that in 2004, the estimated population has risen to 13,600 and the student population is 732; commented that by 2010, it is projected that there will be approximately 900 students; commented that the City is to cover approximately \$9,760,000 of the operating and capital amounts; and commented that the City has \$21 million available for the new capital spending from sales tax revenue.

2. School Facilities Study

Mr. Jim McCalla, Moseley Architects, provided an overview of the Facilities Study process, an overview of the scope of the Study, and gave a summary of the existing facility capacities using the DeJong's enrollment projections; and discussed the elementary and middle school options.

Mr. Brown questioned the enrollment numbers for all options and the cap being around 600 to 700 students.

Mr. McCalla stated that the community had indicated that it wants to see the maximum capacity for elementary schools at 600 students.

Dr. Carol S. Beers, Superintendent of Williamsburg-James City County Public Schools (WJCC) and Clerk of the School Board, commented that the School Board has budgeted for 700 students in the Capital Improvements Program (CIP).

Mr. Goodson questioned the operating costs over a ten-year period and compared the debt service to operating costs.

Mr. Brown congratulated Mr. McCalla on options that have been well thought out and brought a great deal of clarity.

Mr. Haulman, Williamsburg City Councilman, asked for short-term options.

Mr. McCalla recommended they should begin construction on the new elementary school promptly and use trailers for a limited amount of time.

3. School CIP Status

Dr. Beers reviewed the items that were recommended in the Facilities Study and included in the CIP; commented that WJCC needs a long-term roof replacement schedule.

Discussion was held on the proposed eighth elementary school and the impact of delaying this project for a couple of years.

Mr. Brown inquired if the options laid out by Mr. McCalla could be changed to meet the County's fiscal responsibilities; suggested delaying the start of the elementary school until 2008 and the middle school until 2009; and immediately begin the additions at Stonehouse and D. J. Montague Elementary Schools, and the Norge Elementary School expansion.

Mr. Brown stated support for Scenario Nos. 2 and 3 with the expansion of adding onto James River Elementary, as well as the middle school Option No. 2, modified for 900 students for \$21.5 million.

Discussion was held on the impact of delaying construction and the additional costs that would be incurred.

Mr. McGlennon stated concern about keeping in mind the size of the schools.

Mr. Goodson stated that keeping the County in balance for debt service costs for maintenance, trailers, or facilities would never amount to the cost of running the facility, and that it would never cost more to wait.

Dr. John Alewynse, School Board, stated that it is not only about cost, but also about kids, and could not think of a worse way to meet the challenge than to allow students in trailers for longer periods of time and in overcrowded schools.

Mrs. Ann Brown, Chair of the School Board, concurred with Dr. Alewynse, stated that the elementary school should go forward, and has gotten many of comments from constituents on the issue.

Ms. Mary Minor, School Board, stated that economic development is the best long-term way to reduce dependence on real estate taxes and high-quality education is the best way to develop that workforce.

Ms. Jeanne Zeidler, Mayor of the City of Williamsburg, stated concern that the amount is driven by growth in the County, not the City, and the price tag could overwhelm the City.

Mr. McGlennon replied that the City contribution may decline if the City's school population declines, and stated that a large part of this cost is the high school, which the voters approved last year.

Ms. Mary Ann Maimone, School Board, commented on how WJCC might better utilize space.

Mr. Harrison stated that these meetings have been productive; have addressed the challenges that lie ahead, and inquired what potential building sites were currently available and how long it will take.

Mr. Wanner stated that a report will be provided at the end of April and the question will be "Do we have willing sellers?"

Mayor Zeidler thanked everyone for their work and input.

**C. ADJOURNMENT**

Mr. Harrison made a motion to adjourn.

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

At 3:44 p.m., Mr. Brown adjourned the Board until 4 p.m. on February 22, 2005.

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Sanford B. Wanner  
Secretary to the Board

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF FEBRUARY 2005, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

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

Sanford B. Wanner, County Administrator  
Michael Drewry, Assistant County Attorney

**B. BOARD DISCUSSION**

1. 2005 Cash Proffer Policy

Mr. John T. P. Horne, Development Manager, presented an updated policy for cash proffers to be considered by the Board in conjunction with other land use factors applicable to particular development proposals and other proffers offered by rezoning applicants.

The Board and staff discussed the components involved in calculating what a new dwelling will cost the County to provide services such as public school, what other jurisdictions use as components in calculating affordable cash proffers, impacts of the proposed cash proffer on affordable housing, requested information on what happens to the balance fund for a specific development after seven years if the proffers have not been expended, and the application of the proposed cash proffer to rezonings and not to special use permit applications or each home of a development.

Mr. Horne presented the proposed 2005 Cash Proffer Policy resolution for input and review.

The Board and staff discussed the single-family detached residential category.

Mr. Bradshaw inquired if cash proffers for attached single-family residential units are less than single-family detached residential units and if that would artificially change the architecture of residential units.

Mr. Horne stated that staff would look into the inquiry.

Mr. Brown inquired how Resolution Item II.C, James City Service Authority Drinking Water, applies to school cash proffers.

Mr. Horne stated that provision would not be required if the proffers adopted by the Board deal exclusively with public schools.

The Board and staff discussed the proposed guidelines for reductions of proffers associated with certain residential developments based on the sales price of the home, the weight of proffers for types of households based on income and connection to what types of houses that generally generate additional school-age children, and if houses cost more or less on the market with the association of cash proffers.

The Board and staff discussed a target date for a Cash Proffer Steering Committee to bring forward a review on the proposed Cash Proffer Policy and a Rural Lands Policy, what it would involve, whether to use a steering committee or an independent consultant, and if the two Policies should be separated for review by different groups.

Mr. Brown stated that it is the consensus of the Board to have the Rural Lands Policy reviewed for any needed adjustments and the impacts of cash proffers on the Policy.

The Board discussed the Cash Proffer Steering Committee and what group the Committee members would be made up of.

The Board discussed timing of bringing the Policies back to the Board, development of a notification system to let potential buyers know if their purchase would involve an additional fee associated with the policy, what the purpose of the Cash Proffer Steering Committee would be in connection with the independent consultant, and desire to bring back the Cash Proffer Policy in June and Rural Lands Policy by September.

The Board and staff discussed the language of the Request for Proposal for an independent consultant for the Cash Proffer Policy, Mr. Brown's proposal for the consultant's participation in the Policy review, what the goal of the Steering Committee and consultant will be, and what duties are expected for the Committee and consultant.

The Board held a brief discussion on what unresolved questions the Board wants the Committee to address.

Mr. Wanner recommended that the Chairman join staff to interview the consultant and then come back to the Board on March 8 for a Closed Session to appoint members to the Steering Committee that will contain staff, citizens, and representatives from the home builders.

**C. BREAK**

At 5:44 p.m. the Board took a dinner break until 7 p.m.

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Sanford B. Wanner  
Secretary to the Board



**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF MARCH 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

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

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Tavish O'Connor, representing Boy Scout Troop 414, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION**

1. Exceptional Service Award – Evan Rickerson

Mr. Brown, Mr. McGlennon, Police Lieutenant Steve Rubino, and Fire Marshall Greg Thompson presented Evan Rickerson with an Exceptional Service Award in recognition for his assistance in saving his friend's life by remaining calm and taking the quick and appropriate action of having a neighbor call 911 when his friend fell through the ice on a pond.

**E. PUBLIC COMMENT**

1. Ms. Stephanie Smith, 113 Chinkapin Lane, representing the Active Williamsburg Alliance, requested that the Board increase the financial commitment to the County's Greenways projects and requested that members in the audience in support of additional funding for the Greenways projects stand and be recognized.

2. Mr. Bob Austin, 4557 Ware Creek Road, representing over 300 members of the Williamsburg Area Bicyclists, requested that the Board provide adequate funding for the Greenways projects to provide safe routes for alternative transportation such as bicycling.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the Williamsburg-James City County Schools participating in the Accelerator Academic Excellence program; commented on the non-regulatory assessment fee by AT&T and inquired about the County's justification for raising tax on telecommunications; and commented on an article in the *Virginia Water Council* regarding brackish water which may increase upon increased groundwater withdrawals and the severe stress levels on the Chickahominy Piney-Point Aquifer.

4. Dr. Daniel Shaye, 3204 Ironbound Road, spoke on behalf of Colonial Road Runners in support of the Active Williamsburg Alliance and for safe alternative pedestrian traffic routes on paved and unpaved trails in the County.

## **F. CONSENT CALENDAR**

Mr. Bradshaw made a motion to adopt the items on the Consent Calendar, including the amended minutes of the Board's regular meeting held on February 22, 2005.

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

1. Minutes
  - a. February 3, 2005, VACo/VML Legislative Day
  - b. February 22, 2005, Regular Meeting
2. Strengthening Families Program - Historic Triangle Substance Abuse Coalition Grant

## **RESOLUTION**

### **STRENGTHENING FAMILIES PROGRAM -**

### **HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION**

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

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

Revenue:

Historic Triangle Substance Abuse Coalition      \$3,059

Expenditure:

Strengthening Families Program      \$3,059

3. Revisions to Chapter 11, Safety Program, of the James City County Personnel Policies and Procedures Manual

**RESOLUTION**

**REVISIONS TO CHAPTER 11, SAFETY PROGRAM OF THE JAMES CITY COUNTY**

**PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, it is the practice of the County to periodically review its policies for improvement and alignment with County values; and

WHEREAS, safety oversight within the County now falls under Financial and Management Services, Risk Management; and

WHEREAS, the written safety program in the County is a policy which provides structure for responsibility and implementation of safety procedures and safety rules.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that revisions to the Personnel Policies and Procedures Manual listed above are adopted.

4. Award of Bid - Emergency Communications Center

**RESOLUTION**

**AWARD OF BID - EMERGENCY COMMUNICATIONS CENTER**

WHEREAS, competitive bids were advertised for the Emergency Communications Center to be constructed in Toano at 3127 Forge Road; and

WHEREAS, bids were received with the low bidder being Sun Bay Contracting with a bid of \$1,871,000; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Emergency Communications Center in the total amount of \$1,871,000.

**F. PUBLIC HEARINGS**

1. Ordinance Amendment - Chapter 20, Taxation, Amending Article X, Tax on Local Telecommunication Service, Section 20-71, Levy

Mr. John E. McDonald, Manager of Financial and Management Services, presented an amended Ordinance to increase the monthly local telecommunication service tax under the Consumer Utility Tax (CUT) to \$1.60 and requested the Board approve the Ordinance amendment which would allow implementation of the tax change effective July 15, 2005.

Mr. Brown inquired if this increase was discussed in the Budget proceedings last year.

Mr. McDonald stated the increase was included in the financial plan adopted by the Board for FY 06 to fund additional staff and equipment at the County's Emergency Dispatch Center.

Mr. McGlennon inquired if the tax is subject to review by the General Assembly next year.

Mr. McDonald stated that it is.

Mr. Brown opened the Public Hearing.

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

Mr. Bradshaw made a motion to approve the amended Ordinance.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: Harrison (1).

2. Ordinance Amendment - Chapter 11, Health and Sanitation – By Adding Section 11-66, Automatic Irrigation System; and Renumbering Old Section 11-66, Violations of Article, to Section 11-67

Mr. Larry M. Foster introduced Beth Davis, Environmental Education Coordinator, James City Service Authority, and stated that a modified, amended Ordinance has been distributed to the Board this evening in response to Mr. Bradshaw's recommendations.

Ms. Davis recommended the Board adopt the amended Ordinance that will require all irrigation systems installed in the County and supplied water by the JCSA to have a rain sensor to override the irrigation cycle of an automatic irrigation system when a predetermined amount of rain has fallen. Further, customers with an automatic irrigation system that was installed without a rain sensor will be offered a one-time incentive program rebate up to \$50 for installing a rain sensor.

Mr. Harrison inquired how the sensors will be monitored and how inspections will be conducted as a result of this amendment.

Ms. Davis stated that current inspection process will continue.

Mr. Brown recommended a punctuation change to the proposed Section 11-67.

A brief discussion was held on the recommendation.

Mr. Bradshaw recommended an "and" be inserted prior to the word "each" in Section 11-67.

Mr. Brown agreed to the recommendation.

The Board and staff discussed the possible incentive program to encourage retrofitting of rain sensors onto existing irrigation systems.

Mr. Brown inquired if this Ordinance would apply equally to residential as well as industrial customers.

Mr. Foster stated that it would apply to both.

Mr. Goodson proposed, and Mr. Foster concurred with the recommendation, to have staff develop a flag system to alert staff to inspect for rain sensors while performing other inspections, such as backflow inspections, and a way to alert home inspections for potential homebuyers to investigate for rain sensors.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to approve the modified Ordinance amendment as well as the proposed addition of the word “and” as recommended by Mr. Brown and Mr. Bradshaw.

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

3. Case No. SUP-37-04. 115 Winston Drive Duplex

Mr. Brown stated that the applicant has withdrawn the special use permit application and therefore a Public Hearing is not needed for this case.

4. Sale of Property at 3832 Longhill Road and Appropriation of Program Income Funds

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that in 1998 the County purchased a vacant house on Longhill Road for temporary use as a community resource center for the Greater Centerville Road area and in 2004 the property became available to be sold to a qualified homebuyer. Several persons on the top of the County’s Affordable Housing Incentive Program waiting list were notified at the end of 2004 of the potential availability of the house, as well as a number of other properties. A County resident has indicated interest in purchasing the house and appears qualified for special financing available through the Affordable Housing Incentive Program.

Staff recommended the sale of 3832 Longhill Road and that the proceeds of the sale be appropriated by the Board for property acquisition and improvements associated with the Ironbound Square Residential Revitalization Project and the development of affordable housing within the Ironbound Square neighborhood.

Mr. Brown recognized Mr. Jack Fraley representing the Planning Commission in the audience.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution and thanked Mr. Hanson and his staff in

addressing the needs of the community by taking a housing unit and turning it into a community resource center and then back into an affordable housing unit.

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

**RESOLUTION**

**SALE OF PROPERTY AT 3832 LONGHILL ROAD AND**

**APPROPRIATION OF PROGRAM INCOME FUNDS**

WHEREAS, in 1998 James City County acquired the blighted parcel containing approximately .459 acres with improvements located at 3832 Longhill Road in the Powhatan District designated as Real Estate Tax Parcel No. 3130200026 (the "Property") for the purpose of assisting the residents of the Greater Centerville Road area to combat crime and foster a healthy neighborhood and citizenry; and

WHEREAS, appropriated funds from the Community Development Fund were used to purchase and rehabilitate the Property to enable it to be used for an interim period as the Centerville Road Resource Center after which the Property was to be sold to a qualified first-time home buyer through the County's Affordable Housing Incentive Program; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should convey this Property for \$101,000 to a qualified first-time home buyer on the waiting list of the Affordable Housing Incentive Program; and

WHEREAS, additional funds are required to purchase properties and make improvements to accomplish the objectives of the Ironbound Square Residential Revitalization Project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute a deed and any other documents needed to convey the property for \$101,000 to a qualified first-time home buyer through the County's Affordable Housing Incentive Program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Community Development Fund Budget, as adopted for the fiscal year ending June 30, 2005, as follows:

Revenue Increase:

Program Income \$101,000

Expenditures Increase:

Housing and Community Development Programs \$101,000

and that the increased program income funds be designated a continuing appropriation to carry beyond FY 2005 until the activities of the Ironbound Square Residential Revitalization Project are completed.

**G. BOARD CONSIDERATIONS**

1. Approval of Real Estate Contract - New Town Community Building

Mr. John T. P. Horne, Development Manager, stated that the County intends to construct a Public building in the New Town development to commemorate 2007, provided an overview of the proposed site, and stated that as part of the process, it is necessary for the County to acquire a site for the building from New Town Associates, LLC.

Staff has been meeting with New Town representatives for several months and recommend that the Board authorize the County Administrator to sign a contract to purchase the site in New Town once a final contract has been agreed upon.

The Board and staff discussed the negotiation of the contract and that the resolution authorizes the County Administrator to sign a final contract.

Mr. McGlennon inquired what the approximate date for completion would be.

Mr. Horne stated that staff anticipates it will be ready in about 18 months depending upon how long it takes to get approval of the design of the greenfill space.

Mr. McGlennon requested that an art piece be included in the development of the site that will complement the building and will make a lasting contribution beyond the building itself.

Mr. Brown inquired if the placement of the building will be on the east end or if there will be further discussion on the placement.

Mr. Horne stated that the end has been considered by the Design Review Board and the exact configuration will be subject to further considerable consideration.

Mr. Goodson requested confirmation that the development of the commemorative building be in conjunction with the other 2007 committees.

Mr. Wanner stated that staff understands that there will be participation from the community in the selection of the architect as it moves forward.

Mr. Goodson made a motion to adopt the resolution.

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

**RESOLUTION**

**APPROVAL OF REAL ESTATE CONTRACT -**

**NEW TOWN COMMUNITY BUILDING**

WHEREAS, James City County wishes to construct a building for use by the community and as a legacy from the 400th anniversary of the landing at Jamestown; and

WHEREAS, a suitable site is located in the New Town development as part of the Town Green consisting of approximately .221 acres; and

WHEREAS, terms of a commercial real estate contract have been negotiated between the County and the property owner, New Town Associates, LLC, that include a payment of approximately \$115,500 for shared parking and an additional quarterly parking maintenance fee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia does hereby authorize and direct the County Administrator to execute a real estate contract in the amount of \$3,300 per parking space for approximately 35 parking spaces with an additional quarterly parking maintenance fee and any other documents needed to purchase a suitable site for a community building from New Town Association, LLC.

**H. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, requested that everyone keep troops in mind.

**I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that in the advertised agenda, some actions to be taken by the Board are tied to the Strategic Management Plan and the Board and citizens can see how County is moving forward to achieve its vision.

On March 18, 2005, there will be a public roll out of a Way Finding System that is a collaborative effort of James City County, York County, Colonial Williamsburg, the City of Williamsburg, and others to establish a system for visitors to find their way through the Historic Triangle using integrative signs in the area.

Mr. Wanner recommended when the Board completes its business, it adjourn to 4 p.m. February 22, for a Work Session.

Mr. Wanner stated that James City County is a major funder of a Commonwealth initiative to link Richmond to Williamsburg by way of a trail and commented that the trails will be multi-use.

Mr. Wanner recommended that the Board convene into Closed Session during its meeting 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.



Mr. Wanner presented a resolution authorizing the County Administrator to execute a contract to TischlerBise to provide consulting services to assist in the development of a cash proffer system for the funding of school capital projects and the transfer of funds for the service.

Mr. Goodson made a motion adopt the resolution.

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

## **RESOLUTION**

### **CONTINGENCY TRANSFER – CASH PROFFER CONSULTING SERVICES**

WHEREAS, the Board of Supervisors of James City County desires to develop a cash proffer system for the funding of needed school capital improvements, and

WHEREAS, proposals were solicited through a Request for Proposals (RFP) process based on a specific scope of work and of four responses, the one received from TischlerBise was chosen as the most responsive.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with TischlerBise and to authorize the transfer of \$27,000 from Operating Contingency to the Board of Supervisors' Budget to fund the contract.

### **J. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon stated that Secretary Clements is leaving the administration and he has been an active proponent for the Capital-to-Capital trail development.

Mr. McGlennon requested that staff look into a program whereby individuals with Alzheimer's disease can be tracked.

Mr. McGlennon requested that staff look into a reverse 911 system whereby a broadcast message can be sent to inform the public of important situations.

Mr. Wanner stated that the County has a partial system in place.

Mr. McGlennon requested that staff investigate the full reverse 911 program and the opportunities that it offers, such as telephone calls to senior citizens.

Mr. Bradshaw recognized the members in attendance from Boy Scout Troop 414 who are working towards their merit badges and thanked them for attending.

**K. 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.

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

Mr. Brown adjourned the Board into Closed Session at 7:53 p.m.

Mr. Brown reconvened the Board into Open Session at 8:23 p.m.

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

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

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

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

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

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

Mr. Harrison made a motion to appoint John T. P. Horne, Manager of Development Management; John E. McDonald, Manager of Financial and Management Services; Michael Thornton, Assistant Superintendent for Finance and Administrative Services, Williamsburg-James City County Schools; Ingrid Blanton; John Wilson, the Williamsburg Area Realtors representative; David Jarman; a PTA Council representative; a Williamsburg Area Homebuilders representative; Mark Rinaldi; and Leo P. Rogers, County Attorney, in an ex officio role; to the Cash Proffer Steering Committee.

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

**L. ADJOURN**

Mr. Harrison made a motion to adjourn.

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

At 8:24 p.m. Mr. Brown adjourned the Board to 4 p.m. on March 22, 2005.

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Sanford B. Wanner  
Secretary to the Board

030805bs.min

MEMORANDUM

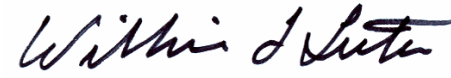
DATE: March 22, 2005  
TO: The Board of Supervisors  
FROM: William T. Luton, Deputy Fire Chief  
SUBJECT: Appropriation of Grant Funds - Virginia Department of Emergency Management (VDEM)  
National Terrorism Preparedness Exercise - \$942

---

In July of 2004, James City County was awarded a \$9,000 pass-through grant from the Virginia Department of Emergency Management (VDEM) to reimburse expenses related to County government participation with a VDEM National Terrorism Preparedness Exercise. The Board appropriated these funds on July 27, 2004.

On February 25, 2005, the VDEM increased that award by \$942 for funds actually expended by the County.

The receipt of the additional \$942 must be authorized by the Board of Supervisors. The attached resolution complies with all Commonwealth of Virginia requirements and staff recommends approval.



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William T. Luton

WTL/gs  
VDEMgrant.mem

Attachment

**RESOLUTION**

**APPROPRIATION OF GRANT FUNDS -**

**VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT (VDEM)**

**NATIONAL TERRORISM PREPAREDNESS EXERCISE**

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

WHEREAS, on February 25, 2005, the Virginia Department of Emergency Management (VDEM) increased that award to \$9,942 as reimbursement for actual funds spent; and

WHEREAS, the grant requires no local matching funds.

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:

VDEM-DP Exercise	<u>\$942</u>
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Expenditure:

VDEM-DP Exercise	<u>\$942</u>
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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

VDEMgrant.res 1

MEMORANDUM

DATE: March 22, 2005  
TO: The Board of Supervisors  
FROM: John E. McDonald, Manager of Financial and Management Services  
SUBJECT: Grant Appropriation - Department of Criminal Justice Services - Triad Crime Prevention Program - \$6,485

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James City County has been awarded a grant from the Department of Criminal Justice Services (DCJS) to implement the Triad Crime Prevention Program. This Program is designed to provide local senior citizens with the tools and education to recognize crimes and protect themselves. This Program will be implemented through the Colonial Triad, whose members include the Williamsburg-James City County Sheriff's Office, Williamsburg Police Department, James City County Police Department, and the James City County Department of Social Services. The grant award is for \$6,485, which includes Federal funding of \$4,866 and \$1,619 in a local match from the Colonial Triad members.

Staff recommends the Board of Supervisors adopt the attached resolution appropriating \$6,485 to the Special Projects/Grants Fund.

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John E. McDonald

JEM/gs  
DCJSgrant.mem

Attachment

**RESOLUTION**

**GRANT APPROPRIATION – DEPARTMENT OF CRIMINAL JUSTICE SERVICES –**

**TRIAD CRIME PREVENTION PROGRAM - \$6,485**

WHEREAS, the Department of Criminal Justice Services (DCJS) has awarded James City County a grant in the amount of \$6,485 to implement the Triad Crime Prevention Program.

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

Revenues:

DCJS Triad Crime Prevention Program - Federal	\$4,866
<u>Local Match</u>	<u>1,619</u>
	<u>\$6,485</u>

Expenditure:

DCJS Triad Crime Prevention Program	<u>\$6,485</u>
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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

DCJSgrant.res

**MEMORANDUM**

DATE: March 22, 2005  
TO: The Board of Supervisors  
FROM: Richard B. Hanson, Housing and Community Development Administrator  
SUBJECT: Ironbound Elderly Housing Project - Community Development Block Grant

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Attached for your consideration is a resolution authorizing the County Administrator to submit an application for a Community Development Block Grant (CDBG) to assist in funding on- and off-site development expenses required to enable the development of a 67-unit Section 202 Supportive Housing for the Elderly Project within the Ironbound Square neighborhood, along with the development of five single-family lots on adjacent property. Last May the Board of Supervisors adopted a resolution endorsing the application for a Section 202 Grant by Bay Aging, in partnership with the Peninsula Area Agency Aging (PAA), for this elderly housing project, and also adopted a resolution to convey property owned by the County to the Williamsburg Redevelopment and Housing Authority to enable a site option to be completed. In October, the U.S. Department of Housing and Urban Development (HUD) announced an award of a Section 202 Grant to Bay Aging to finance development of the apartment project for lower-income elderly households. Last month an application to rezone the site for the elderly housing development as well as adjacent property from R-2 to Mixed Use was submitted to the Planning Department.

Preparation of the rezoning application identified a number of site improvements that were necessary to accommodate the development of the 67-unit apartment project, as well as an anticipated single-family development within the Ironbound Square Redevelopment area. The Section 202 Grant does not provide funds for off-site development costs. Analysis of projected development costs also indicate a shortage of funding for on-site improvements. Housing and Community Development and Bay Aging have investigated potential sources of funding for these expenses, including the Virginia Community Development Block Grant Program (VCDBG). Competition for VCDBG funding is expected to be quite strong this year; nonetheless, after meeting with officials from Virginia Department of Housing and Community Development, we were encouraged to submit an application for these funds.

The improvements to be funded with VCDBG funds include storm sewers, a portion of the cost of a stormwater management facility, upgrades to the Watford Lane sanitary sewer lift station, and sidewalks and walkways. The stormwater management facility is proposed to be a regional facility that will serve the needs of the entire Ironbound Square Redevelopment Project as well as the storm drainage needs of the Ironbound Road widening project included in the Six-Year Virginia Department of Transportation Secondary Road Improvement Plan. Additionally, VCDBG funds are proposed to be used to pay for the cost of the abandonment and demolition of the surplus well site on Carriage Road. The well site is to be redeveloped into three lots for affordable single-family homes. The James City Service Authority will ask you as its Board of Directors at a subsequent meeting to authorize the transfer of the well facility properties to the Williamsburg Redevelopment and Housing Authority.

Local funding proposed to be committed to this project includes funds for acquisition of property for the stormwater management facility, donation of the well site, waiver of sanitary sewer connection fees for the elderly housing project, and for homes to be sold to low- and moderate-income households within the project area. The local funds for the Ironbound Square area stormwater management facility were set aside and



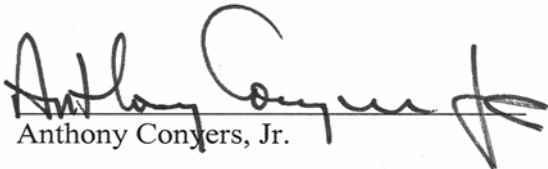
transferred into the Community Development Fund as part of the FY 2005 Budget. Federal and State regulations require that if Community Development Block Grant funds are used to pay for the cost of a facility for low- and moderate-income persons they cannot be charged an access fee such as a sewer connection fee. It is proposed that for this project the cost of the mandatory sewer connection fee waiver be shared between the James City Service Authority (JCSA) and the Community Development Fund. The Community Development Fund will receive revenue from the sale of properties, including the elderly housing site and the well site, and will reimburse the JCSA for half of the cost of each connection fee waiver granted due to the use of VCDBG funds to upgrade the Watford Lane lift station.

Staff recommends approval of the attached resolution authorizing the submission of a Community Development Block Grant application to support the Ironbound Square Elderly Housing Project.



Richard B. Hanson

CONCUR:



Anthony Conyers, Jr.

RBB/gs  
IBgrant.mem

Attachment

**RESOLUTION**

**IRONBOUND ELDERLY HOUSING PROJECT -**

**COMMUNITY DEVELOPMENT BLOCK GRANT**

WHEREAS, financial assistance is available to units of local government through the Commonwealth of Virginia Community Development Block Grant Program (VCDBG); and

WHEREAS, two Public Hearings have been held regarding this application, in compliance with VCDBG citizen participation requirements; and

WHEREAS, James City County wishes to apply for \$560,000 in VCDBG funds to be used in undertaking a Housing Production Project within a designated six-acre area within the Ironbound Square neighborhood; and

WHEREAS, \$246,000 in local funds are allocated to the project and \$5,149,600 in State and Federal funds will be expended on this project; and

WHEREAS, the project is anticipated to benefit 70 low- and moderate- income households by providing 67 affordable housing units for rent and three affordable housing units for sale.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to file an application, including all understandings and assurances contained therein, with the Virginia Department of Housing and Community Development, and to provide such additional information as may be required by the Department.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

IBgrant.res

MEMORANDUM

DATE: March 22, 2005

TO: The Board of Supervisors

FROM: Matthew Strickler, Graduate Student - College of William & Mary  
Megan-Brady Viccellio, Third-Year Law Student - Marshall Wythe Law School

SUBJECT: Amend the Drought Management Ordinance – Chapter 11, Health and Sanitation,  
Section 53, Condition for the Declaration of Potential Shortage of Water

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This meeting has been advertised as a Public Hearing to receive public comment on a proposal to amend the Drought Management Ordinance to allow the County to regulate the use of private wells under certain emergency drought conditions.

The 2003 Session of the General Assembly approved Virginia Code Section 15.2-923, Local Water Saving Ordinance, which provides that “any locality may by ordinance ... restrict the nonessential use of groundwater during a declared water shortage or water emergency.” James City County encouraged the General Assembly to approve this type legislation. This legislation was introduced at the request of James City County in October 2002 as part of James City County’s 2003 legislative program.

Attached is the proposed amendment to the Drought Management Ordinance, which would allow the County to regulate the use of private wells during drought emergencies. Under the current Ordinance, only customers of the James City Service Authority (JCSA) are obliged to comply with restrictions on water use during declared drought conditions. Given the fact that both JCSA customers and private well owners draw water from the same groundwater resource, and that the purpose of the Drought Management Ordinance is to conserve this resource, the JCSA believes that this Ordinance should be amended. The regulations will not apply to agricultural water use per State code provisions.

Upon adoption of this amendment, Stage II actions under the Drought Management Ordinance will apply to all residents of the County who use groundwater rather than to JCSA customers alone. The JCSA’s Drought Management Regulations provide that Stage II regulations will be placed in effect when the Central Water System has reached 85 percent of its permit capacity for 45 consecutive days.

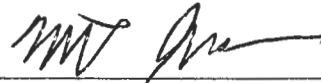
Stage II regulations require the following actions:

- No outdoor irrigation of vegetation except with a 3-gallon bucket;
- No washing of automobiles except from a 3-gallon bucket;
- Prohibits the washing of streets, driveways, exterior of homes, etc.; and
- Prohibits the use of fire hydrants, operation of ornamental fountains, filling of swimming pools, etc.

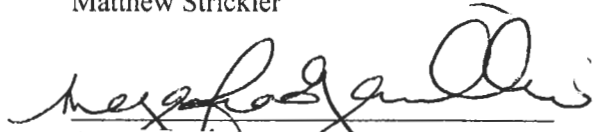
This change will allow the County to pursue more effectively its conservation goals under the Drought Management Ordinance. The JCSA regulations relating to the Water Conservation and Drought Management Plan will automatically become consistent upon adoption of the amendment.

The Water Conservation Committee has been apprized of the proposed Ordinance Amendment and supports its approval.

After receiving public comment, staff recommends that the Board approve the attached Ordinance amending the County Code as discussed above.



Matthew Strickler



Megan-Brady Viccellio

CONCUR:



Larry M. Foster

MBV/gs  
droughtamend.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, HEALTH AND SANITATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, DROUGHT MANAGEMENT, BY AMENDING SECTION 11-53, CONDITIONS FOR THE DECLARATION OF POTENTIAL SHORTAGE OF WATER.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 11, Health and Sanitation, is hereby amended and reordained by amending Section 11-53, Conditions for the declaration of potential shortage of water.

Chapter 11. Health and Sanitation

Article VI. Drought Management

Sec. 11-53. Conditions for the declaration of potential shortage of water.

Upon a determination by the county administrator of the existence of the following conditions, the county administrator shall take the following actions

- (b) *Stage II*. When one or more of the parameters described in section 33.B.5(b) of the plan adopted by the JCSA are met, the county administrator shall ~~order curtailment of less essential usage of water, including but not limited to, the measures described in section 33.B.7(b) one or more of the plan~~ *institute mandatory restrictions on the use of groundwater, whether public or private, by all residents of the county. Such restrictions include, but are not limited to, those restrictions applicable to Stage II as well as reductions of water to each*

*customer as described in section 33.B.7(b) of the plan. This provision shall not  
apply to well water used for agricultural purposes*

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 22nd day of  
March, 2005.

Droughtamend.ord

**SPECIAL USE PERMITS 8-05, 9-05, 10-05, 11-05, 12-05, 13-05, 14-05, 15-05. Temp. Classroom Trailers Staff Report for March 22, 2005, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS** Building F Board Room; County Government Complex  
Board of Supervisors: March 22, 2005, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Michael Thornton, on behalf of Williamsburg - James City County Public Schools

Proposed Use: Placement of one new trailer at Lafayette High School; placement of one new trailer at Jamestown High School; placement of one new trailer at Toano Middle School; placement of five new trailers at Clara Byrd Baker Elementary School; placement of one new trailer at D.J. Montague Elementary School; placement of two new trailers at Stonehouse Elementary School; placement of two new trailers at Norge Elementary School; and placement of three new trailers at Rawls Byrd Elementary School.

Location: SUP-08-05 - Lafayette High School - 4460 Longhill Road; Powhatan District  
SUP-09-05 - Jamestown High School - 3751 John Tyler Highway; Berkeley District  
SUP-10-05 - Toano Middle School - 7817 Richmond Road; Stonehouse District  
SUP-11-05 - Clara Byrd Baker Elementary School - 3131 Ironbound Road; Berkeley District  
SUP-12-05 - D.J. Montague Elementary School - 5380 Centerville Road; Powhatan District  
SUP-13-05 - Stonehouse Elementary School - 3651 Rochambeau Drive; Stonehouse District  
SUP-14-05 - Norge Elementary School - 7311 Richmond Road; Stonehouse District  
SUP-15-05 - Rawls Byrd Elementary School - 112 Laurel Lane; Jamestown District

Tax Maps/Parcel Nos.: Lafayette High School - (32-3)(1-1); R-2, General Residential  
Jamestown High School - (46-1)(1-2D); R-1, Limited Residential  
Toano Middle School - (12-4)(1-51); A-1, General Agricultural  
Clara Byrd Baker Elementary School - (47-1)(1-58); R-8, Rural Residential  
D.J. Montague Elementary School - (31-1)(1-49); R-8, Rural Residential  
Stonehouse Elementary School - (13-1)(1-20); A-1, General Agricultural  
Norge Elementary School - (23-2)(1-35); R-2, General Residential  
Rawls Byrd Elementary School - (48-1)(6-171A); R-2, General Residential

Comprehensive Plan: All eight school sites are designated Federal, State, and County Land

Primary Service Area: All eight schools are located inside the Primary Service Area

## **STAFF RECOMMENDATION**

The applicant has requested that Case Nos. SUP-11-05, Clara Byrd Baker Elementary School and SUP-15-05, Rawls Byrd Elementary School be deferred until the April 26, 2005, Board of Supervisors public hearing in order to allow the School Division additional time to evaluate space utilization alternatives at both schools. Staff finds the proposals consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Board approve these proposals with the condition listed in the attached resolution.

Staff Contact: Christopher Johnson Phone: 253-6685

## **PROJECT DESCRIPTION**

Mr. Michael Thornton has applied for special use permits on behalf of Williamsburg-James City County Public Schools to allow the placement of temporary classroom trailers at Lafayette High School, Jamestown High School, Toano Middle School, Clara Byrd Baker Elementary School, D.J. Montague Elementary School, Stonehouse Elementary School, Norge Elementary School and Rawls Byrd Elementary School. Section 24-109 of the Zoning Ordinance requires the issuance of a special use permit by the Board of Supervisors for temporary classroom trailers accessory to an existing school. The requests for each of the eight schools are detailed below.

### *Lafayette High School*

Lafayette High School currently has eight temporary classroom trailers located west of the main school building. The permits for three of the classroom trailers are valid until July 1, 2006, and the permits for five trailers are valid until July 1, 2007. Two of the trailers are utilized for Child Development Resources classes. The School Board is requesting one new classroom trailer (two classrooms) to accommodate the existing and projected growth in the student population at the high school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

### *Jamestown High School*

Jamestown High School currently has five temporary classroom trailers located west of the main school building. The permits for three classroom trailers are valid until July 1, 2006, and the permits for two trailers are valid until July 1, 2007. The School Board is requesting one new classroom trailer (two classrooms) to accommodate the existing and projected growth in the student population at the high school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

### *Toano Middle School*

Toano Middle School currently has three temporary classroom trailers located on the southern side of the school between the main school building and the track. The permit for the existing trailers is valid until July 1, 2007. The School Board is requesting one new classroom trailer (eight classrooms) to accommodate the existing and projected growth in the student population at the middle school. This trailer will replace three current trailers. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

### *Clara Byrd Baker Elementary School*

Clara Byrd Baker Elementary School currently has four temporary classroom trailers located between the main school building and the basketball courts. The permits for the four existing trailers are valid until July 1, 2007. The School Board is requesting five new temporary classroom trailers (five classrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.



*D.J. Montague Elementary School*

D.J. Montague Elementary School currently has two temporary classroom trailers located on the eastern side of the school between the main school building and the soccer field adjacent to St. Andrews Drive. The permit for one of the existing trailers is valid until July 1, 2006, and the permit for the other trailer is valid until July 1, 2007. The School Board is requesting one new classroom trailer (four classrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

*Stonehouse Elementary School*

Stonehouse Elementary School currently has two temporary classroom trailers located between the main school building and the softball fields. The permit for one of the existing trailers is valid until July 1, 2006, and the permit for the other trailer is valid until July 1, 2007. The School Board is requesting two new temporary classroom trailers (two classrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

*Norge Elementary School*

Norge Elementary School does not currently have any classroom trailers. The School Board is requesting two new temporary classroom trailers (two classrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

*Rawls Byrd Elementary School*

Rawls Byrd Elementary School does not currently have any classroom trailers. The School Board is requesting three new temporary classroom trailers (three classrooms) to accommodate the existing and projected growth in the student population at the elementary school. Information submitted with the application states that an analysis of existing classroom space indicates maximum utilization at the present time.

**PUBLIC UTILITIES**

Each of the school sites lie within the Primary Service Area . Public water and sewer serve the area surrounding each of the schools and the schools themselves.

**COMPREHENSIVE PLAN**

The Comprehensive Plan designates all eight schools as Federal, State, and County land. The majority of land surrounding these school sites is designated as Low Density Residential. Examples of acceptable land uses in areas designated as Low Density Residential include single-family homes, recreation areas, community oriented public facilities, very limited commercial development, churches, and schools. Staff finds that the proposed use to be consistent with the Comprehensive Plan as they are accessory to a recommended land use.

**CONCLUSIONS & CONDITIONS**

The applicant has requested that Case Nos. SUP-11-05, Clara Byrd Baker Elementary School and SUP-15-05, Rawls Byrd Elementary School be deferred until the April 26, 2005, Board of Supervisors public hearing in order to allow the School Division additional time to evaluate space utilization alternatives at both schools. Staff finds the proposals consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve each of these proposals with the following condition:

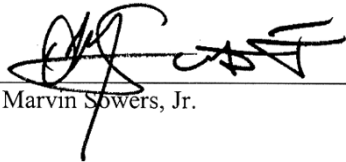
1. This permit shall be valid until July 1, 2008.

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Christopher Johnson

CONCUR:

CJ/tlc  
sup805\_mem.wpd



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O. Marvin Sowers, Jr.

ATTACHMENTS:

1. Temporary Classroom Trailer Summary Chart
2. Site Map for Lafayette High School
3. Site Map for Jamestown High School
4. Site Map for Toano Middle School
5. Site Map for Clara Byrd Baker Elementary School
6. Site Map for D.J. Montague Elementary School
7. Site Map for Stonehouse Elementary School
8. Site Map for Norge Elementary School
9. Site Map for Rawls Byrd Elementary School
10. Resolution

**RESOLUTION**

**CASE NO. SUP-8-05. LAFAYETTE HIGH SCHOOL**

**CASE NO. SUP-9-05. JAMESTOWN HIGH SCHOOL**

**CASE NO. SUP-10-05. TOANO MIDDLE SCHOOL**

**CASE NO. SUP-12-05. D. J. MONTAGUE ELEMENTARY SCHOOL**

**CASE NO. SUP-13-05. STONEHOUSE ELEMENTARY SCHOOL**

**CASE NO. SUP-14-05. NORGE ELEMENTARY SCHOOL**

**TEMPORARY CLASSROOM TRAILERS**

WHEREAS, all conditions for the consideration of these special use permit applications have been met; and

WHEREAS, temporary classroom trailers accessory to an existing school may be permitted upon the issuance of a special use permit by the Board of Supervisors; and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at Lafayette High School on property owned and developed by the applicant located at 4460 Longhill Road and further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (32-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at Jamestown High School on property owned and developed by the applicant located at 3751 John Tyler Highway and further identified as Parcel No. (1-2D) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at Toano Middle School on property owned and developed by the applicant located at 7817 Richmond Road and further identified as Parcel No. (1-51) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow one new temporary classroom trailer at D.J. Montague Elementary School on property owned and developed by the applicant located at 5380 Centerville Road and further identified as Parcel No. (1-49) on James City County Real Estate Tax Map No. (31-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow two new temporary classroom trailers at Stonehouse Elementary School on property owned and developed by the applicant located at 3651 Rochambeau Drive and further identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (13-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a special use permit to allow two new temporary classroom trailers at Norge Elementary School on property owned and developed by the applicant located at 7311 Richmond Road and further identified as Parcel No. (1-35) on James City County Real Estate Tax Map No. (23-2).

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, hereby approves the issuance of special use permits for the placement of temporary classroom trailers as described above and on the attached site location maps with the following condition:

1. These permits shall be valid until July 1, 2008.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

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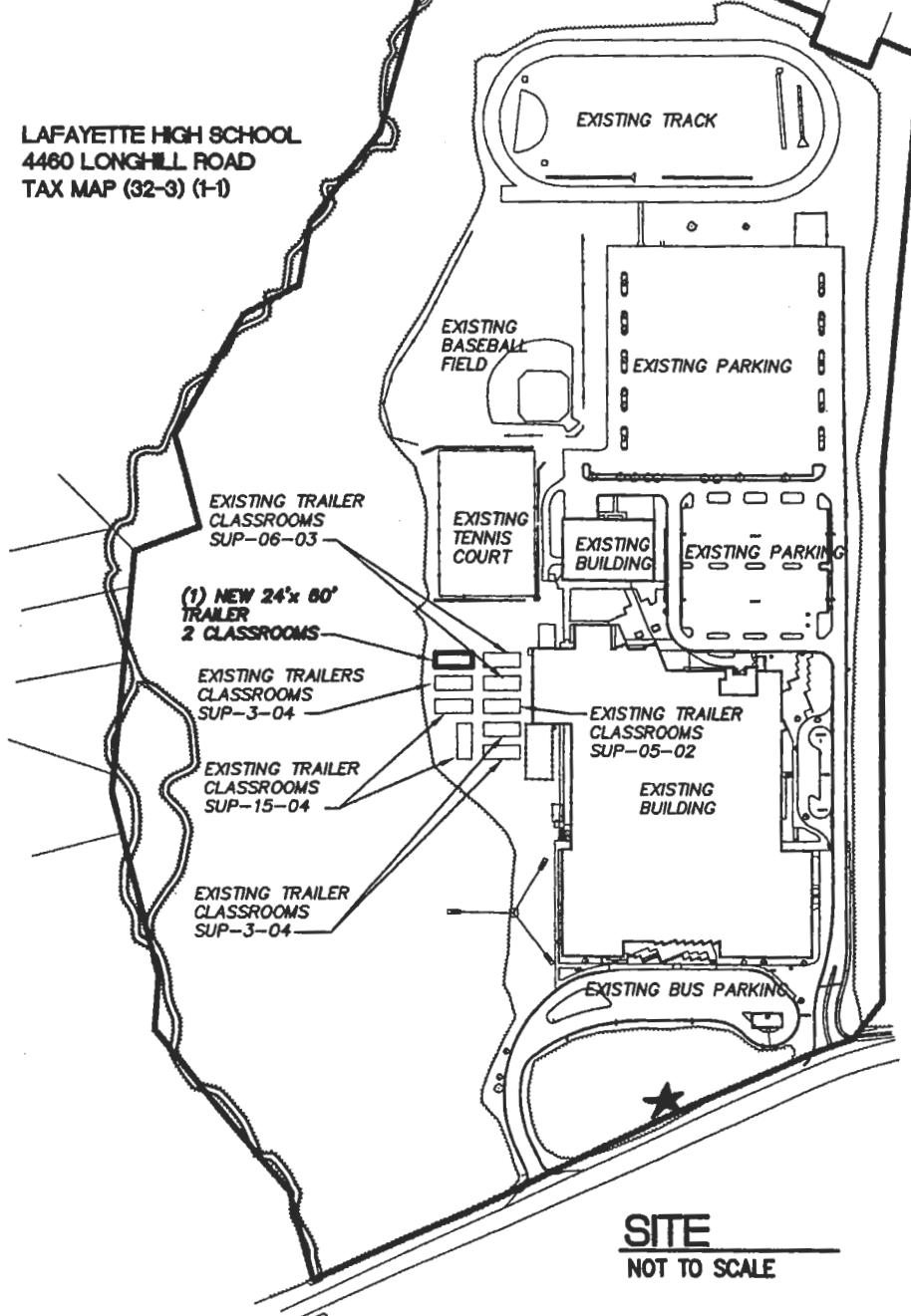
**WILLIAMSBURG - JAMES CITY COUNTY PUBLIC SCHOOLS  
TEMPORARY CLASSROOM TRAILERS**

<b>SCHOOL</b>	<b>NUMBER OF TRAILERS</b>	<b>SPECIAL USE PERMIT</b>	<b>EXPIRATION DATE</b>
<b>LAFAYETTE</b>	1	SUP-05-02	July 1, 2006
	2	SUP-06-03	July 1, 2006
	3	SUP-03-04	July 1, 2007
	2	SUP-15-04	July 1, 2007
	1	SUP-08-05	July 1, 2008
<b>JAMESTOWN</b>	1	SUP-06-02	July 1, 2006
	2	SUP-05-03	July 1, 2006
	2	SUP-04-04	July 1, 2007
	1	SUP-09-05	July 1, 2008
<b>TOANO</b>	3 *	SUP-05-04	July 1, 2007
	1	SUP-10-05	July 1, 2008
<b>CLARA BYRD BAKER</b>	1	SUP-07-03	July 1, 2006
	3	SUP-06-04	July 1, 2007
	5	SUP-11-05	July 1, 2008
<b>D. J. MONTAGUE</b>	1	SUP-09-02	July 1, 2006
	1	SUP-07-04	July 1, 2007
	1	SUP-12-05	July 1, 2008
<b>STONEHOUSE</b>	1	SUP-08-03	July 1, 2006
	1	SUP-08-04	July 1, 2007
	2	SUP-13-05	July 1, 2008
<b>NORGE</b>	2	SUP-14-05	July 1, 2008
<b>RAWLS BYRD</b>	3	SUP-15-05	July 1, 2008

\* The three existing trailers at Toano Middle School will be replaced with a new trailer which contains eight classrooms

SUP-8-05

LAFAYETTE HIGH SCHOOL  
4460 LONGHILL ROAD  
TAX MAP (32-3) (1-1)



SITE  
NOT TO SCALE

**ES** CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

5248 Olde Towne Road, Suite 1  
Williamsburg, Virginia 23188  
(757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOMS  
**LAFAYETTE HIGH SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

POWHATAN DISTRICT

JAMES CITY COUNTY, VIRGINIA

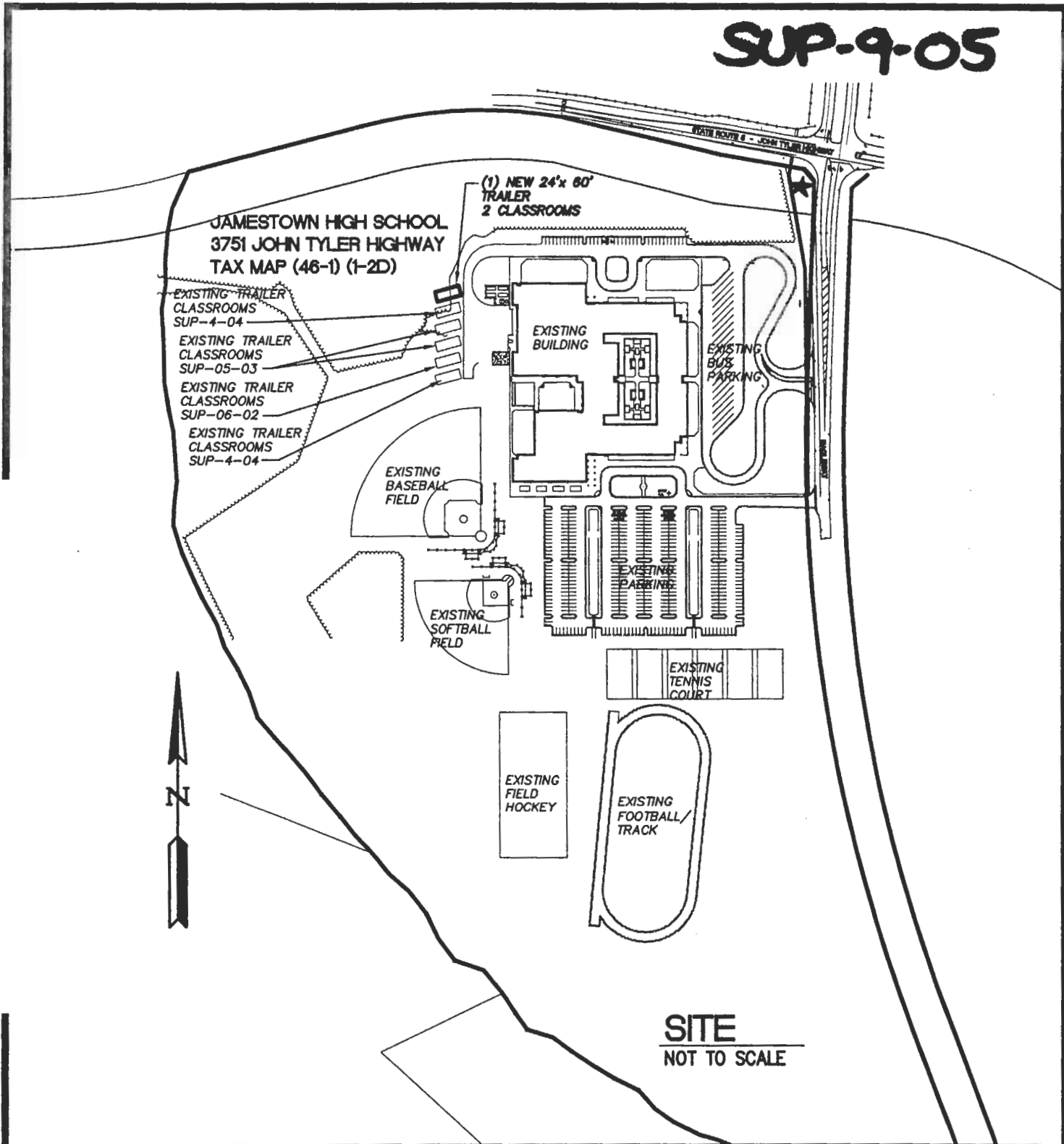
Drawn By: LBA

Scale: N.T.S.

Date: 2/1/05

Job No: 9517-01

SUP-9-05



**SITE**  
NOT TO SCALE

**ES** CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

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Williamsburg, Virginia 23188  
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TRAILER CLASSROOM  
**JAMESTOWN HIGH SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

BERKELEY DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

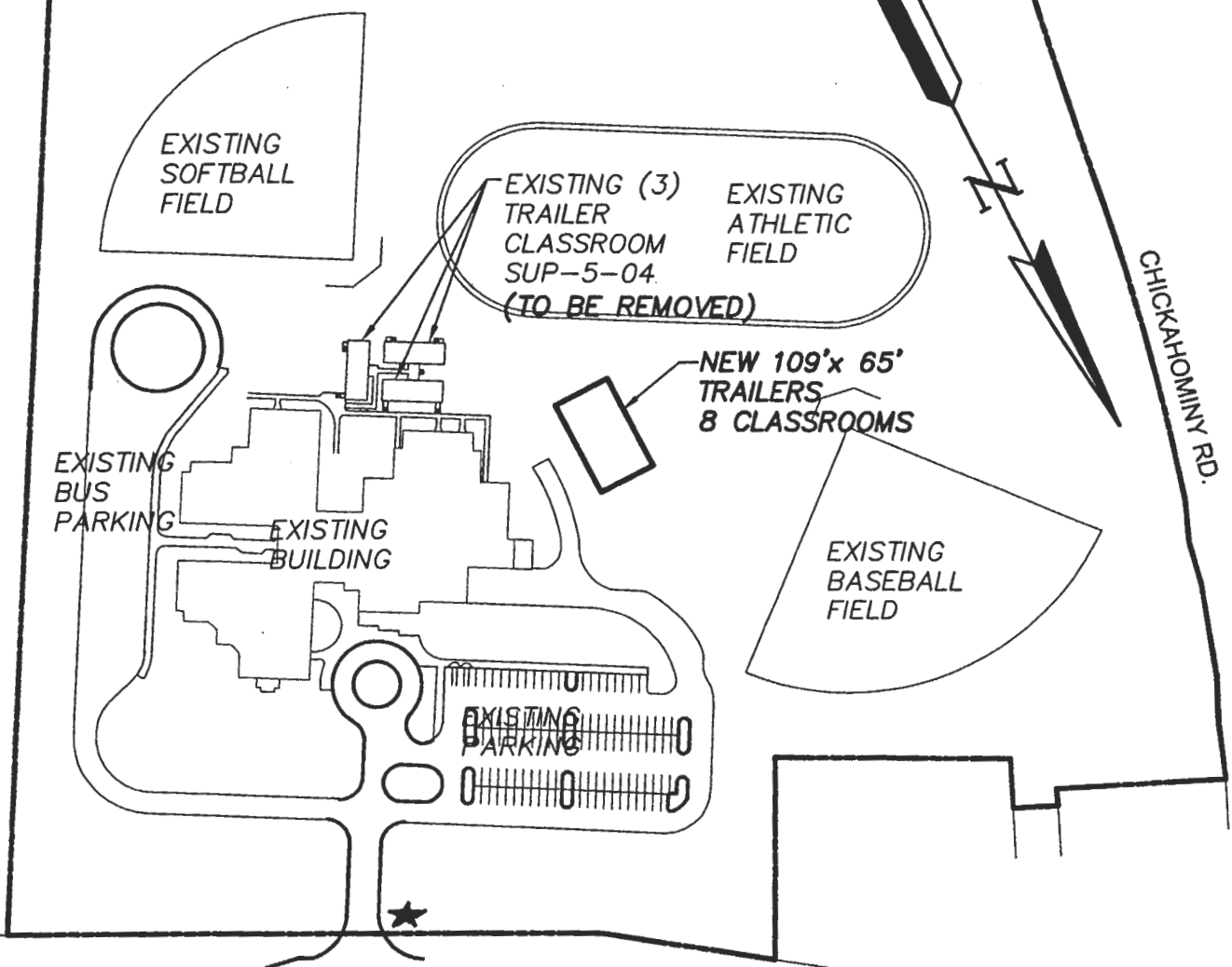
Scale: N.T.S.

Date: 2/1/05

Job No: 9517-01

SUP-10-05

TOANO MIDDLE SCHOOL  
7817 RICHMOND ROAD  
TAX MAP (12-4) (1-51)



RICHMOND RD. US RT. 60



CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

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Williamsburg, Virginia 23188  
(757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOMS  
**TOANO MIDDLE SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

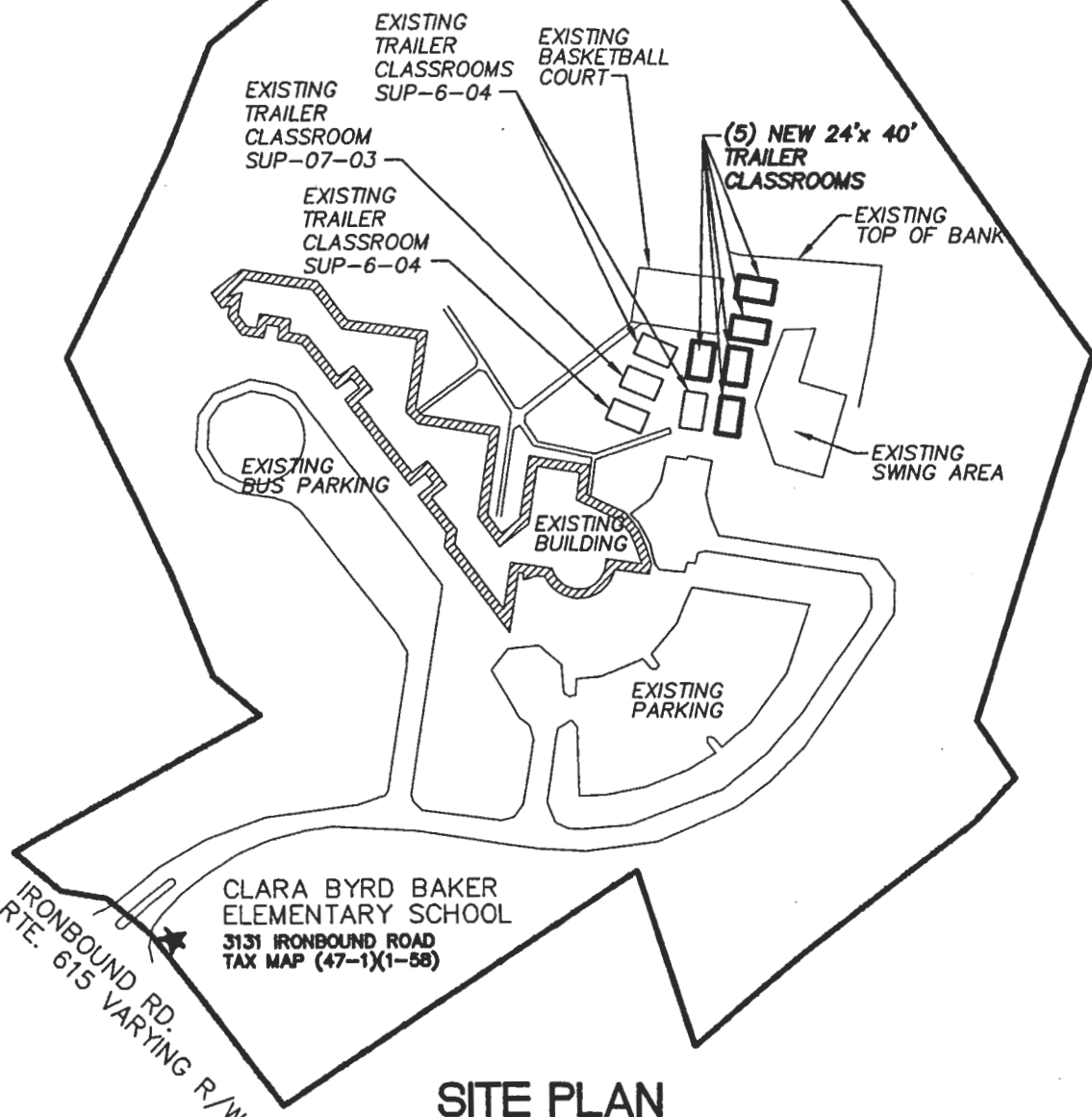
Scale: N.T.S.

Date: 2/1/05

Job No: 9517-01



SUP-11-05



**SITE PLAN**  
NOT TO SCALE

**ES** CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

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Williamsburg, Virginia 23188  
(757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOMS  
**CLARA BYRD BAKER ELEMENTARY SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

BERKELEY DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

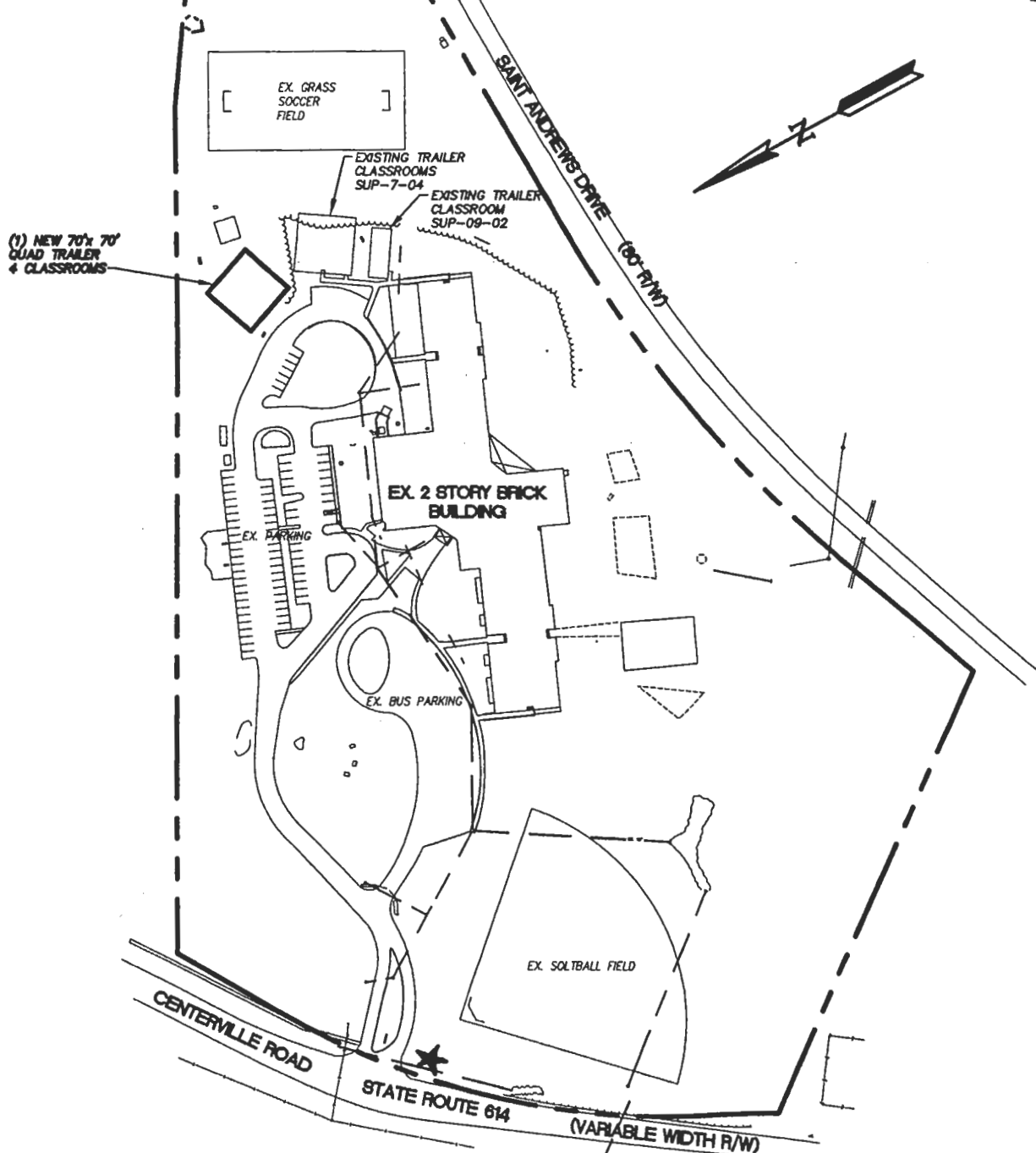
Scale: N.T.S.

Date: 2/1/05

Job No: 9517-02

D. J. MONTAGUE ELEMENTARY SCHOOL  
 5380 CENTERVILLE ROAD  
 TAX MAP (31-3) (1-49)

**SUP-12-05**



CONSULTING ENGINEERS  
 WILLIAMSBURG • RICHMOND

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 Williamsburg, Virginia 23188  
 (757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOM  
**D. J. MONTAGUE ELEMENTARY SCHOOL**  
 WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

POWHATAN DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

Scale: N.T.S.

Date: 2/1/05

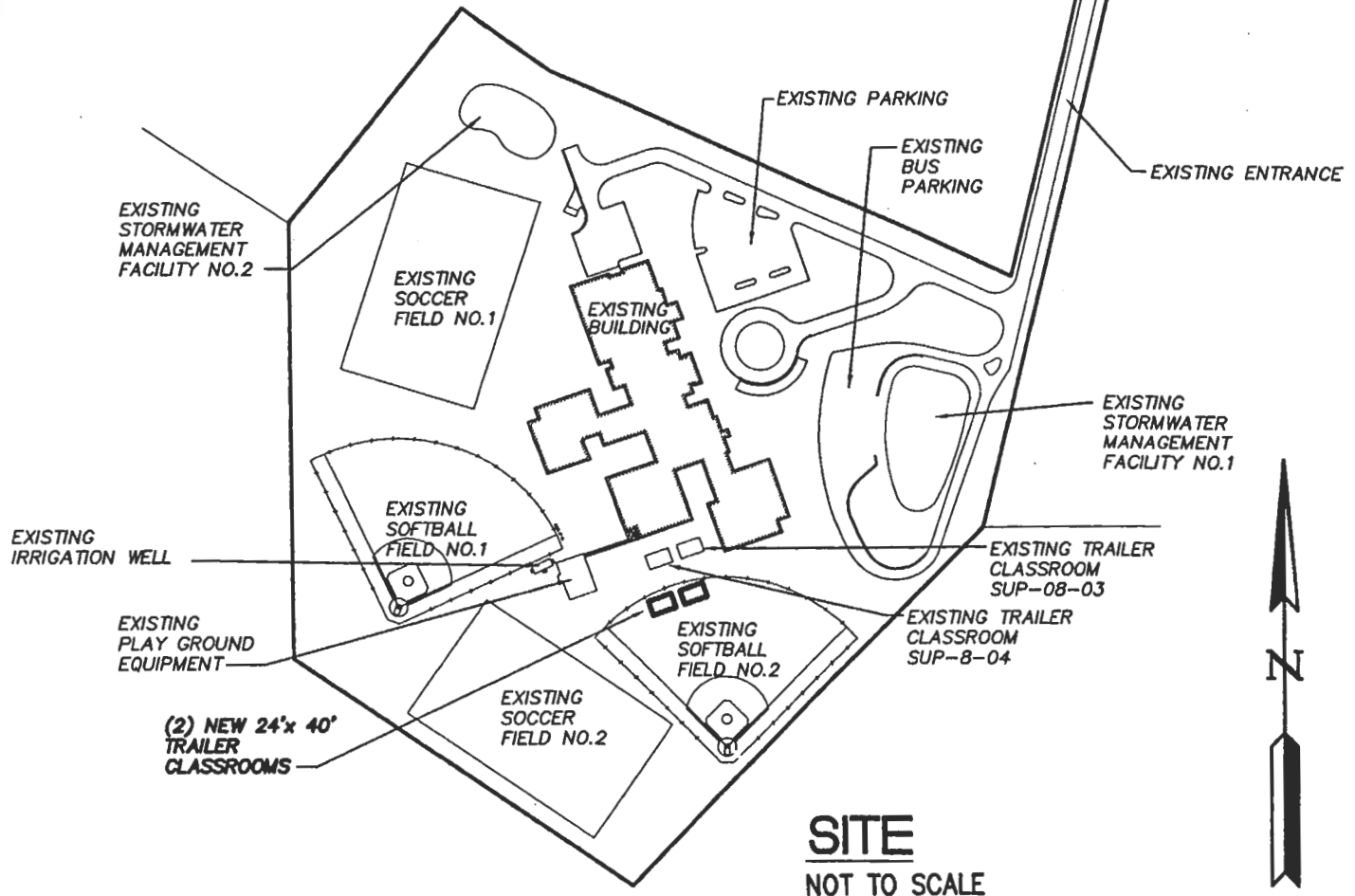
Job No: 9517-02

STATE ROUTE NO. 30  
 ROCHAMBEAU DRIVE  
 250' ROW  
 (STATE HIGHWAY PLAT BOOK 3, PAGE 39)

STATE ROUTE NO. 746  
 OLD STAGE ROAD

**SUP-13-05**

**STONEHOUSE ELEMENTARY SCHOOL**  
 3651 ROCHAMBEAU DRIVE  
 TAX MAP # (13-1)(1-20)



**ES** CONSULTING ENGINEERS  
 WILLIAMSBURG • RICHMOND

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 Williamsburg, Virginia 23188  
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TRAILER CLASSROOMS  
**STONEHOUSE ELEMENTARY SCHOOL**  
 WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

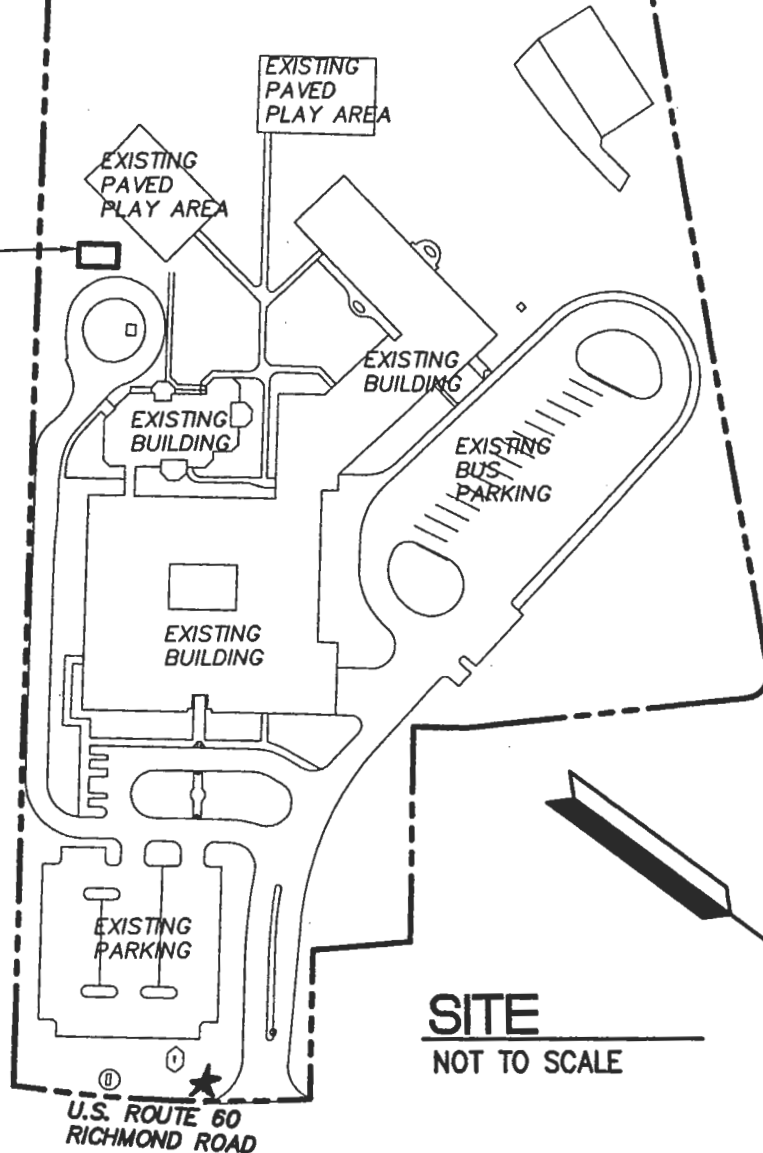
JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA	Scale: N.T.S.	Date: 2/1/05	Job No: 9517-02
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SUP-14-05

NORGE ELEMENTARY SCHOOL  
7311 RICHMOND ROAD  
TAX MAP (23-2) (1-35)

(1) NEW 24'x 40'  
TRAILER CLASSROOM



CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

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Williamsburg, Virginia 23188  
(757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOM  
**NORGE ELEMENTARY SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

STONEHOUSE DISTRICT

JAMES CITY COUNTY, VIRGINIA

Drawn By: LBA

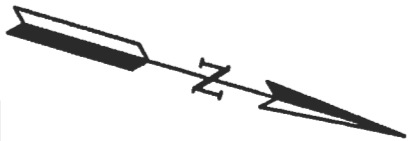
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Date: 2/1/05

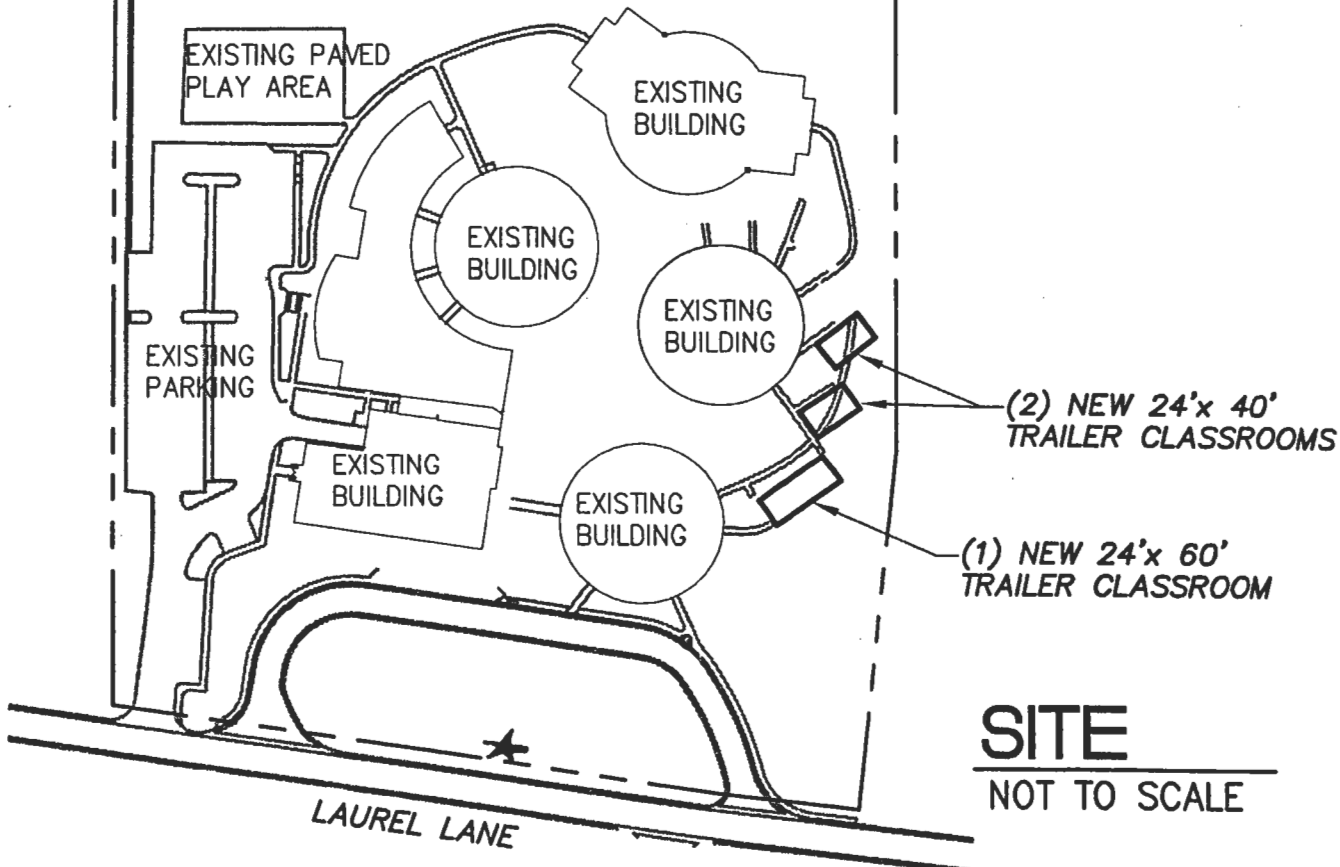
Job No: 9517-02

SUP-15-05

COLONY POINT ROAD



RAWLS BYRD ELEMENTARY SCHOOL  
112 LAUREL LANE  
TAX MAP (48-1) (6-171A)



(2) NEW 24'x 40' TRAILER CLASSROOMS

(1) NEW 24'x 60' TRAILER CLASSROOM

**SITE**  
NOT TO SCALE

LAUREL LANE

**ES** CONSULTING ENGINEERS  
WILLIAMSBURG • RICHMOND

5248 Olde Towne Road, Suite 1  
Williamsburg, Virginia 23188  
(757) 253-0040 Fax (757) 220-8994

TRAILER CLASSROOM  
**RAWLS BYRD ELEMENTARY SCHOOL**  
WILLIAMSBURG/JAMES CITY COUNTY SCHOOLS

JAMESTOWN DISTRICT

JAMES CITY COUNTY VIRGINIA

Drawn By: LBA	Scale: N.T.S.	Date: 2/1/05	Job No: 9517-02
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**SUP-02-05/HW-01-05. JCSA Elevated Water Storage Facility, Stonehouse Commerce Park**  
**SUP-03-05/HW-02-05. JCSA Elevated Water Storage Facility, Warhill Sports Complex**  
**Staff Report for the March 22, 2005, Board of Supervisors Meeting**

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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.

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**PUBLIC HEARINGS**                      **Building F Board Room - County Government Center**

Planning Commission:                March 7, 2005, 7:00 p.m.  
Board of Supervisors:                March 22, 2005, 7:00 p.m.

**SUMMARY FACTS**

**SUP-02-05/HW-01-05. JCSA Elevated Water Storage Facility, Stonehouse Commerce Park**

Applicant:                                Michael Vergakis, James City Service Authority (JCSA)  
Land Owner:                              Stonehouse at Williamsburg, LLC  
Proposed Use:                            Public Elevated Water Storage Tank & Water Transmission Mains  
Location:                                  9186 Six Mount Zion Road  
Tax Map/Parcel No.:                    (6-4)(1-1)  
Parcel Size:                                38 acres with SUP applying to 2 acres  
Zoning:                                      PUD-C, Planned Unit Development Commercial  
Comprehensive Plan:                    Mixed Use  
Primary Service Area:                    Yes

**SUP-03-05/HW-02-05. JCSA Elevated Water Storage Facility, Warhill Sports Complex**

Applicant:                                Michael Vergakis, James City Service Authority  
Land Owner:                              James City County  
Proposed Use:                            Public Elevated Water Storage Tank & Water Transmission Mains  
Location:                                  5700 Warhill Trail  
Tax Map/Parcel No.:                    (32-1)(1-12)  
Parcel Size:                                514 acres with SUP applying to 2 acres  
Zoning:                                      R-8, Rural Residential  
Comprehensive Plan:                    Park, Public, or Semi-Public Open Space  
Primary Service Area:                    Yes

**STAFF RECOMMENDATION**

The two proposed elevated water storage tanks and associated water mains to be located at Stonehouse Commerce Park and Warhill Sports Complex will enhance the entire JCSA public water system throughout the County. While there are new visual impacts on the Route 199 and Barhamsville Road Community Character Corridors due to the construction of the two water tanks, the view from the Longhill and Richmond Road Community Character Corridors is improved when the existing tanks are dismantled. Staff recommends the Board of Supervisors approve the two special use permits with the conditions listed in the attached resolutions and approve the requested height limitation waivers.

Staff Contact:                            Karen Drake, Senior Planner    Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission recommended approval by a vote of 7-0.

**Proposal Changes Made after Planning Commission Consideration**

No changes have been made to the application since the Planning Commission meeting.

## **PROJECT DESCRIPTION AND PROPOSED OPERATION**

The JCSA currently has three working elevated water storage facilities or tanks within its system. The three tanks are as follows:

1. **ES-1. Toano Water Storage Tank** was built prior to 1974 and is approximately 120 feet tall with no antennas.
2. **ES-2. Season's Trace Water Storage Tank** located behind the Winter Park subdivision within Season's Trace was built around 1973. The tallest of the three tanks, it is approximately 140 feet tall with antennas to 160 feet.
3. **ES-3. Eastern State Water Storage** tank was built around 1949. The tank is approximately 130 feet tall with antennas mounted around the tank on handrails instead of on top of the tank.

All three of the tanks were designed independently of each other to serve the needs of the immediate surrounding area. Since JCSA's charter on July 9, 1969, the three tanks were dedicated at different times to the JCSA and incorporated into the present-day water system.

Water storage facilities and the associated transmission lines are a specially permitted use in PUD-C, Planned Unit Development-Commercial, and R-8, Rural Residential, zoning districts. Therefore, the JCSA has applied for two special use permits and height waivers for the construction of two elevated water tanks that would be designed to meet future water demands and enhance water pressure throughout the entire JCSA system. One tank is proposed within the Stonehouse Commerce Park and the other behind the existing Season's Trace water tank in the Warhill Sports Complex. The associated water main connections would be underground. Once these two elevated water tanks are constructed and operational, the JCSA plans to dismantle the three existing water tanks. The Warhill Sports Complex is scheduled for completion first in 2007 in conjunction with the opening of the new high school. Construction of the water tank in Stonehouse Commerce Park would soon follow.

Each tank will be approximately 165 feet tall and will hold 1,250,000 gallons of water. The tanks will be painted a neutral color, white or sky blue, with no signage permitted on the sides of the tanks. The water tanks and on-site ground buildings will have security lighting, but per the proposed Special Use Permit (SUP) condition, up-lighting of the water tanks for aesthetic purposes only is prohibited.

JCSA's preference is to construct a spherical tank, but due to construction costs, a composite tank may be more economical. (See Simulation Photographs.) The primary differences between the two tank styles are the shape of the tank bowl and construction materials used, all steel or steel and concrete. There is little difference in site plan engineering requirements for either tank style. The final decision on the style of tank will not be determined until construction bids for the project have been received. Therefore a condition is proposed that the Planning Director will review and approve the final style and color of the water tanks for consistency with what has been submitted with this application.

Regarding wireless communications, there are currently antennas on the existing Season's Trace and Eastern State water tanks. The JCSA has contacted the respective parties about relocating to the two proposed tank sites. Staff supports the relocation of the existing antennas and the collocation of new antennas to the future water tanks. However, the Zoning Ordinance permits wireless communication facilities using alternative mounting structures by-right up to 60 feet in height or 120 feet in height with an approved height waiver by the Board of Supervisors within the two zoning districts. Staff is reviewing this section of the Zoning Ordinance in regard to permitting antennas up to 165 feet on the proposed public water tanks. Further information will be provided at a later date as a separate height waiver application for the antennas will be necessary.

## PUBLIC IMPACTS

### Economic Development

The Office of the Economic Development (OED) recognizes the need to improve both fire flow pressure and water quantity to support and to continue to attract desirable economic development projects within the JCSA service area. OED, therefore, supports initiatives to find solutions to these needs.

### Environmental Impacts

- ◆ **Watershed:**
  - ◆ The Stonehouse Commerce Park tank will be located in the Ware Creek Watershed.
  - ◆ The Warhill Sports Complex tank is located in the Powhatan Creek Watershed.
- ◆ **Environmental Staff Comments:** No immediate comments with respect to the SUP at this time. However, prior to issuance of the site plan approval and the issuance of a land disturbance permit, provision must be included in the plan set for any required tank drawdown operations to be safely directed to and routed through the adjacent stormwater management basin.

### Public Utilities

Water conservation measures are proposed and if needed, the sites will be served by public water and sewer.

### Traffic

A traffic study was not required with this application due to the negligible impact on surrounding roads and traffic. Once construction is complete, only the JCSA is expected to access the sites for routine maintenance. There may be a temporary, but minor traffic impact during construction and demolition of the water tanks. Hours of construction will be restricted to Monday through Saturday from 7 a.m. to 7 p.m.

Access to the Stonehouse site is from a public road. Access to the Warhill Sports Complex site will be via the park's main entrance with a construction entrance proposed in the general vicinity of the Williamsburg Indoor Sports Complex (WISC) building. In cases of emergency, the JCSA may access the Warhill Sports Complex site via the Season's Trace subdivision.

- ◆ **VDOT Comments:** No immediate comments on the proposed water tanks. However the access road connections and construction entrances will need to be reviewed and permitted by the Virginia Department of Transportation (VDOT) during the development plan stage.

### Community Character Corridors

- ◆ The proposed Stonehouse Commerce Park tank will be visible from the Barhamsville Community Character Corridor and from Interstate 64. However, the removal of the existing water tank in Toano will improve the viewshed of the Richmond Road Community Character Corridor and the Toano Community Character Area.
- ◆ The proposed Warhill Sports Complex tank will be visible from the Route 199 Community Character Corridor and the Season's Trace Subdivision. However, the impact on the Season's Trace Subdivision and the Longhill Community Character Corridor is improved when the existing Season's Trace and Eastern State tanks are dismantled.

### Land Use Map Designation

- ◆ The Stonehouse Commerce Park is designated Mixed Use.
- ◆ The Warhill Sports Complex is designated Park, Public, or Semi-Public Open Space.
- ◆ **Staff Comments:** Public elevated water storage facilities are not a suggested use in a mixed-use or public open space area designation on the Comprehensive Plan Land Use Map. However, the two elevated water storage facilities are a necessary public improvement for the future of James City County. The high elevation of the two selected sites is a necessary factor for the successful integration of the new water storage facilities into the existing JCSA water system. Staff believes that when combined, the proposed locations in an existing industrial park and within a relatively secluded County-owned wooded



area with the removal of the existing visible water tanks is the best solution for a necessary public improvement.

### **Height Limitation Waiver**

The applicant has also requested Height Limitation Waivers from the Board of Supervisors for the construction of both proposed water tanks up to 165 feet tall. On property zoned PUD-C and R-8, water tanks may be constructed up to 60 feet as a matter of right. Per Section 24-200 of the James City County Zoning Ordinance states that *the height of public water storage facilities may exceed the height limits specified by a zoning district upon the issuance a special use permit and a height waiver by the Board of Supervisors. The height wavier shall meet the requirements for a height waiver of the zoning district in which the zoning public water storage facility is located.*

The height wavier may be granted by the Board of Supervisors upon finding that the following five height limitation waiver requirements applicable to both sites are met and that the sixth requirement which applies only to the Stonehouse Commerce Park water tank is also met:

1. Such structure will not obstruct light from adjacent property.  
**Staff comment:** Given the proposed tank location in comparison to the existing landscaping and the minimal number of buildings located nearby, staff finds that light would not be obstructed from adjacent property.
2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments.  
**Staff comment:** While there are historic archaeological finds in the vicinity, there are no immediately adjacent aboveground historic attractions or other areas of significant historic interest. Staff believes the ability to enjoy Warhill Sports Complex will not be impaired by the new tank nor will the viability of the Stonehouse Commerce Park be impacted. Removal of the existing tank eliminates its visual impact on the Toano Community Character Area.
3. Such structure will not impair property values in the area.  
**Staff comment:** According to Real Estate Assessments, there is no prior indication that the construction of the water tanks will have a detrimental effect on surrounding residential or commercial properties.
4. Such structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.  
**Staff comment:** The project, if approved, will be subject to full County review processes. The Fire Department had no comments on the SUP or height limitation wavier applications.
5. Such structure will not be contrary to the public health, safety, and general welfare.  
**Staff comment:** The proposed water tanks will enhance the public health, safety, and general welfare by improving the water pressure and fire flow availability within the public water system.
6. Such structure is in accordance with the uses, densities, design and traffic analysis on the original master plan. (*Applicable to the Stonehouse Commerce Park site only.*)  
**Staff comment:** The water tank is in accordance with the Stonehouse Master Plan and is a compatible use with the surrounding industries located in the Commerce Park.

## CONCLUSIONS & CONDITIONS

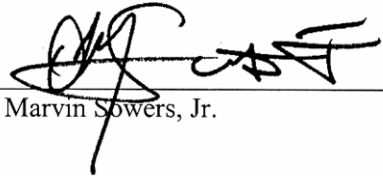
The two proposed elevated water storage tanks and associated water mains to be located at Stonehouse Commerce Park and Warhill Sports Complex will enhance the entire JCSA public water system throughout the County. While there are new visual impacts on the Route 199 and Barhamsville Community Character Corridors due to the construction of the two water tanks, the view from the Longhill and Richmond Road Community Character Corridors is improved when the existing tanks are dismantled.

At its March 7, 2005, meeting, the Planning Commission recommended approval of the special use permit application by a vote of 7-0. Staff recommends the Board of Supervisors approve the two special use permits with the conditions listed in the attached resolutions and approve the requested height limitation waivers.

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Karen Drake

CONCUR:



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O. Marvin Sowers, Jr.

KD/gb  
sup0205hw0105\_sup0305hw0205

### ATTACHMENTS:

1. Unapproved March 7, 2005, Planning Commission Minutes
2. Stonehouse Commerce Park
  - a. Location Map
  - b. Simulation Photographs
3. Warhill Sports Complex
  - a. Location Map
  - b. Simulation Photographs
4. Photographs of existing water tanks
5. Resolutions

## RESOLUTION

CASE NO. SUP-03-05/HW-02-05. JAMES CITY SERVICE AUTHORITY

ELEVATED WATER STORAGE FACILITY, WARHILL SPORTS COMPLEX

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 height limit restrictions; and

WHEREAS, Mr. Michael Vergakis of the James City Service Authority has applied for a special use permit and height limitation waiver to construct and operate a 165-foot public water storage tank and associated water transmission mains located at 5700 Warhill Trail; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (32-1) on James City County Real Estate Tax Map No. (1-12); and

WHEREAS, the Planning Commission, following its Public Hearing on March 7, 2005, voted 7-0 to recommend approval of Case No. SUP-03-05; and

WHEREAS, a Public Hearing was advertised, adjoining property owners were notified, and a Board of Supervisors hearing was scheduled on Case No. HW-02-05; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-354 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of a public water storage facility in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-02-05.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 03-05 as described herein with the following conditions:

1. The proposed water storage facility and associated water mains shall be constructed in general accordance to the location map attached to this staff report.
2. Prior to final site plan approval, the Planning Director shall review and approve the color and style of the water storage facility. The color shall be a neutral white or sky blue shade, with no signage permitted on the tank. The tank style shall be spherical or composite as illustrated in Attachment Nos. 2b and 3b of the corresponding staff report.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is

not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines. Up-lighting of the water tank for aesthetic purposes only is prohibited. Any up-lighting of the water tank for security purposes only shall be approved by the Planning Director.

4. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
6. Hours of construction shall be Monday - Saturday from 7 a.m. to 7 p.m. for the new water storage facilities.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

sup3-05hw02-05.res

## RESOLUTION

CASE NO. SUP-02-05/HW-01-05. JAMES CITY SERVICE AUTHORITY

ELEVATED WATER STORAGE FACILITY, STONEHOUSE COMMERCE PARK

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 height limit restrictions; and

WHEREAS, Mr. Michael Vergakis of the James City Service Authority has applied for a special use permit and height limitation waiver to construct and operate a 165-foot public water storage tank and associated water transmission mains located at 9186 Six Mount Zion Road in the Stonehouse Commerce Park; and

WHEREAS, the property is located on land zoned PUD-C, Planned Unit Development Commercial, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); and

WHEREAS, the Planning Commission, following its public hearing on March 7, 2005, voted 7-0 to recommend approval of Case No. SUP-02-05; and

WHEREAS, a Public Hearing was advertised, adjoining property owners were notified and a Board of Supervisors hearing was scheduled on Case No. HW-01-05; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-496 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of a public water storage facility in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-01-05.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 02-05 as described herein with the following conditions:

1. The proposed water storage facility and associated water mains shall be constructed in general accordance to the location map attached to this staff report.
2. Prior to final site plan approval, the Planning Director shall review and approve the color and style of the water storage facility. The color shall be a neutral white or sky blue shade, with no signage permitted on the tank. The tank style shall be spherical or composite as illustrated in Attachment Nos. 2b and 3b of the corresponding staff report.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light

source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines. Up-lighting of the water tank for aesthetic purposes only is prohibited. Any up-lighting of the water tank for security purposes only shall be approved by the Planning Director.

4. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
6. Hours of construction shall be Monday - Saturday from 7 a.m. to 7 p.m. for the new water storage facilities.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

---

Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of March, 2005.

sup0205hw0105.res

UNAPPROVED MINUTES OF THE MARCH 7 MEETING OF THE PLANNING  
COMMISSION

CASE NO. SUP-02-05 & SUP-03-05 JCSA Water Storage Facility Warhill &  
Stonehouse

Ms. Drake presented the staff report. JCSA has applied on behalf of Stonehouse at Williamsburg, LLC for a special use permit and height waiver to construct an elevated water tower storage facility approximately 165' tall and the associated water transmission mains at **9186 Six Mt. Zion Road** in the Stonehouse Commerce Park. The property is zoned PUD-C, Planned Unit Development-Commercial and can be further identified as Parcel (1-1) on the JCC Real Estate Tax Map (6-4). The property is designated Mixed Use on the 2003 Comprehensive Plan Land Use Map.

JCSA has also applied on behalf of James City County for a special use permit and height waiver to construct an elevated water tower storage facility approximately 165' tall and the associated water transmission mains at **5700 Warhill Trail** in the Warhill Sports Complex. The property is zoned R-8, Rural Residential and can be further identified as Parcel (1-12) on the JCC Real Estate Tax Map (32-1). The property is designated Park, Public, or Semi-Public Open Space on the 2003 Comprehensive Plan Land Use Map.

Staff recommended approval of both cases.

Ms. Blanton asked if an archaeological study was required as part of this application.

Ms. Drake responded that the information presented utilized existing archaeological study information.

Mr. Hunt opened the public hearing.

Mr. Larry Foster, General Manager of JCSA, made a short presentation outlining the visual impacts, benefits for the water system, and the daily workings of the water towers.

Mr. Kale asked Mr. Foster how the current storage facilities are attached to the water main in Season's Trace.

Mr. Foster stated that the tank is currently served by an existing water line through Season's Trace.

Ms. Blanton asked Mr. Foster to review any interruptions of service that might be incurred by the constructions.

Mr. Foster responded that JCSA did not anticipate any service interruptions.

Mr. Kennedy stated his support for the application and highlighted JCSA's history of positive work.

Mr. Billups asked if any plans existed to develop property adjacent to the site.

Mr. Foster responded that he knew of no plans to develop the immediately adjacent areas since the parcels are part of the Warhill tract and are under County control.

Mr. Hunt asked Mr. Foster what he perceived the timeline for construction to be.

Mr. Foster responded that he expected both facilities to be online by 2007.

Mr. Mark Rinaldi representing the Economic Development Authority, 101-C Mounts Bay Road, thanked the Commission for its favorable recommendation for ZO-01-05 and expressed his support of the two cases presented.

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

Mr. Kennedy moved approval of both items.

Mr. Kale seconded the motion.

The Planning Commission voted 7-0 to support both applications: YES: (7) Hunt, Jones, Fraley, Blanton, Kennedy, Kale, Billups. NO: (0)



# Proposed Water Storage Facility at Stonehouse



0 500 Feet

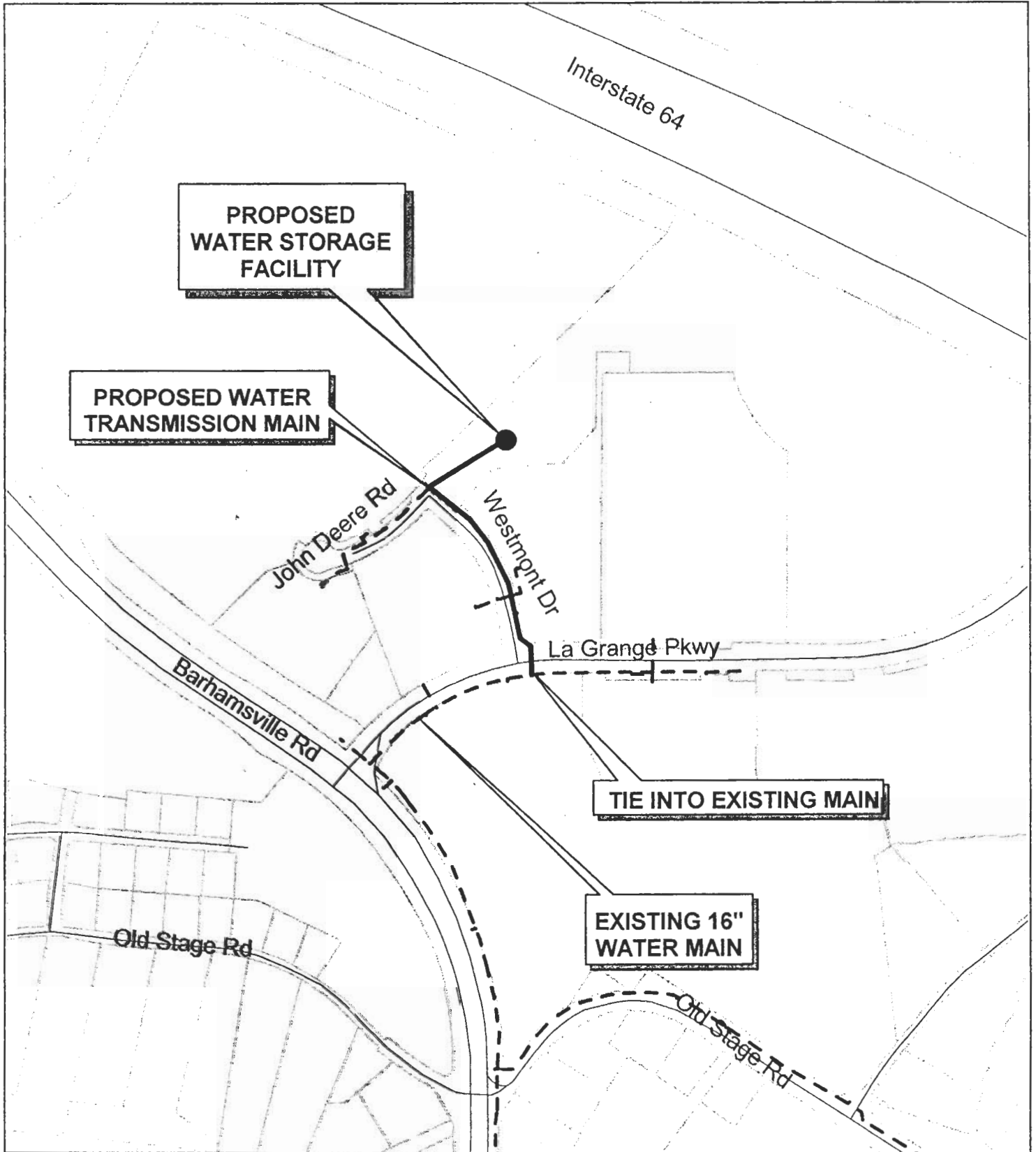
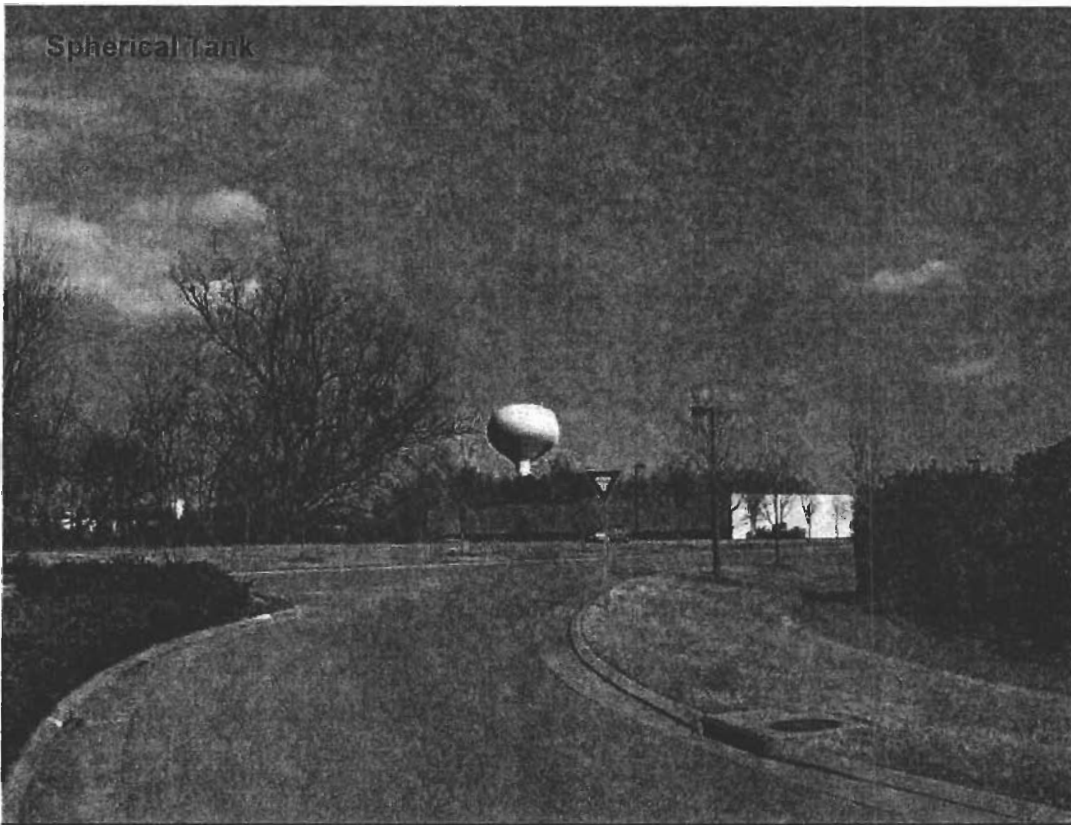


Exhibit "A"

**Attachment #2B. Stonehouse Commerce Park Water Tank Simulation Photographs**

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Entering into the Stonehouse Commerce Park, driving towards Avid Medical.





# Proposed Water Main and Water Storage Facility at Warhill Sports Complex

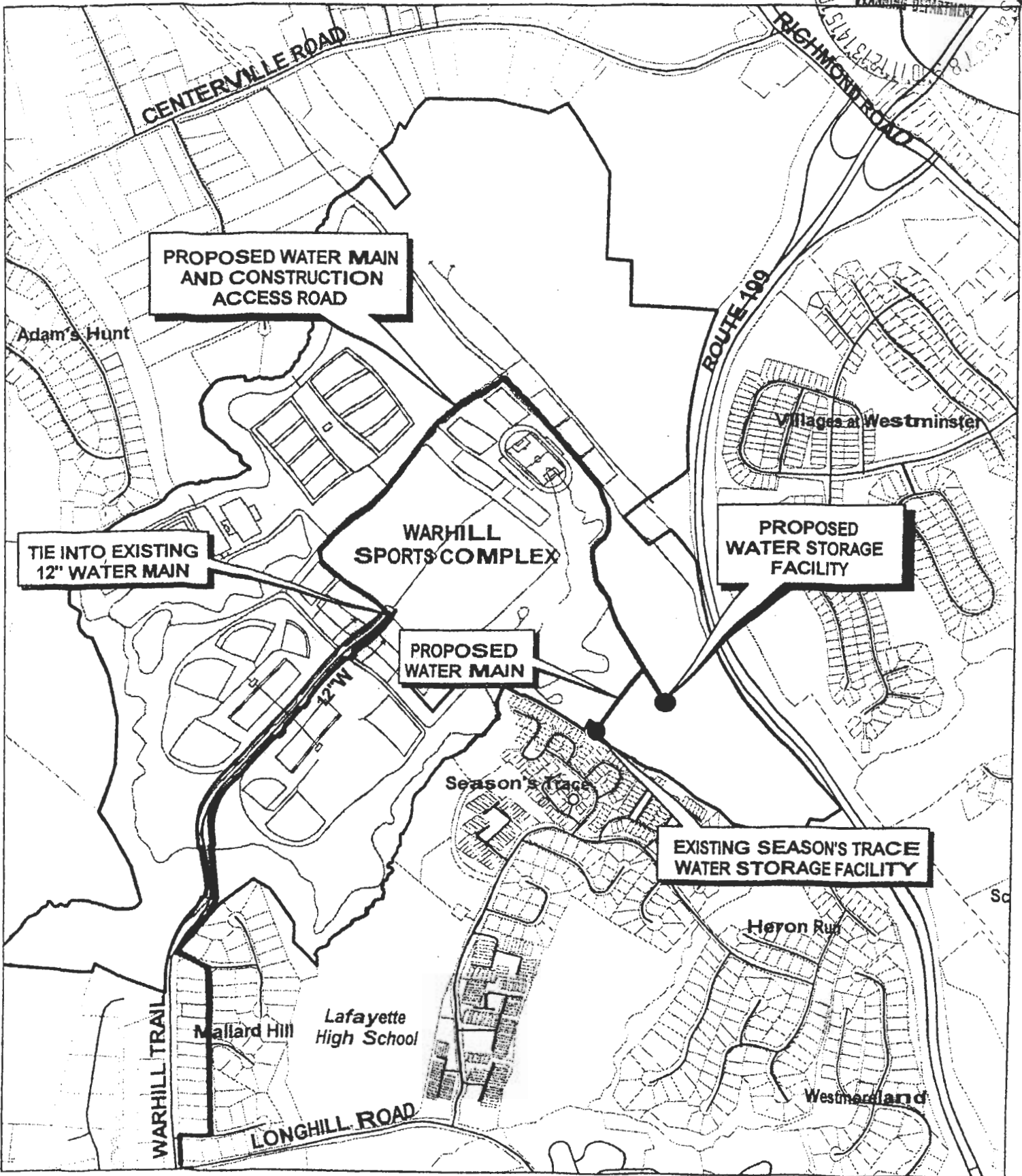
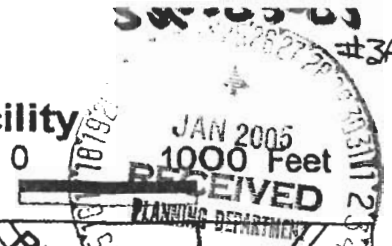


Exhibit "B"

**Attachment #3B. Warhill Sports Complex Water Tank Simulation Photographs**

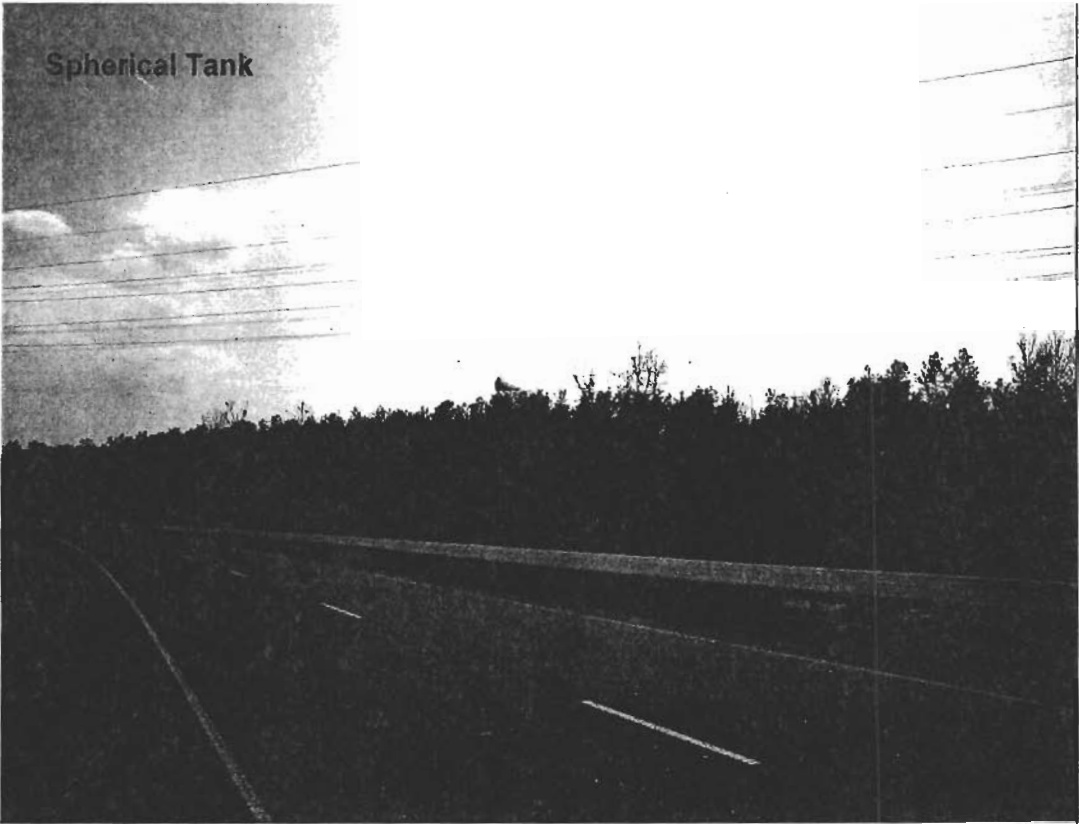
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In the Warhill Sports Complex near the WISC Building, a view of the existing & proposed tanks.



**Attachment #3B. Warhill Sports Complex Water Tank Simulation Photographs**

View of the proposed tank from Route 199, between Longhill Road and Richmond Road exits.



## Attachment #4. Photographs of Existing JCSA Water Tanks

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**ES-1. Toano Water Storage Tank** was built prior to 1974 and is approximately 125' tall with no antennas.



**ES-2. Season's Trace Water Storage Tank** located behind the Winter Park subdivision within Season's Trace was built around 1973. The tallest of the three tanks, it is approximately 140' tall and with antennas to 160'.



#### **Attachment #4. Photographs of Existing JCSA Water Tanks**

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**ES-3. Eastern State Water Storage** tank was built around 1949. The tank is approximately 130' tall with antennas mounted around the tank on hand rails instead of on top of the tank.





MEMORANDUM

DATE: March 22, 2005

TO: The Board of Supervisors

FROM: Richard B. Hanson, Housing and Community Development Administrator  
Leo P. Rogers, County Attorney

SUBJECT: Blight Abatement - 8516 Pocahontas Trail

---

The severely damaged and uninhabitable home that was located at 8516 Pocahontas Trail had been the subject of complaints and concern for the health and safety of nearby residents. The owner of this property was notified in January of a proposed ordinance to declare the property as constituting a nuisance and authorizing abatement by the County. The owner began demolition of the structure following receipt of notice of the proposed ordinance.

The Board on January 25, 2005, deferred action on the ordinance until March 22, 2005, to allow the owner to complete the demolition and clearance of the property. The demolition has been completed by the owner, although final grading and site stabilization with seed and straw mulch are still necessary. The Environmental Division will monitor compliance with environmental regulations.

Staff recommends that the Board take no action on the Nuisance and Blight Abatement Ordinance for the subject property.

  
Richard B. Hanson

---

Leo P. Rogers

RBH/LPR/gs  
8516pocah.mem





## Chesapeake Bay Preservation Areas



Virginia's Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC10-20 et seq.) require local governments to implement ordinances designed to protect and restore the quality of perennial streams and their associated non-tidal wetlands, as the conditions in these environments have been determined to directly affect the condition of the Chesapeake Bay. The County of Henrico regulates these environments through development restrictions in these sensitive areas.

Chesapeake Bay Preservation Areas include Resource Protection Areas and Resource Management Areas. Development restrictions and requirements in these sensitive environments are described in § 10-31 et seq. of the Code of the County of Henrico.

General requirements are included below:

### REQUIREMENTS

- ❑ All Chesapeake Bay Preservation Areas must be clearly identified on the plans in accordance with § 10-31 et seq. and § 24-106.3 et seq. of the Code of the County of Henrico.
- ❑ Resource Protection Areas include tidal waters, tidal wetlands, perennial streams and their associated wetlands. While the USGS 7.5 minute topographic maps provide information regarding whether a particular stream is perennial (solid blue lines), the County utilizes site specific evidence to determine if a particular stream is perennial. Some of the criteria used to make this determination are included at the end of this section. Resource Management Areas (RMA's) include areas having highly erodible soils, highly permeable soils, steep slopes, nontidal wetlands not included in the RPA, base flood hazard areas, and at least the 100-foot area contiguous to the RPA.
- ❑ We strongly recommend that the environmental inspector be contacted as soon as possible to review flagging of any waters and/or wetlands boundaries and/or Resource Protection Area boundaries. Final plans must reflect all such boundaries. The location of orange safety fence or non-tearable yellow and black barricade tape, silt fence for protection of the Resource Protection Area and wetlands areas and for the clearing limits adjacent to those areas must be shown on the plans.
- ❑ Plans will not be distributed at the pre-construction meeting if the appropriate type of fencing and/or flagging are not in place at the site.

### Additional Requirements for Residential Subdivisions

- ❑ On all construction plans, lots that contain Resource Protection Areas must be identified with a single asterisk (\*) and the note listed in italics below.

*Lots marked with an \* have limitations for dwelling shape, size, and location. If a lot contains a RPA or RPA buffer, these areas are to remain undisturbed and are to be protected from all construction or land disturbing activities.*

- ❑ On all record plats, lots that contain Resource Protection Areas must be identified with a single asterisk (\*) and the note listed in italics below.

County Services

County Agencies

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DPW Home Page

#### Administration

Director of Public Works

#### Construction

Road Inspection | Materials Testing Lab | Current Projects | Street Acceptance Information

#### Design

POD Cover Sheet | Survey | Design Manual |

#### Environmental

Recent Policy Changes | ESA Sheet | E & S Agreement Info | Environmental Manual in Sections

#### Road Maintenance

Emergency Snow Removal | Leaf Removal | Road Resurfacing

#### Traffic Engineering

Signals | Sign Shop | Traffic Counts | 1999 | 2000 | 2001 | 2002 | 2003 |

*Lots marked with an \* have limitations for dwelling shape, size, and location. If a lot contains a RPA or RPA buffer, these areas are to remain undisturbed and are to be protected from all construction or land disturbing activities. See construction plans on file in the Planning Office for additional details.*

- ❑ There must be a minimum buffer equal to the rear yard setback established by the Planning Department between the Resource Protection Area buffer boundary in the rear yard and the buildable area. There is a 25-foot minimum buffer between the buildable area and the Resource Protection Area buffer boundary located within or adjacent to the side yard.
- ❑ "Environmental Protection Area" signs are required to be installed along the boundary of the Resource Protection Area within residential subdivisions prior to the pre-construction meeting in accordance with Minimum Standard 9.13. These signs must be in place prior to distribution of the plans at the pre-construction meeting.

### **WAIVERS AND EXCEPTION REQUESTS**

- ❑ All requests for exceptions or waivers must be made in writing to the Director of the Department of Public Works and submitted to the project review engineer. It will be the review engineer's responsibility to coordinate all requests. It is our goal to have all requests responded to within 12 working days of receipt of the applicant's letter.
- ❑ It must be stated with your request if you are requesting an exception from the Chesapeake Bay Act or NPDES. It must also state the specific reason for the exception request (i.e., Resource Protection Area (RPA) buffer reduction).
- ❑ Exceptions may be granted provided that exceptions to the requirements are the minimum necessary to afford relief, and reasonable and appropriate conditions upon any exception granted are imposed as necessary, so that the purpose and intent of the Act are preserved. Prior to granting any exception the Director of Public Works/County Engineer shall find that:
  1. Strict application of the requirements would produce an undue hardship;
  2. The hardship is not shared generally by other properties in the same vicinity;
  3. The authorization of such exception will not be of substantial detriment to adjacent property and that the character of the zoning district will not be changed;
  4. The project complies with all other County requirements; and
  5. Water quality shall be preserved to the maximum extent practicable.
- ❑ Your exception request must demonstrate in writing what the undue hardship is, and that all other conditions have been met. Please note, **cost** is generally an issue shared by others and would not qualify as a hardship under #1 and #2.

### **RPA Buffer Exceptions**

- ❑ In all cases where an exception is requested for an encroachment into the RPA, a water quality impact assessment, as defined in § 10-35 et seq. of the Code of the County of Henrico, must be submitted.
- ❑ On lots recorded prior to October 1, 1989, modification to the buffer area width

may be allowed by the Director of the Department of Public Works/County Engineer in accordance with the following criteria:

1. Modifications to the buffer area shall be the minimum necessary to achieve a reasonable buildable area for the principal structure and necessary utilities.
  2. Where possible, an area equal to the area encroaching the buffer must be established elsewhere on the lot to maximize water quality protection.
  3. In no case shall the remaining portion of the buffer be less than 50 feet in width.
- ☐ Lots recorded between October 1, 1989 and November 15, 1991 are eligible for transitional exceptions. (see § 106.3 of the Code of the County of Henrico).
  - ☐ On lots recorded after November 15, 1991 an exception will be required for any proposed buffer reduction (excluding BMP's). An exception will be granted only if the buffer requirements would produce an undue hardship (see previous hardship comments). Again, the exception request must clearly demonstrate the undue hardship.
  - ☐ For any proposed BMP which is to be located in the landward (upper) 50 feet of the buffer, it must be demonstrated that locating a BMP in the buffer is the best, or perhaps, only solution based on topographic or soil limitations. All buffer reductions must be the minimum amount necessary to site the BMP.

#### Waivers

The Director of the Department of Public Works/County Engineer may waive or modify the requirements for additions, modifications or alterations to existing structures in RPAs provided that;

1. There will be not net increase in nonpoint pollutant loads; and
2. Any development or land disturbance of 2,500 square feet or more complies with the erosion and sediment control requirements of § 10-31 et seq. of the Code of the County of Henrico; and
3. Additions shall be built outside RPA's where possible.

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2

REPORT OF THE  
JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

# Implementation of the Chesapeake Bay Preservation Act

TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA



**HOUSE DOCUMENT NO. 23**

COMMONWEALTH OF VIRGINIA  
RICHMOND  
2003

<b>Table 6</b>				
<b>Local RPA Encroachment Activity During FY 2000 and FY 2001</b>				
Locality	Total RPA Encroachment Applications Reviewed	Total Encroachment Applications Approved <sup>1</sup>	<b>Seaward 50 Feet of the RPA Approvals Only</b>	
			Non-Exempt Applications Approved <sup>2</sup>	Non-Exempt Applications Approved, as Percent of Total Applications
Alexandria	6	6	4	67 %
Virginia Beach	55	50	37	67 %
Chesapeake	75	75	35	47 %
Gloucester	34	31	7	21 %
Richmond City	12	12	2	17 %
James City	43	43	7	16 %
Henrico	14	14	1	7 %
Lancaster	50	50	2	4 %
Fairfax	24	23	1	4 %
Spotsylvania	6	6	0	0 %
Prince George	4	4	0	0 %
<b>Total</b>	<b>323</b>	<b>314</b>	<b>96</b>	<b>30 %</b>

<sup>1</sup>This column contains the total number of RPA encroachments approved by the localities as either administrative waivers, exceptions, or exemptions. Specifically, the localities issued 182 administrative waivers, 97 exceptions, and 23 exemptions. Land disturbing activities such as the construction, installation, and maintenance of public utilities, railroads, and public roads are considered to be "exempt" from the requirements of the Bay Act and board regulations. In addition, Richmond City staff reported that the City does not issue property owners administrative waivers or exceptions to encroach into the RPA Buffer. Instead, the City allows property owners to encroach as long as their projects comply with the city's Bay Act program regulations. JLARC staff found that the City allowed 12 projects that complied with its program to encroach into the RPA.

<sup>2</sup>This column shows the number of non-exempt projects that the localities allowed to encroach into the 50-foot seaward component of the RPA buffer.

Notes: Some localities maintain detailed records indicating that RPA encroachments were granted for pre-Bay Act or post-Bay Act building lots, but most localities do not maintain this information as part of their files related to encroachments.

During the file review, JLARC staff reviewed nine "denied" RPA applications that were maintained by Fairfax County, Gloucester County, and the City of Virginia Beach. Most localities do not maintain information on denied applications.

Source: JLARC staff analysis of file reviews at 11 Tidewater cities and counties.

Henrico County is an example of a locality that follows a "strict" RPA buffer policy. According to Henrico County staff, the county protects its RPA buffer by requiring a mandatory 30 to 50-foot setback (depending on the zoning classification) "between the buildable area on a residential lot" and the buffer allowing homeowners to have adequate rearyard space which helps eliminate the need to encroach. Henrico also requires developers to post signs along the RPA boundaries designating

Table 7

**Local RPA Development Applications Approved  
(FY 2000 and FY 2001)**

<u>Type of Building Permits</u>	<u>Frequency</u>
Single Family Development	185
Subdivision	16
Accessory	60
Industrial/Commercial	16
Other*	37
<b>Total</b>	<b>314</b>

\*\*Other\* includes activities such as landscaping, stream bank erosion protection, tree removal, and septic tank installation.

Source: JLARC staff file analysis of Bay Act program files at 11 Tidewater cities and counties.

them as environmentally sensitive areas. Henrico staff reported that they authorized very few "exceptions" for property owners to encroach into the RPA buffers because the county requires applicants to demonstrate "significant" hardships before granting encroachment rights. Henrico staff also said the nature of the county's geography precludes citizens from requesting RPA encroachments, for the most part, because there are no real scenic vistas along its preservation areas.

JLARC staff confirmed that Henrico County does not grant RPA encroachments unless property owners demonstrate significant hardships. The study team reviewed a proposal that Henrico received in February 2001 requesting that a "landfill" operation expand into the RPA buffer. The county responded to the applicant by stating:

...it is the intent of the Chesapeake Bay Act to protect the water quality of streams and wetlands by maintaining a 100 [foot] vegetated buffer along tributary streams. I can not imagine an instance whereby a 100-foot buffer could be more useful or beneficial than at a landfill operation. In addition, your proposal to include a 2 to 1 landfill slope as part of the buffer is particularly troublesome and is unacceptable. It is my opinion that you have not demonstrated a hardship, which allows for the encroachment into a much needed buffer.

The study team also identified other localities adhering to a fairly strict interpretation of the RPA buffer requirement. Lancaster County only allows RPA encroachments on pre-Bay Act lots if there is not enough space available to accommodate structures outside the buffer. This policy is consistent with CBLAB regulations. Despite this, Lancaster staff also reported that the county will occasionally grant pre-Bay Act lot owners' requests to encroach into the seaward 50-foot portion of the RPA buffer for attached additions to pre-Bay Act single family residences if the board of supervisors approves the projects.



# COMMONWEALTH of VIRGINIA

## CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

James Monroe Building  
101 North 14th Street, 17th Floor  
Richmond, Virginia 23219  
FAX: (804) 225-3447  
November 8, 2002

C. Scott Crafton  
Acting Executive Director  
  
(804) 225-3440  
1-800-243-7229 Voice/TDD

Mr. Darryl Cook  
Environmental Division Director  
James City County  
P O Box 8784  
Williamsburg, VA 23187-8784

### Re: Resource Protection Area Setbacks

Dear Mr. Cook:

As I'm sure you are aware, the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations) clarify that there is to be a 100-foot buffer area adjacent to and landward of all Resource Protection Area (RPA) features and along both sides of any water body with perennial flow. During recent meetings with certain localities, **it became clear that the 100-foot RPA buffer was being used as a building setback line and not as a required "no disturbance" area.** Allowing structures to be built on the RPA boundary line has led to construction disturbance within the buffer area, which is not allowed under the Regulations. Section 9VAC 10-20-130.3 of the Regulations requires that "...a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from run-off shall be retained if present and established where it does not exist." In addition, Section 9VAC 10-20-130.5.a of the Regulations describes the circumstances in which vegetation may be removed from the buffer. Nothing in this subsection permits the removal of vegetation in the buffer for the purpose of clearing land in preparation for construction.

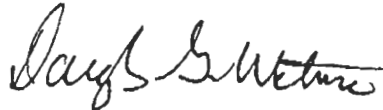
In order to avoid disturbance within the RPA, each locality's review process needs to ensure that structures on lots recorded after the date of local program adoption, and not otherwise exempted by the new Regulations, are placed far enough outside of the RPA so that no disturbance of the RPA occurs during the construction process. Allowing the placement of houses and other structures at the edge of the RPA line appears to cause unnecessary violations during construction, and further serves to cause additional intrusions into RPAs as property owners add patios, decks, home additions, or clear more area for a yard. The Department recommends that localities place additional language in their land development ordinances that ensures that the

3

RPA remains intact. Several Tidewater localities have had success through policy and regulatory language requiring a setback from the RPA boundary line that provides the property owner with enough usable area outside the RPA to construct a house and establish a usable yard area. Localities could also require a note on the plat that indicates that clearing or grading activities are prohibited within the RPA. In addition to new regulatory language, a plat note would help to educate new and prospective landowners on the implications of the Resource Protection Area. Because all localities are currently in the process of revising their local Bay Act programs to meet the requirements of the revised Regulations, this would be an appropriate time to make any such changes as well.

Please consider addressing these recommendations during the current revision of your local Bay Act programs and feel free to contact me if I can be of any assistance with this issue or any other issues of concern. I can be reached at 1-800-243-7229 or by e-mail at [dwetmore@cblad.state.va.us](mailto:dwetmore@cblad.state.va.us).

Sincerely,



Douglas G. Wetmore  
Principal Environmental Planner

Cc: Martha Little  
Shawn Smith

C:\Documents and Settings\tfogg\My Documents\021107 RPA setback letter.doc





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## PART II THE CODE

### Chapter 17 SUBDIVISION OF LAND\*

#### ARTICLE III. STANDARDS

#### DIVISION 1. MINIMUM STANDARDS AND IMPROVEMENTS REQUIRED

*Amended in 1999*

#### Sec. 17-62. Standard conditions.

- (e) A 25-foot minimum **setback** shall be provided from the 100-year floodplain/backwater.
- (f) A 25-foot minimum **setback** shall be provided from wetlands.
- (g) A 25-foot minimum **setback** shall be provided from conservation areas. *- includes RPAs*
- (h) Any required buffers are subject to the requirements of section 17-70.
- (i) Buffers areas are exclusive of setbacks.
- (j) A 20-foot minimum **setback** for all structures shall be provided from any petroleum product transmission pipeline easement or 35 feet from the pipeline whichever is greater.
- (k) The subdivider shall provide horizontal control for the final check and record plat tied into the Virginia Coordinate System, south zone. Boundary tiedown will be accomplished by X and Y coordinate values being designated for at least two points.
- (l) Copies of any restrictive covenants required as a condition of zoning shall be filed with the director of planning and county attorney's office for a review to determine consistency with the conditions of zoning. The required restrictive covenants shall be recorded in conjunction with the record plat. Subsequent changes to restrictive covenants are not subject to review or approval by the county.
- (m) Copies of all required articles of incorporation for homeowners associations shall be filed with the director of planning and the county attorney's office for review and approval prior to recordation of any section. When SWM/BMP facilities are to be maintained by a homeowners association, the articles of incorporation must also be submitted to the director of environmental engineering for review and approval. When there are private streets, alleys or sidewalks to be maintained by a homeowners association, the articles of incorporation must also be submitted to the director of transportation for review and approval.
- (n) Final check and record plats for subdivisions adjacent to or including existing and proposed residential collector, collector and/or arterial streets shall show the proposed right-of-way location.
- (o) Every residential lot, except those lots in a subdivision for townhouses, shall front on a local street except as may be provided for in section 17-77.

A.

MEMORANDUM

DATE: March 22, 2005

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director  
John T. P. Horne, Development Manager

SUBJECT: Policy for Wetland, Conservation Easement, and RPA Separation Areas

---

In November, the Peninsula Homebuilders Association sent a letter to the County criticizing staff for recommendations it has recently exercised during the rezoning and special use permit processes which deal with the protection of Resource Protection Areas (RPAs), conservation areas, and wetlands during construction.

During recent rezonings, staff has in fact encouraged developers to submit proffers which would protect these environmentally sensitive areas by prohibiting construction within a designated separation zone between the edge of the buffer and buildings on the lot. This was done in order to reduce the need to enforce buffer violations. Two recent cases were reviewed and approved by the Board with these provisions, U.S. Home and New Town Section 3/6. In both cases the developers did not object to the staff suggested proffers or conditions. While actions were undertaken with the best of intentions, we realize in hindsight that the Board of Supervisors should have been consulted first given the Board's previous involvement in this policy issue. Having said that, we feel that it is important to discuss this topic and attempt to develop a policy which will help the community to achieve its environmental protection goals while also taking the considerations of developers into account.

Staff recommends that structures in multi-family, commercial and industrial areas shall be located no closer than 15 feet from RPA's, conservation easements and wetlands. Staff also recommends that structures on single-family residential properties with backyards shall be located no closer than 25 feet from RPA's, conservation easements, or wetlands. The Environmental Division would be responsible for the implementation of the policy by insuring that all development plans resulting from future rezonings and SUPs delineate the setback areas.

History of the issue

There have been several instances in James City County in which staff has had to address the consequences of inadequate separation between residential structures and the RPA buffer. In cases of minimal separation between a house and the buffer, homeowners have been dissatisfied with the small size of their rear yards. This has contributed to violations of the Chesapeake Bay Preservation Ordinance and harm to the environment as some residents have cleared natural spaces to enlarge their lawn. Such violations have occurred in Landfall at Jamestown, Heron's Run in Season's Trace, Governor's Land, Kingsmill, Lake Powell Forest, Villages at Westminster, and other neighborhoods throughout the County. A similar situation with a scenic buffer also arose in Fernbrook along Greensprings Road.

Given the rear yard setbacks in the County's Zoning Ordinance, it is a reasonable expectation that residential lots contain adequate area for a usable backyard. Our goal is to have a policy which will allow for such a backyard while leaving environmentally sensitive areas intact and undisturbed.

The Board of Supervisors most recently discussed this issue during its review of new amendments to the Chesapeake Bay Preservation Ordinance. Staff recommended that these separations be a part of the Zoning Ordinance, thus applying to all construction. The Board declined to adopt this amendment to the ordinance citing concerns over property rights, particularly on lots and parcels platted prior to the adoption of separation requirements.

The policy we are asking the Board to consider at this time would only apply to properties which are not a part of a future rezoning or special use permit process. It is staff's opinion that if this provision is applied during this early phase of the development process, development designers can ensure that the design anticipates the requirement. As this would be a policy and not an ordinance requirement, the Planning Commission and Board could apply appropriate discretionary judgment on a case by case basis.

#### Similar to policies in other jurisdictions

The policy proposal is modeled after similar provisions in Henrico and Chesterfield Counties. Henrico County instituted the measure because, without this separation, the lots adjacent to or incorporating buffers were not satisfactory to homeowners (no rear yards or building expansion possibility). The change has resulted in higher quality development which bases the setback on the zoning district requirements with a setback between 25 feet and 50 feet. In Henrico County, the measure also applies to all land that is subdivided including land already zoned (Attachment 1). The study of local Chesapeake Bay programs by the Joint Legislative Audit and Review Commission (JLARC) commented that this provision in Henrico County virtually eliminated the need for buffer exceptions and offered a high degree of protection to the buffer (Attachment 2). This provision is also recommended by CBLAD as presented in the attached letter dated November 8, 2002 (Attachment 3). Chesterfield County requires in their Subdivision Ordinance a 25-foot setback from several environmental features including conservation areas and RPAs (Attachment 4). York County has adopted a provision in its Zoning Ordinance that requires on newly erected lots that principal structures be located at least 10 feet from the RPA.

Spotsylvania and Prince William Counties have also adopted similar ordinances. In Spotsylvania, the subdivision ordinance requires all lots to contain at least 10,000 square feet outside the RPA. Prince William County's Chesapeake Bay Preservation ordinance requires that lots of 20,000 square feet or less have no RPA on the lot. Lots over 20,000 square feet require at least 20,000 square feet outside the RPA.

#### Conclusion

In staff's opinion, the provision of an RPA, wetland, or conservation easement separation area is a reasonable method to protect the buffer and environmentally sensitive lands from encroachment, protect future property owners from having an inadequate rear yard area, and decrease the administrative effort associated with protecting the buffer. This principle of protecting important vegetated areas has been recognized in Section 24-96(c) of the Zoning Ordinance where a 15-foot construction zone setback has been established from landscape area buffers. The Board has expressed interest in increasing protection of the RPA buffer and reducing the number of violations and this represents an effective way that has been utilized elsewhere and is endorsed by the state.

In addition to avoiding the problems described above, the purpose of a 25-foot separation in single-family residential areas is for the long-term protection of both the buffer and for the future property owner by ensuring that the owner will have reasonable use of their lot.

If the Board determines that it does not wish to pursue a policy at this time, staff will no longer encourage developers to proffer separations, and will continue to deal with RPA buffer damages on a case-by-case basis.

If the Board does wish to pursue a policy addressing rezoning and SUP cases, staff proposes the following recommendations:

- If a rezoning or a special use permit proposal has property adjacent to a Resource Protection Area, regulated wetland, or contains a conservation easement, the applicant will guarantee by proffer or SUP condition to locate structures away from protected areas in accordance with this policy.
- Commercial, multifamily or other nonresidential uses without a rear yard shall separate all structures a minimum of 15 feet from RPAs, regulated wetlands or conservation easements. The separation shall not apply to parking lots or internal driveways or streets. Parking lots may be constructed up to the edge of the area provided that no grading, tree removal, or land disturbance occurs within the RPA, wetland, and/or conservation easement.
- Residential uses such as single-family attached and detached, two-family, townhouse units, or any units with separate rear yards shall separate all structures a minimum of 25 feet on the rear of the unit and 15 feet on the side or front of the unit from RPA's, wetlands, and/or conservation easements.
- The Environmental Director shall implement this policy by ensuring that all development plans and subdivision plats subject to the policy shall clearly delineate the separation areas. The policy will be implemented in the following way:
  - All site plans and plats that are subject to this condition shall have a note on the cover sheet stating that an RPA, wetland, or conservation easement separation area is delineated on the plat or site plan.
  - All drawings showing lot separation areas shall also show and label all RPA, wetland, or conservation easement separation areas.
  - Requests for exceptions to the condition must be submitted for review and approval by the Environmental Director at the time of development plan review.

Staff recommends adoption of the attached resolution.

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Darryl E. Cook

CONCUR:

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John T. P. Horne

DEC/gb  
policy\_wetland

Attachments

## RESOLUTION

### POLICY FOR WETLAND, CONSERVATION EASEMENT, AND RPA SEPARATION AREAS

WHEREAS, James City County wishes to protect environmentally sensitive lands from damage during the construction process; and

WHEREAS, after construction the County also wishes to protect these areas from damage as residents live on the properties; and

WHEREAS, providing separation between wetlands, conservation easements, Resource Protection Areas (RPAs), and structures will help protect the areas and provide a reasonable yard area for use by residents outside the protected areas.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the following policy:

- If a rezoning or a special use permit proposal has property adjacent to a Resource Protection Area, wetland, or contains a conservation easement, the applicant will guarantee by proffer or SUP condition to locate structures away from protected areas in accordance with this policy.
- Commercial, multifamily or other nonresidential uses without rear yard shall separate all structures a minimum of 15 feet from RPAs, wetlands or conservation easements. The separation shall not apply to parking lots or internal driveways or streets. Parking lots may be constructed up to the edge of the area provided that no grading, tree removal, or land disturbance occurs within the RPA, wetland, and/or conservation easement.
- Residential uses such as single-family attached and detached, two-family, townhouse units, or any units with separate rear yards shall separate all structures a minimum of 25 feet on the rear of the unit and 15 feet on the other side of the unit from the limit of RPA, wetland and/or conservation easement.
- The Environmental Director shall implement this policy by ensuring that all development plans and subdivision plats subject to the policy shall clearly delineate the separation areas. The policy will be implemented in the following way:
  - All site plans and plats that are subject to this condition shall have a note on the cover sheet stating that an RPA, wetland, or conservation easement separation area is delineated on the plat or site plan.
  - All drawings showing lot separation areas shall also show and label all RPA, wetland, or conservation easement separation areas.
  - Requests for exceptions to the condition must be submitted for review and approval by the Environmental Director at the time of development plan review.

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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of  
March, 2005.

policy\_wetland.res