

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

April 26, 2005

7:00 P.M.

	<u>Page</u>
A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Chelsea Speth, an eighth-grade student at Toano Middle School	
D. PUBLIC COMMENT	
E. HIGHWAY MATTERS	
F. CONSENT CALENDAR	
1. Minutes	
a. April 12, 2005 - Regular Meeting	1
b. April 14, 2005 - Budget Work Session.....	15
2. Dedication of Streets in Stonehouse, Phase 1, Section 5B.....	19
3. Appointment of Assistant Fire Marshall, Authorization of Fire Prevention Powers, and Authorization of Police Powers	25
<i>Supports County's Strategic Pathway 5.b – maintain a well-trained and high performing workforce for normal and emergency operations</i>	
4. Endorsement of the Strategic Management Plan.....	27
5. Revenue Bond Financing for the Williamsburg Landing, Inc.....	31
<i>Supports County's Strategic Pathway 1.e - foster new and existing small businesses</i>	
6. Establishment of Positions - Williamsburg Area Medical Assistance Corporation	41
<i>Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations</i>	
G. PUBLIC HEARINGS	
1. Case No. Z-05-05. Pocahontas Trail - James River Commerce Center Rezoning	45
2. Case No. ZO-02-05. Zoning Ordinance Amendment, Proffer Appeal Process, Section 24-19 Petition for Review of Decision	73
<i>Supports County Strategic Pathway 5.c - improve collaboration and knowledge sharing</i>	
3. Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail.....	77
<i>Supports County's Strategic Pathway 3.d – invest in the capital project needs of the community</i>	
4. Greensprings Trail Transfer of Right-of-Way and Temporary Construction Easement on 2900 Greensprings Road	85
<i>Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community</i>	

- CONTINUED -

H. BOARD CONSIDERATIONS

- 1. FY 2006 County Budget (deferred from April 12, 2005) 93
 - a. Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc.; to increase fees (withdrawn)
 - b. Ordinance Amendment - Chapter 9, Fire Protection, by adding Article IV, Ambulance Transport Fees, Section 9-15, Imposition of fees (withdrawn)
 - c. Ordinance Amendment - Chapter 24, Zoning, Section 24-7, Administrative fees; to increase fees (withdrawn)
- 2. Case Nos. Z-14-04/MP-01-05. Pocahontas Square Proffer Amendment (deferred from April 12, 2005)..... 101
- 3. Appropriation of Funds - Ironbound Square Stormwater Basin..... 121
Supports County's Strategic Pathway 4.f - manage stormwater effectively and protect groundwater

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. 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. Cable Communications Committee
 - b. Williamsburg Regional Library Board of Trustees

M. ADJOURNMENT

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF APRIL 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
Michael Drewry, Assistant County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Sonny Watson, an eighth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Ms. Carol Schenk, Human Resource Specialist I, Volunteer Coordinator, presented a resolution designating April 17 – 23, 2005, as Volunteer Appreciation Week in James City County and stated that in 2004, volunteers contributed more than 70,391 hours of service to the County, which represents an added value of \$1,203.783.

2. Mr. Ray Basley, 4060 South Riverside Drive, recommended the next Comprehensive Plan update address the safety issues of all seven railroad crossings in the County including the Diascund railroad crossing by creating traffic flyover or underpasses, and suggested it is time the County implement County-wide garbage pickup.

3. Mr. Ed Oyer, 139 Indian Circle, commented that this is the 300th Board of Supervisors meeting that he has attended; commented on an article in the paper regarding cutting school costs and the costs for the third high school facility; and commented on an article in Wall Street Journal that 65-percent of money for education should go to instruction with 35 percent or less going to administration.

Mr. Harrison stepped out of the room at 7:10 p.m.

E. CONSENT CALENDAR

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

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

- 1. Minutes -
 - a. March 22, 2005, Work Session
 - b. March 22, 2005, Regular Meeting
- 2. National Volunteer Recognition Week – April 17 – 23, 2005

RESOLUTION

NATIONAL VOLUNTEER RECOGNITION WEEK APRIL 17-23, 2005

WHEREAS, James City County was founded upon the spirit of voluntary action and civic duty and throughout history, citizens have volunteered their time, talent, and energies to make their communities better; and

WHEREAS, volunteerism offers opportunities to every citizen to participate in his or her government in order to meet community needs; and

WHEREAS, volunteers enhance our quality of life, promote community involvement, generate civic pride, and restore our neighborhoods and families; and

WHEREAS, the citizens of James City County are deserving of recognition for their commitment and hard work to make a real difference in the lives of their fellow citizens; and

WHEREAS, volunteers are a valuable resource to James City County departments and in 2005 contributed 70,391 hours valued at \$1,203,783.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the week of April 17- 23, 2005, as Volunteer Appreciation Week and calls its significance to all of our citizens.

- 3. Budget Amendment – Satellite Services’ DMV Select Office - \$4,400

RESOLUTION

BUDGET AMENDMENT – SATELLITE SERVICES’ DMV SELECT OFFICE - \$4,400

WHEREAS, Satellite Service Office in Toano applied for and has been designated by the Virginia Department of Motor Vehicles (DMV) as a “DMV Select Office”; and

WHEREAS, the set up of the DMV Select Office required the purchase of two printers and one credit card processor in the amount of \$4,400; and

WHEREAS, James City County will earn 3.5 percent on all transactions made by the office; and

WHEREAS, reimbursement of said funds will be made through the revenue generated by the DMV Select Office.

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

Revenue:

Virginia Department of Motor Vehicles Select Office	<u>\$4,400</u>
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Expenditure:

Satellite Services	<u>\$4,400</u>
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4. Appropriation of Funds – Police Department – DMV Mini-Grants - \$3,000

RESOLUTION

APPROPRIATION OF FUNDS - POLICE DEPARTMENT - DMV MINI-GRANTS - \$3,000

WHEREAS, the Virginia Department of Motor Vehicles (DMV) has approved two mini-grants in the amount of \$1,500 each to the James City Police Department for the Bicycle Safety Program and Checkpoint Strikeforce initiative to enforce Driving Under the Influence laws; and

WHEREAS, the grants only require a in-kind local match, thus eliminating any additional spending by the Department, excluding court overtime and equipment maintenance; and

WHEREAS, the grants are administered by the DMV according to the Federal Government fiscal year, which runs from October 1 through September 30.

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

Revenues:

DMV - Checkpoint Strikeforce	\$1,500
DMV - Bicycle Safety Program	<u>1,500</u>
	<u>\$3,000</u>

Expenditures:

DMV - Checkpoint Strikeforce	\$1,500
DMV - Bicycle Safety Program	<u>1,500</u>
	<u>\$3,000</u>

5. Green Springs Trail Project Funding Obligation

RESOLUTION

GREEN SPRING TRAIL PROJECT FUNDING OBLIGATION

WHEREAS, the Board of Supervisors of James City County, Virginia, identified the Green Spring Trail Project as one of its priority transportation projects on September 14, 2004; and

WHEREAS, the Virginia Department of Transportation (VDOT) has projected that available State and Federal funds may leave a deficit in construction funding for the Project; and

WHEREAS, on March 23, 2004, the Board of Supervisors agreed to commit up to \$450,000 to fund the possible deficit by use of a combination of funds from the County's future Six-Year Secondary System Construction Program allocation and Revenue Sharing Funds should the actual cost of construction exceed available State and Federal funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby agrees that if actual construction costs for the Green Spring Trail Project exceed funds available to the Project from other sources, after all such non-County funds have been applied to the project, up to \$450,000 for actual construction costs will be provided as follows:

- \$350,000 from the Six-Year Secondary System Construction Program in FY 2006-2007 using funds transferred from Project No. 0615-047-169, PE, C501, Ironbound Road Widening; and
- \$25,000 in local Revenue Sharing match funds and \$25,000 in State Revenue Sharing match funds in FY 2005-2006 and FY 2006-2007 for a total of \$100,000.

BE IT FURTHER RESOLVED that if State Revenue Sharing Funds are not approved for either FY 2005-2006 or FY 2006-2007, the Board of Supervisors agrees to fund that portion of the Project cost by transferring the additional funds from Project No. 0615-047-169, PE, C501, Ironbound Road Widening in the Six-Year Secondary System Construction Program.

BE IT FURTHER RESOLVED that VDOT is hereby requested to provide a full accounting to the County of all funds spent in the project, including a timeline of the expenditures.

F. PUBLIC HEARINGS

1. FY 2006 County Budget

- a. Ordinance Amendment – Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, Etc., to Increase Fees
- b. Ordinance Amendment – Chapter 9, Fire Protection, Article IV, Ambulance Transport Fees, Section 9.15, Imposition of Fees
- c. Ordinance Amendment – Chapter 24, Zoning, Section 24-7, Administrative Fees; to increase fees

Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting, provided the Board with an overview on the proposed FY 2006 Budget, ordinance amendments for fee changes, and the County's fiscal goals for FY 2006.

Mr. Harrison returned to the room at 7:16 p.m.

Mr. Brown opened the Public Hearing.

1. Ms. Virginia Hartmann, Chair of the James City County Economic Development Authority, stated concern about the impact of the proposed administrative fee increases for non-residential site plan review fees.

2. Ms. Geri Farrell, representing the Clara Byrd Baker Elementary School Administrative staff and teachers; requested the Board fully fund the School Budget; thanked the School Board for lowering class teacher ratios; and stated the School Budget reflects the efforts to keep up with the high growth of the area and the high quality of education expected by citizens.

3. Ms. Holly Noel Wagner, 104 Evergreen Way, President of the Clara Byrd Baker Elementary School PTA, requested the Board fully fund the Williamsburg-James City County School Budget as presented by the School Board and eliminate the need for students to spend more time in temporary school trailers.

4. Ms. Kelly Osterhout, President of the Williamsburg-James City Education Association, requested the Board fully fund the School Budget and stated that the School Board budget is a reasonable level of funding that reflects the educational needs of the community. Specific comments were personally directed at the County Administrator.

5. Mr. Jack Schmidt, President of the Board of the Williamsburg Land Conservancy; requested the November bond referendum level for greenspace development be increased to \$20 million; stated the Conservancy supports bond funding for open space protection; and requested funding for the Purchase of Development Rights program and the Greensprings Trail Master Plan program.

6. Ms. Stephanie Smith, Active Williamsburg Alliance, requested funding for the development of greenways in the County to provide easier and safer transportation and recreational activities for walking, hiking, biking and running in the County, and suggested a benefit of the developed greenways would be a less overweight active community.

7. Ms. Katherine Preston, 137 Pintrail Trace, stated that physical exercise should be a normal part of life and requested the Board fund the greensprings trail master plan to provide its citizens with safe alternatives for various outdoor activities; and requested the Board permit its citizens to vote on a referendum this fall to fund greenways specifically and to provide additional funding for the Greensprings Trail Master Plan.

8. Ms. Jewel Douglas, representing the James Blair Middle School teachers, thanked the Board for the funding support in the past for a safe environment and an environment that invites learning, and requested the Board fully fund the operating budget of the School Budget.

9. Mr. Charles Springer, representing Berkeley Middle School teachers, stated that he has the best job as a teacher in Berkeley Middle School; request the Board fully fund the School Budget; and stated that as single parent of two teenagers, he would not be able to continue to teach if the School Board cuts salaries and benefits because the Board of Supervisors did not fully fund the School Budget.

10. Mr. Robert Duckett, Director of Public Affairs of the Peninsula Housing and Builders Association, stated opposition to the Ordinance Amendments for increase fees for Erosion and Sediment Control and Zoning; and stated that the proposed fee increases in the County would put the County at the upper end of fee levels for the Peninsula.

11. Mr. Richard Krapf, representing Friends of Forge Road in Toano, stated that three issues are becoming increasingly urgent: the Purchase of Development Rights (PDR) program funding level is not adequate to preserve land and the community character of rural lands and requested additional funds be included in the Budget; requested a bond referendum question in the fall for funding of greenways; requested funds be allocated for a study for viable rural economic development issues in the County such as an Anderson's Corner development plan because that area is a gateway to County and should be treated appropriately to preserve the rural character of community.

12. Mr. Ollie Ferreira, 3196 Derby Lane, request the Board and School Board not reduce to politics the funding issues and remember that students and their education are the primary focus and issue; stated opposition to the proposed EMS Transport Fee and recommended the Board look to other ways to prevent abuse of the ambulance system as a transportation service; commented on the Economic Development budget level in comparison to the Communications budget level; suggested the Board needs to address diversifying the community with clean, high-tech industries that require high education employees; and stated concern that the inadequate County funding levels of the Jamestown 2007 events will result in poor attendance of the events in 2007.

13. Mr. John E. Hall, 117 Olde Jamestown Court; request the Board revisit the Williamsburg Area Transport (WAT) fare rates and the budget structure of WAT; requested the Virginia Retirement System plan for County employees be reconsidered; and requested the real estate exemption for senior citizens be revisited with the Commissioner of Revenue.

14. Ms. Ruth Larson, 135 The Maine, asked the Board to fully fund the School Budget; requested the County take responsibility for the growth in population that continues and school student enrollments that continue to grow as a result of the approval of developments by the Board; and stated that she does not want tax rates cut because she would rather have the funding for schools.

15. Mr. Michael Hipple, 112 Jolly Pond Road, President of the James City-Bruton Volunteer Fire Department, stated that the volunteers are against the EMS Transport Fee Proposal; commented on the anticipated impacts of the fee if approved; stated that the volunteers appreciate the support of the Board in the past and request the Board not impose the fees; and requested the Board reconsider the tax rate as a funding

source.

16. Mr. Mark Sullivan, 3325 Timber Ridge, requested the Board fund the auxiliary gym at Jamestown High School that would provide a safe, suitable site for students to practice.

17. Mr. Richard Goode, 124 West Kingswood Drive, requested the Board fully fund the School Budget and stated concern about the initial budget cuts of the School Board and the further cuts that may occur if the Board of Supervisors does not fully fund the School Budget.

18. Mr. Steve Suders, 104 Stanley Drive, stated that an auxiliary gym at Jamestown and Lafayette High School is needed to reduce the injuries that occur as a result of current, unsafe, and inadequate practice sites for students; and requested the Board support funding for the auxiliary gym as well as funding for the tract at the Lafayette High School.

19. Mr. Ronald P. Ross, II, 127 Tarleton Bivouac, commented on the obstacles he and other Jamestown High School students face by having to practice in the cafeteria as well as the health issues of such arrangements, and requested the Board fund the auxiliary gym.

20. Mr. Ricky Suders, 104 Stanley Drive, stated concern that auxiliary gym for Jamestown High School is being removed from budget; provided an overview of sports teams that try to get time in the one available gym, the hallway and cafeteria practices that are not safe for participants, the damage to sports equipment because of inadequate space to properly store or use the equipment; and stated the auxiliary gym is a primary need.

21. Mr. Randy Jackson, 161 Carriage Lane, stated the Jamestown High School auxiliary gym is necessary, and requested each Board member watch closely the development of the third high school to avoid the mistakes made with the second high school development.

22. Ms. Barb Elliott, 912 Tyler Drive, stated concern about the current arrangements for athletic practices and the amount of time lost from practice in order to set up and take down the equipment needed, and requested the Board fund the Jamestown High School auxiliary gym.

23. Ms. Amanda Richezza, an athletic trainer at Jamestown High School, commented on the medical and safety issues associated with not having an adequate facility for wrestlers to practice; commented that each year several stress fractures occur; read a letter of the team physician at Jamestown High School that indicated the auxiliary gym would reduce injury and health concerns association with the current situation; and requested the Board fund the auxiliary gym.

24. Ms. Delores Ross, 127 Tarleton Bivouac, request the Board fund the auxiliary gym at Jamestown High School and cited safety concerns associated with the lack of appropriate athletic facilities for practice.

25. Ms. Holly Flood, 121 Chanco Road, representing the Clara Byrd Baker Elementary School PTA, requested the Board take responsibility for the Board's actions of approving developments and the associated population growth impacts of the approvals, and recommended the Board support funding for the school services need in association with those decisions.

26. Mr. Timmons Roberts, 121 Chanco Road, requested the Board fund the School Budget as well as support the greenways plan in a bond referendum in November.

27. Ms. Diana Filichko, 9615 Richmond Road, commented that in the FY 06 Budget the

taxpayers will pay approximately \$228,000 for employee compensation for three individuals in Economic Development while paying approximately one-million dollars for 18 employees in the Planning and Development departments; inquired what the County Administrator gets paid; requested the Board fully fund the School Budget because there are ongoing safety concerns that should be addressed at Lafayette High School; suggested that someone should be assigned to direct traffic at the Lafayette High School in the afternoons when school lets out; stated concern that tax money is being spent on the Jamestown 2007 project and going to a Land Trust fund but it has not been disclosed who will be getting the money with the Land Trust.

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

Mr. Bradshaw thanked the citizens for the manner in which they presented their comments and stated that the criticism of the County Administrator is not appropriate and such criticism should be more appropriately directed to the Board members who give guidance to the Administrator.

With concurrence from the Board, Mr. Brown deferred action on the FY 2006 Budget and the Ordinance Amendments to April 26 following the three Budget Work Sessions to be held at 7 p.m. on April 14, 18, and 20.

Mr. McGlennon requested a brief recess.

At 8:46 p.m. Mr. Brown recessed the Board.

At 8:56 p.m. Mr. Brown reconvened the Board.

2. Case No. SUP-01-05. Alice's Wonderland Playhouse

Ms. Tamara A. M. Rosario, Senior Planner, stated that Alice Wilson has applied for a special use permit (SUP) to operate a child day care center on 0.783 acres in the former White's Grocery Store at 2942 Chickahominy Road, zoned R-8, Rural Residential, and further identified as Parcel No. (2-2) on the James City County Real Estate Tax Map No. (22-3).

Staff found the proposed child day care facility acceptable given its minimal impacts and consistency with the surrounding uses and zoning.

At its meeting on March 7, 2005, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended the Board approve the SUP application with the conditions listed in the resolution.

Mr. Brown opened the Public Hearing.

1. Ms. Alice Wilson, applicant, provided an overview of the application and requested approval of the application.

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

Mr. Bradshaw made a motion to approve the resolution.

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

RESOLUTION

CASE NO. SUP-1-05. ALICE'S WONDERLAND PLAYHOUSE

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

WHEREAS, Ms. Alice Wilson has applied for a special use permit to allow a child day care center at 2942 Chickahominy Road; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (2-2) on James City County Real Estate Tax Map No. (22-3); and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 7, 2005 recommended approval of this application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 1-05 as described herein with the following conditions:

1. The total number of occupants, including but not limited to staff and children, shall not exceed 49.
2. Hours of operation shall be limited from 6 a.m. to 7 p.m., Monday through Friday, and 7 a.m. to 5 p.m. on Saturdays.
3. The owner shall submit a site plan and receive final site plan approval from the James City County Planning Division within thirty-six months of the date of approval of this special use permit, or the permit shall become void.
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 (JCSA). 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 to minimize the use of public water resources. The water conservation standards shall be approved by the JCSA prior to final site plan approval.
5. Any playground equipment and associated fencing shall be landscaped so as to screen the playground equipment and fencing from adjacent property owners. The landscaping plan and fencing material shall be reviewed and approved by the Planning Director prior to final site plan approval.

6. Any new exterior lighting fixtures, including building lighting, shall have recessed fixtures with no lens, bulb, or globe extending below the casing. No glare shall extend outside the property lines. No light pole shall exceed 15 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.
7. The owner shall obtain a final Certificate of Occupancy from the James City County Code Compliance Division within thirty-six months of the date of approval of this special use permit, or this permit shall become void.
8. This special permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-5-05. 8503 Hicks Island Family Subdivision

Ms. Ellen Cook, Planner, stated that David Bradley requested the Board approve a family subdivision on approximately three acres of land at 8503 Hicks Island Road zoned A-1, General agricultural, and further identified as Parcel No. (1-23) on the James City County Real Estate Tax Map. No. (9-1). The proposed subdivision would result in a proposed lot of approximately 1.9 acres and leaving a remaining lot size of approximately 1.1 acres.

Staff found the proposal to be consistent with the surrounding zoning and development and with Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the application with conditions.

Mr. Brown opened the Public Hearing.

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

Mr. Goodson expressed concern with the short length of time the property was owned before the family subdivision was requested.

Mr. Goodson requested staff present a policy for the Board's consideration such as a family subdivision ordinance amendment to require ownership of property for approximately ten years before a family subdivision is considered.

Mr. Bradshaw and Mr. McGlennon concurred with Mr. Goodson's request that the ordinance should be reviewed.

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

CASE NO. SUP-5-05. 8503 HICKS ISLAND FAMILY SUBDIVISION

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

WHEREAS, the applicants have requested a SUP to allow for a family subdivision in an A-1, General Agricultural District, located at 8503 Hicks Island Road, further identified as Parcel No. (9-1) on James City County Real Estate Tax Map No. (1-23).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 5-05 as described herein with the following conditions:

1. This special use permit is valid for a family subdivision for the creation of one new lot of approximately 1.9 acres with one parent lot of approximately 1.1 acres remaining generally as shown on the conceptual subdivision plat submitted with this application.
2. Final subdivision approval must be received from the County within twelve months from the issuance of this special use permit or the permit shall become void.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. **Case Nos. Z-14-04/MP-1-05. Pocahontas Square Proffer Amendment**

Ms. Ellen Cook, Planner, stated that Jay Epstein of Health-E-Community Enterprises has applied to amend the Master Plan by changing the proposed unit sizes and to amend five proffers, restate eight original proffers, and add one new proffer for the Pocahontas Square development on 13.43 acres zoned R-5, Multifamily Residential, with proffers, at 8814, 8838, and 8844 Pocahontas Trail and further identified as Parcel Nos. (1-4), (1-5A), and (1-5) on the James City County Real Estate Tax Map No. (59-2).

At its meeting on March 7, 2005, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the proffer and master plan amendment with the attached proffers.

Mr. Brown opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, provided an overview of the application proposal; commented on the rising costs of construction materials and the shortage of labor force that has resulted in this proposal; supported staff and the Planning Commission's recommendations; and requested the Board's approval of the cases.

The Board and applicant discussed the soft second funds that qualified home buyers could use and that would be forgiven over a five-year period.

2. Mr. Ed Oyer, 139 Indian Circle, inquired if the turn lanes are still included in the proposal; inquired what protection of Skiffe's Creek is being offered; inquired who has the responsibility of the upkeep of the properties; inquired if County residents will have first offer on the purchase of the properties; and

inquired who determined the area to be chronically economically stressed.

Mr. Geddy stated that maintenance will be the responsibility of the owners and the homeowners association; Skiffe's Creek protection is incorporated in the site plan, and the area was designated as chronic economic stress by the Virginia Housing Development Authority based upon the census information.

Mr. Rick Hanson, Housing and Community Development Administrator, stated that lower priced units would have to come through the County program which does give first priority of sale to County residents and employees.

The Board and staff briefly discussed the census information and also discussed the affordable units in the proposed development.

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

Mr. Goodson spoke to the merits of the proposal and made a motion to adopt the resolution.

A brief discussion was held regarding the adequacy of the cash proffers to offset the public services impact that will be created by the development and suggested a deferral on the item.

Mr. Geddy requested a two-week deferral to permit the applicant time to consider the points raised by the Board.

Without objection from members of the Board, Mr. Brown deferred action on the case to April 26, 2005.

G. BOARD CONSIDERATION

1. Award of Comprehensive Agreement Contract for Stages 2 and 3 of the Design and Construction of Site Improvements and Roadways at the Warhill Site

Ms. Stephanie Ahrendt, Purchasing Director, requested the Board approve the resolution authorizing the negotiation and award of a Comprehensive Agreement contract for Stages 2 and 3 of the Warhill Site Improvements in a not-to-exceed amount with Curtis Contracting, Inc.

Mr. Bradshaw inquired if the County negotiated substantial increases in the Scope of Work.

Mr. Steve Hicks, General Services Manager, stated that the Scope of Work did increase with added information provided on the Thomas Nelson Community College site; the stormwater management system changes, improvements to the dam to handle the stormwater drainage, utility improvements, and right-of-way changes; in addition, a risk factor of 15 percent has been included and the prices negotiated; and that staff is comfortable with the contract price level and completion date of August 1, 2007.

Mr. McGlennon stated that the County has to abide by environmental processes that any other developer has to meet, as well as Virginia Department of Transportation standards and requirements for roadways.

Mr. McGlennon made a motion to adopt the resolution.

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

(0).

Mr. Curtis, on behalf of Curtis Contracting, Inc., and the entire Warhill team, thanked the County Administrator for appointing high-quality staff to work with him as a partner in this process.

RESOLUTION

AWARD OF COMPREHENSIVE AGREEMENT CONTRACT FOR

STAGES 2 AND 3 OF THE DESIGN AND CONSTRUCTION OF SITE IMPROVEMENTS AND

ROADWAYS AT THE WARHILL SITE

WHEREAS, on February 22, 2005, the Board of Supervisors authorized the negotiation and award of a Comprehensive Agreement contract to Curtis Contracting, Inc., for Stage 1 of the Warhill Site Improvements consisting of preliminary engineering and permitting; and

WHEREAS, staff met with Curtis Contracting, Inc., and McDonough Bolyard Peck to negotiate the detailed cost, schedule, and terms and conditions for Stage 2, right-of-way acquisition and utility relocation, and Stage 3, construction and certification; and

WHEREAS, upon Board approval, staff is prepared to execute a Comprehensive Agreement contract with Curtis Contracting, Inc., for a not-to-exceed amount of \$839,306 for Stage 2 and a not-to-exceed amount of \$13,419,408 for Stage 3 of the Warhill Site Improvements. The Board expects to appropriate proceeds from the June 2005 bond sale to finance this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the negotiation and award of a Comprehensive Agreement contract for Stages 2 and 3 of the Warhill Site Improvements in a not-to-exceed amount of \$14,258,714 to Curtis Contracting, Inc.

H. PUBLIC COMMENT

Mr. Brown recognized George Billups, member of the Planning Commission, in the audience.

1. Mr. Ed Oyer, 139 Indian Circle, commented that the Williamsburg-James City County School system was not listed as a participant in the Jefferson Lab Regional Middle School Science Bowl; shared a statement from his neighborhood requesting clear objectives of Budget priorities of the Board of Supervisors and how they will be funded as listed; requested ordinance dealing with vehicles sitting in yards be revisited; and requested a trash lien be place on 101 Indian Circle.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner read an announcement regarding the Jamestown 2007 events that invited citizens to attend a 2007 Community Conversation about the upcoming events associated with Jamestown 2007; the tour begins at 6 p.m. on May 12 at the Jamestown Settlement.

Mr. Wanner requested the Board consider the reappointment of Irma Hawkins to the Peninsula Disability Services Board and to appoint Suzanne Mellen to the Colonial Group Home Commission to replace Anthony Conyers, Jr.

Mr. Wanner stated that Tal Luton will be the Acting Fire Chief effective May 1 and an internal search will be conducted for the Fire Chief with an anticipated announcement date of the new Chief in June.

Mr. Wanner recommended at the conclusion of the meeting, the Board recess to 7 p.m. on April 14 for a Budget Work Session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison made a motion to reappoint Irma Hopkins to the Peninsula Disability Services Board and to appoint Suzanne Mellen to the Colonial Group Home Commission.

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

Mr. Goodson requested staff review the Family Subdivision Ordinance to limit the time for family subdivisions.

McGlennon stated the swearing in of the new Commissioner of Social Services is great opportunity to congratulate Anthony Conyers, Jr., and commend him for the work he has done for the community.

K. RECESS

Mr. Harrison made a motion to recess.

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

At 9:52 p.m. Mr. Brown recessed the Board to 7 p.m. on April 14 for the Budget Work Session.

Sanford B. Wanner
Secretary to the Board

AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF APRIL, 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. BOARD CONSIDERATIONS

1. Review of the FY 2006 Proposed General Operating Budget

Mr. Wanner introduced the proposed FY 2006 Budget and Ordinance Amendments and introduced Mr. John E. McDonald, Manager of Financial and Management Services, and Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting.

Ms. Ahrendt provided the Board with an overview of the anticipated revenues, anticipated real estate assessment levels, reimbursement from the State for the Personal Property Tax, and Sales Tax.

The Board and staff discussed the allocation possibilities for the Land Book receipts above the anticipated 5.8 percent reassessment, State's Budget and decisions regarding the tax levels, consumer spending, and sales levels on anticipated generated revenues.

Mr. Brown requested that staff provide information on the efforts of the Commissioner of Revenue to collect delinquent taxes.

Mr. McGlennon requested information on why the Bank Franchise Tax revenue levels appear to be flat despite the development of financial centers in the County.

The Board and staff discussed the Consumer Utility Tax and potential to attach to utilities associated with electrical service and internet access services.

- a. Proposed Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc.; to increase fees and Ordinance Amendment - Chapter 24, Zoning, Section 24-7, Administrative fees; to increase fees

Mr. John T. P. Horne, Manager of Development Management, presented an overview of the proposed fee increases as an alternative revenue source to property taxes and stated that the fee proposals can be modified.

The Board and staff discussed the fees and how they compare to surrounding jurisdiction fees.

Mr. Brown inquired if the Board wanted to increase the nonresidential site plan review fees for the FY 2006 Budget.

The Board concurred they would not support the fee increases for nonresidential site plan reviews.

Mr. Brown inquired if the Board wanted to move forward with the alternate proposals offered by Mr. Horne.

The Board concurred they would support an alternate fee increase.

Mr. McGlennon stated that any alternate proposal would need to go back to the Planning Commission for review and recommendation, and then would be presented to the Board in June with an effective date of July 1, 2005.

Mr. Horne requested the withdrawal of the Erosion and Sediment Control fee increase for further review in connection with the funding of a part-time position.

The Board concurred the position is needed and would consider a fee increase to cover the funding of the position; however, the comparatively high rate of the fee level to other jurisdictions is a factor to be considered.

The Board and staff resumed reviewing the General Operating Fund's revenues from fees including the Cable TV Franchise Fee and the Septic Tank Permit Fees.

The Board requested information regarding the factors impacting the FY 2006 proposed level of revenues from erosion control.

At 8:20 p.m., Mr. Brown recessed the Board for a brief break.

At 8:25 p.m., Mr. Brown reconvened the Board.

The Board and staff resumed reviewing the General Operating Fund including the revenue from the Commonwealth and Federal Government.

b. EMS Transport Fee Proposal

Mr. Richard Miller, Fire Chief, and Mr. Tal Luton, Deputy Fire Chief, presented an overview of the proposed Ordinance Amendment - Chapter 9, Fire Protection, Article IV, Ambulance Transport Fees, Section 9.15, Imposition of Fees that would apply only to individuals transported to a hospital or other facility where a patient is transported.

The Board and staff discussed the proposed fee and the implementation of the fee, discussed the collection of the fees and application for waivers of the fees, and factor of insurance in collecting and assessing the fees.

The Board thanked Chief Miller and staff for the efforts in educating the public and the Board regarding the Ambulance Transport Fee proposal.

The Board concurred that they would not impose the Ambulance Transport Fee.

The Board and staff discussed methods to makeup the shortfall in the FY 2006 Budget for revenue

not generated by the Ambulance Transport Fee including raising the tax rate to \$0.84.

Mr. Brown requested a straw vote to increase the Real Estate Tax Rate to \$0.84 in FY 2006 to cover the ALS/BLS fee shortfall subject to further discussion at future Budget Work Sessions.

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

Discussion was held on making up the difference left by the ALS/BLS shortfall.

Mr. Wanner requested that the Board provide guidance on the percent of the average reassessment increase to be used in estimating real property revenues.

The Board discussed the real estate values that will come in when the Land Book closes and decided to set the increase at the 7.2 percent estimate.

2. Employee Compensation and Benefits

Ms. Carol M. Luckam, Manager of Human Resources, provided the Board with an overview of the recommendations relating to employee compensation and benefits for FY 2006.

Ms. Luckam recommended that the Board consider a 3.8 percent average pay for performance increase based on actual salary, salary range adjustments, and to complete a recalibration study.

The Board and staff discussed the employee contingency levels and how employee turnover affects the levels.

Mr. McDonald thanked the Board for providing questions to staff to address at the April 18 Budget Work Session, and the Board thanked staff for being responsive.

The Board requested alternatives for revenue generation or expenditure reductions instead of raising the tax rates.

C. RECESS

At 9:50 p.m., Mr. Brown recessed the Board until 7 p.m. on April 18, 2005.

Sanford B. Wanner
Secretary to the Board

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Streets in Stonehouse, Phase 1, Section 5B

Attached is a resolution requesting acceptance of certain streets in Stonehouse, Phase 1, Section 5B into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.

Darryl E. Cook

DEC/nb
sec5B.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE, PHASE 1, SECTION 5B

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

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

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

sec5B.res



DEDICATION OF STREETS IN STONEHOUSE - PHASE 1, SECTION 5B

 Streets Being Dedicated

900 0 900 Feet



In the County of James City

By resolution of the governing body adopted April 26, 2005

The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 5/1/99

Project/Subdivision

Stonehouse, Phase 1, Section 5B

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

Route Number and/or Street Name

Bent Tree Lane, State Route Number 1242

Description: **From:** Route 1241 (Splitwood Road)

To: Route 1243 (Longwood Drive)

A distance of: 0.10 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, with a width of 50'

Description: **From:** Route 1243 (Longwood Drive)

To: End of cul-de-sac

A distance of: 0.07 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, and on 8/16/2001, Document # 010014711, with a width of 50'

Longwood Drive, State Route Number 1243

Description: **From:** Route 1242 (Bent Tree Lane)

To: Route 1244 (Windy Branch Drive)

A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document #000013931, with a width of 50'

Description: **From:** Route 1244 (Windy Branch Drive)

To: Route 1245 (Sapling Drive)

A distance of: 0.04 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document #000013931, with a width of 50'

Description: **From:** Route 1245 (Sapling Drive)

To: End of cul-de-sac

A distance of: 0.09 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document #000013931, with a width of 50'

Report of Changes in the Secondary System of State Highways

Form SR-5A
Secondary Roads Division 5/1/99

Sapling Drive, State Route Number 1245

Description: **From:** Route 1243 (Longwood Drive)

To: End of cul-de-sac
A distance of: 0.11 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, and on 10/4/2001, Document # 010018106, with a width of 50'

Splitwood Road, State Route Number 1241

Description: **From:** Route 1221 (Mill Pond Run)

To: Route 1242 (Bent Tree Lane)
A distance of: 0.05 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, with a width of 50'

Description: **From:** Route 1242 (Bent Tree Lane)

To: Temporary Turn-around
A distance of: 0.08 miles.

Right of Way Record: Filed with the Land Records Office on 10/4/2001, Document # 010018106, with a width of 50'

Trailwood Lane, State Route Number 1247

Description: **From:** Route 1246 (Walnut Creek Road)

To: End of cul-de-sac
A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document # 010014710, with a width of 50'

Walnut Creek Road, State Route Number 1246

Description: **From:** Route 1221 (Mill Pond Run)

To: Route 1247 (Trailwood Lane)
A distance of: 0.05 miles.

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document # 010014710, with a width of 50'

Description: **From:** Route 1247 (Trailwood Lane)

To: End of cul-de-sac
A distance of: 0.15 miles.

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document # 010014710, with a width of 50'

Windy Branch Drive, State Route Number 1244

Description: **From:** Route 1243 (Longwood Drive)

To: End of cul-de-sac
A distance of: 0.24 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, and on 10/4/2001, Document # 010018106, with a width of 50'

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: William T. Luton, Deputy Fire Chief
SUBJECT: Appointment of Assistant Fire Marshal, Authorization of Fire Prevention Powers, and Authorization of Police Powers

Darryl C. Stanton, Jr., has completed all necessary training and certification requirements to be appointed Assistant Fire Marshal in accordance with Commonwealth of Virginia Code Section 27-30, et. seq. The Assistant Fire Marshal is responsible for fire prevention, code enforcement, and fire investigation. This function will be in addition to his regular firefighter duties. The appointment has no effect on his salary or grade.

This appointment must be authorized by the Board of Supervisors. A resolution is attached that complies with all Commonwealth of Virginia requirements.

Staff recommends approval.



William T. Luton

WTL/nb
AsstFireMarshal.mem

Attachment

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHAL, AUTHORIZATION OF FIRE

PREVENTION POWERS, AND AUTHORIZATION OF POLICE POWERS

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to have the same law enforcement powers as a police officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses, and the possession and manufacture of explosive devices, substances, and fire bombs; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, Darryl C. Stanton, Jr., has completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Darryl C. Stanton, Jr., as a James City County Assistant Fire Marshal with all such police powers and authority as provided in Virginia Code Sections 27.30 et. seq.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

AsstFireMarshal.res

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Endorsement of the FY 06 Strategic Management Plan

At the May 11, 2004, Board of Supervisors Meeting, the County's FY 05 Strategic Management Plan was adopted. The Strategic Management Plan is an important document that guides our actions over the next few years. As part of the adoption of the Budget, I recommend that the Board endorse the County's FY 06 Strategic Management Plan by adopting the attached resolution.

Sanford B. Wanner

SBW/gs
SMP06.mem

Attachments

RESOLUTION

STRATEGIC MANAGEMENT PLAN

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the Strategic Management Plan.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

SMP06.res

FY06 Strategic Management Plan

Proposed Actions

1) Manage finances wisely and encourage a balanced economy

- Offset personnel and/or capital costs by increasing grant funding.
- Increase Williamsburg Area Transport ridership to offset costs.
- Evaluate partnerships with local funders of community based human services providers to determine if outcomes have been achieved.
- Develop "fact book" that identifies key fiscal, demographic and development indicators to use in trending and as a standard database for all County departments.

2) Improve the lives of citizens and foster a sense of community

- Reduce crime through increased Neighborhood and Business Watch programs, foot patrols, directed patrols, and house checks.
- Preserve community character by enhancing the landscaping of designated Community Character Corridors.
- Provide additional affordable housing by continuing the redevelopment of Ironbound Square.
- Continue the community Automatic External Defibrillator program in conjunction with our regional partners.
- Increase community volunteerism and recognition of citizens and employees who volunteer in our community.

3) Plan responsibly for the needs of a growing, diverse community

- Assist older citizens by implementing "Yellow Dot" vehicle program that provides health and emergency contact information for fire and police.
- Increase availability of housing stock to meet needs of older citizens for affordable and quality housing.
- Improve availability of drinkable water and water supply storage facilities to meet projected customer growth.

4) Steward the natural environment and historic heritage

- Continue regional stormwater management by constructing one regional stormwater basin.
- Continue to implement the purchase of development rights programs through public financing and participation.
- Plan for and support efforts to commemorate Jamestown 2007, "America's 400th Anniversary."
- Enhance operational effectiveness reliability for the wastewater gravity sewer and force main collection system.
- Increase tourism by assisting in marketing the area.

5) Provide outstanding customer service

- Provide new employees with customer service expectations and tools that communicate our Customer Service philosophy.
- Increase citizen awareness of available County services.
- Increase awareness of crime prevention through distribution of "Neighborhood Watch Dial" and "Business Dial" newsletters.
- Place all site plan and subdivision comments online for easy access by all County citizens, developers, and owners.
- Provide interoperability between County departments and other jurisdictions and enhance E-911 response through completion of the 800-MHz radio system.



MEMORANDUM

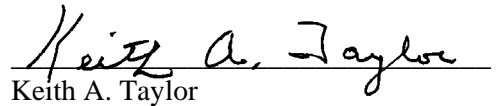
DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Keith A. Taylor, Secretary, Economic Development Authority
SUBJECT: Revenue Bond Financing for Williamsburg Landing, Inc.

At its April 26, 2005, meeting, the Economic Development Authority (EDA) conducted the required public hearing and then approved a Resolution of Inducement for Williamsburg Landing, Inc. (the "Borrower") for up to \$18 million in aggregate principal amount of revenue bonds (the "2005 Bonds") to finance:

1. The constructing and equipping of twenty-two single and duplex cluster homes and a wellness and fitness center at Williamsburg Landing for the residence and care of the aged in James City County;
2. The refunding of an outstanding balance of the EDA's Residential Care Facility First Mortgage Revenue Bonds (Williamsburg Landing, Inc.), Series 1996B (the "1996 Bonds"). The 1996 Bonds were issued:
 - a. To refund a portion of the EDA's Retirement Community Refunding Revenue Bonds (Williamsburg Landing, Inc.), Series 1987, which the bonds were issued to refinance the cost of acquiring, constructing, and equipping the residential and healthcare center of the Borrower; and
 - b. To finance the construction of assisted living facilities, an auditorium, and building renovations to provide for dining facilities, a clinic, independent living apartments, and multi-purpose rooms.
3. A portion of a debt service reserve fund; and
4. All or a portion of expenses incurred in connection with the issuance of the 2005 Bonds.

As required by Virginia law, the 2005 Bonds shall provide that neither the faith and credit nor the taxing power of the County of James City or its EDA shall be pledged toward the 2005 Bonds.

Staff recommends approval of the attached resolution.


Keith A. Taylor

KAT/gs
wlandgbond.mem

Attachments

RESOLUTION

REVENUE BOND FINANCING FOR WILLIAMSBURG LANDING, INC.

WHEREAS, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended, authorizes the creation of the Economic Development Authority of James City County, Virginia (the "Authority"), and empowers the Authority to assist Williamsburg Landing, Inc., a Virginia nonstock corporation (the "Company"), by the issuance of up to \$18,000,000 of tax-exempt revenue bonds of the Authority (the "Bonds") to (a) finance the cost of constructing and equipping twenty-two (22) single- and duplex-cluster homes and a wellness and fitness center (the "Project") at the Company's facility for the residence and care of the aged in the County of James City, Virginia (the "Facility"); (b) refund the outstanding balance of the Authority's Residential Care Facility First Mortgage Revenue Bonds ("Williamsburg Landing, Inc."), Series 1996B (the "Series 1996B Bonds"); (c) finance all or a portion of a debt service reserve fund; and (d) finance a portion of expenses incurred in connection with the issuance of the Bonds; and

WHEREAS, the Facility is owned by the Company and the Project will be owned by the Company; and

WHEREAS, the Company has its principal place of business at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires approval by this Board of the issuance of any private activity bonds by the Authority after the Authority has held a public hearing to consider the issuance of such bonds as one of the acts required in order for the interest on such bonds to qualify for exemption from the imposition of Federal income tax; and

WHEREAS, the Authority held a Public Hearing on April 26, 2005, in compliance with the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), and after such public hearing adopted a resolution to issue the Bonds, subject to the adoption of this resolution; and

WHEREAS, the Company has represented that it is a corporation described in Section 501(c)(3) of the Code which is not organized and operated exclusively for religious purposes and which is exempt from Federal income taxation pursuant to Section 501(a) of the Code; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, a record of the public hearing with respect to the Bonds, and a Fiscal Impact Statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with this Board.

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

Section 1: That the recitals in the first three preambles hereto are adopted as a part of this resolution as if fully written herein.

Section 2: That this Board approves the issuance of the Bonds by the Authority to the extent required by the Code and the Virginia Code.

Section 3: That the approval of the issuance of the Bonds as requested by the Company and as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code is solely for Federal tax purposes, does not constitute an endorsement to a prospective purchaser of the Bonds of the proposed use of the proceeds of the Bonds or the creditworthiness of the Company or the Project and, as required by Virginia law, the Bonds shall provide that neither the Commonwealth of Virginia, the County of James City nor the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County of James City or the Authority shall be pledged thereto.

Section 4: That the County, including its elected representatives, officers, employees, and agents, shall not be liable and hereby disclaims all liability for any damage to the Company or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

Section 5: That this resolution shall be in effect from and after its adoption.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

Wlandgbond.res

Approved by the following roll call vote (list names of Board members):

Ayes:

Nays:

Absent:

Abstentions:

A copy teste:

Wlandgbond.res

FISCAL IMPACT STATEMENT
SUBMITTED TO THE
INDUSTRIAL DEVELOPMENT AUTHORITY OF
JAMES CITY COUNTY

The undersigned applicant, in order to permit it to submit the following information in compliance with Section 15.2-4907 of the Code of Virginia, 1950, as amended, states:

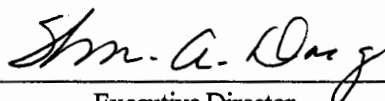
Name of applicant: WILLIAMSBURG LANDING, INC.

Facility: WILLIAMSBURG LANDING CONTINUING CARE RETIREMENT COMMUNITY

1.	Maximum amount of financing sought	<u>\$18,000,000.00</u>
2.	Estimated taxable value of facility's real property to be constructed in the locality (construction costs)	<u>\$7,162,000.00</u>
3.	Estimated real property tax per year using present tax rates	<u>\$59,087.00</u>
4.	Estimated personal property tax per year using present tax rates	<u>\$1,850</u>
5.	Estimated merchant's capital tax per year using present tax rates	<u>\$ 0</u>
6.	a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	<u>\$ 63,808</u>
	b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	<u>\$ 14,700</u>
	c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	<u>\$ 58,234</u>
	d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	<u>\$ 26,300</u>
7.	Estimated number of regular employees on year round basis	<u>3.5</u>
8.	Average annual salary per employee	<u>\$ 32,057</u>

Dated: April 26, 2005

WILLIAMSBURG LANDING, INC.

By: 
Executive Director

INDUSTRIAL DEVELOPMENT AUTHORITY OF
THE COUNTY OF JAMES CITY

By: _____
Chairman

RESOLUTION OF
ECONOMIC DEVELOPMENT AUTHORITY OF
JAMES CITY COUNTY, VIRGINIA

WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the Authority), the plans of Williamsburg Landing, Inc. (the Company) to (a) finance the construction and equipping of twenty-two (22) single and duplex cluster homes and a wellness and fitness center (the Project) at the Company's facility for the residence and care of the aged in the County of James City, Virginia (the Facility), (b) refund the outstanding balance of the Authority's Residential Care Facility First Mortgage Revenue Bonds (Williamsburg Landing, Inc.), Series 1996B (the Series 1996B Bonds), (c) finance a portion of a debt service reserve fund, and (d) finance all or a portion of expenses incurred in connection with the issuance of the Bonds (as hereinafter defined);

WHEREAS, under the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the Act), the Authority has been given the power to issue its revenue bonds from time to time and to use the proceeds thereof for the purpose of paying all or part of the cost of certain projects, including the Project, and to issue refunding bonds;

WHEREAS, the Authority has been requested to assist in the issuance and sale of up to \$18,000,000 in aggregate principal amount of its Economic Development Authority of James City County, Virginia, Residential Care Facility First Mortgage Revenue Bonds (Williamsburg Landing, Inc.), Series 2005A (the Series 2005A Bonds) and its Economic Development Authority of James City County, Virginia, Residential Care Facility First Mortgage Revenue and Refunding Bonds (Williamsburg Landing, Inc.), Series 2005B (the Series 2005B Bonds and, collectively with the Series 2005A Bonds, the Bonds), the proceeds of which will be used to finance the costs of the Project, to refund the Series 1996B Bonds, to fund a debt service reserve fund, and to pay all or a portion of the costs of issuance of the Bonds;

WHEREAS, a public hearing with respect to the Project and the Bonds has been held by the Authority as required by Virginia law and Section 147(f) of the Internal Revenue Code of 1986, as amended, on the date hereof;

WHEREAS, the Company has elected to proceed immediately with implementing the plan of finance and issuing the Bonds in an aggregate principal amount not exceeding \$18,000,000 to be designated "Economic Development Authority of James City County, Virginia, Residential Care Facility First Mortgage Revenue Bonds (Williamsburg Landing, Inc.), Series 2005A" and "Economic Development Authority of James City County, Virginia, Residential Care Facility First Mortgage Revenue and Refunding Bonds (Williamsburg Landing, Inc.), Series 2005B" pursuant to a Bond Purchase Agreement (the Bond Purchase Agreement) among the Authority, the Company and BB&T Capital Markets, a division of Scott & Stringfellow, Inc., as Underwriter (the Underwriter);

WHEREAS, the Company has requested that the Authority proceed with the plan of finance heretofore described by the execution and delivery and/or approval of the following documents, all of which have been presented at this meeting in substantially final form:

(i) A Trust Agreement (the Trust Agreement) dated as of May 1, 2005, by and between the Authority and the Trustee named therein and herein and authorizing the issuance of the Bonds;

(ii) A Loan Agreement (the Loan Agreement) dated as of May 1, 2005, by and between the Authority and the Company, together with the Company's promissory note (the Note) executed and delivered pursuant to the Loan Agreement to evidence the loan made thereby and the form of assignment thereof from the Authority, without recourse, to the Trustee;

(iii) A Preliminary Official Statement to be dated on or about April 23, 2005, (the Preliminary Official Statement), pursuant to which the Underwriter will furnish certain information regarding the Bonds, the security therefor, the Company, the Project and the Facility;

(iv) The Bond Purchase Agreement; and

(v) A Remarketing Agreement (the Remarketing Agreement) dated as of May 1, 2005, by and among BB&T Capital Markets, the Authority and the Company, pursuant to which the Series 2005B Bonds are remarketed in accordance with the Trust Agreement.

BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA:

1. It is hereby found and determined that the issuance of the Bonds will benefit the inhabitants of James City County, Virginia, increase their commerce, and promote their safety, health, welfare, convenience and prosperity, and the Authority hereby agrees to assist in the issuance and sale of the Bonds.

2. The Trust Agreement, the Loan Agreement, the Bond Purchase Agreement, the Remarketing Agreement and the Note (hereinafter collectively referred to as the Bond Documents) are hereby approved in substantially the form submitted to this meeting, with such changes, insertions or omissions (including, without limitation, changes in the dates thereon) as may be approved by the Chairman or Vice Chairman of the Authority, upon advice of counsel to the Authority, which approval shall be evidenced conclusively by the execution and delivery of the Trust Agreement. As the Underwriter has not yet determined the final financing structure for the Bonds, the Chairman or Vice Chairman is hereby authorized to approve such final financing structure so long as (i) the net interest costs, taking into account any applicable original issue discount (OID) of the Series 2005A Bonds, and the initial net interest cost, taking into account any applicable OID of the Series 2005B Bonds, does not exceed 6.80% per annum, (ii) the final maturity of the Bonds is not later than thirty (30) years from the dated date thereof, and the average maturity of the Bonds is not later than twenty-five (25) years or such earlier number of

years as required by Bond Counsel, (iii) the aggregate principal amount of the Bonds does not exceed \$18,000,000 and (iv) the Underwriter's discount (excluding OID) does not exceed 2% of the aggregate principal amount of the Bonds. The execution of the Bonds by the Chairman or Vice Chairman of the Authority shall constitute conclusive evidence of the Authority's approval of the final financing structure as determined by the Underwriter, subject to the foregoing limitations. The Authority hereby acknowledges that the Series 2005B Bonds will initially bear interest at a Flexible Rate, as defined in the Trust Agreement, in accordance with the provisions of the Trust Agreement, that such Flexible Rate will be adjusted from time to time as set forth in the Trust Agreement, and that no Series 2005B Bond will at any time bear interest at a rate in excess of fifteen percent (15%) per annum. All other terms of the Bonds as described in and provided by the Trust Agreement are hereby approved.

3. The execution and delivery of the Trust Agreement, the Loan Agreement, the Bond Purchase Agreement, the Remarketing Agreement and the assignment form attached to the Note and their delivery upon payment for the Bonds, and the execution and delivery of the Bonds and the use of the proceeds of the Bonds as set forth herein and in the Trust Agreement, are all hereby approved.

4. BB&T Capital Markets, a division of Scott & Stringfellow, Inc. is hereby appointed Underwriter and BB&T Capital Markets, a division of Scott & Stringfellow, Inc. is hereby appointed Remarketing Agent with respect to the Bonds under the terms set forth in the Bond Documents.

5. A draft Preliminary Official Statement is now on file with the Authority and is hereby approved. The distribution and use by the Underwriter of the Preliminary Official Statement prepared by counsel for the Underwriter and based upon information provided by the Company and other parties to the transaction (including the Authority but only to the extent of the information set forth in the Section entitled "The Authority" and in the first paragraph of the Section entitled "Litigation") is hereby approved. The Chairman or Vice Chairman is hereby authorized on behalf of the Authority to deem the Preliminary Official Statement final for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the Rule) prior to its use and distribution, except for the omission of certain pricing and other information allowed to be omitted pursuant to the Rule. The Chairman or Vice Chairman of the Authority is hereby authorized to execute a final Official Statement, appropriately dated, with appropriate completions, insertions, omissions and changes as shall be necessary to accurately describe the Bonds, the Company, the financing plan, the security for the Bonds, the Project and the Facility. The execution of the final Official Statement by the Chairman or Vice Chairman of the Authority shall constitute conclusive evidence of the Authority's approval of the final form of such final Official Statement and that the Authority has deemed the final Official Statement final within the meaning of the Rule as of its date.

6. The Chairman or Vice Chairman of the Authority is hereby authorized and directed to complete, execute and submit to the Internal Revenue Service its Form 8038 with respect to the Bonds and to mail a copy thereof to the Board of Supervisors of James City

County, Virginia (the Board), and the Virginia Department of Business Assistance in accordance with the Act.

7. Each officer of the Authority is authorized to execute and deliver on behalf of the Authority such instruments, documents or certificates and to do and perform such things and acts as they shall deem necessary or appropriate in carrying out the transactions authorized by this Resolution or contemplated by the Bond Documents, and all of such actions previously done or performed by the officers or directors of the Authority are in all respects approved, ratified and confirmed.

8. All costs and expenses in connection with the financing plan, including the fees and expenses of the Authority, and the fees and expenses of counsel for the Authority, shall be paid promptly from the proceeds of the Bonds to the extent permitted by law or from funds provided by the Company. If for any reason the Bonds are not issued, it is understood that all such fees and expenses (other than the Authority's annual fees and closing fees) shall be paid promptly by the Company upon presentation of an invoice and that the Authority shall have no responsibility therefor. The Company shall also pay the Authority's administrative fee as required by the Loan Agreement. The Company agrees to indemnify and save harmless the Authority's directors, employees, agents and counsel from and against all liabilities, obligations, claims, penalties, losses, costs and expenses in any way connected with the Project, the Facility, the application submitted to the Authority by the Company, the issuance of the Bonds or the refunding of the Series 1996B Bonds.

9. SunTrust Bank is hereby appointed Trustee under the Trust Agreement.

10. The Authority hereby agrees to the recommendation of the Company that Kaufman & Canoles, P.C., Norfolk, Virginia, be appointed as bond counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the Bonds.

11. All other acts of the officers of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance of the Bonds and the refunding of the Series 1996B Bonds are hereby approved and confirmed.

12. The Authority hereby recommends to the Board that it approve the issuance of the Bonds and hereby directs the Chairman of the Authority to provide to the Board the documentation required by the Act.

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

14. This Resolution shall expire if the Bonds have not been sold or this Resolution extended on or before the first anniversary date of the adoption of this Resolution. In no event may the Bonds be issued and sold pursuant hereto until the Board has approved the issuance of the Bonds by the Authority.

15. The Authority acknowledges that the Bonds may be issued in one or more series of Bonds issued pursuant to the Trust Agreement in the event the Company elects to defer the refunding of the Series 1996B Bonds to achieve greater debt service savings, in which event, the Bond Documents approved hereby will be amended, or new documents, including an Official Statement, will be executed and delivered, all subject to approval by the Authority and its counsel, to provide for the issuance of such subsequent series of Bonds.

The undersigned hereby certifies that the above resolution was duly adopted by an affirmative roll call vote of a majority of the directors of the Economic Development Authority of James City County, Virginia, at a meeting duly called and held on April 26, 2005, and that such resolution is in full force and effect on the date hereof.

Dated: April 26, 2005

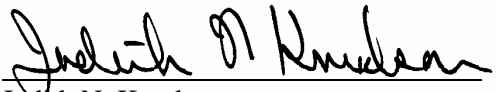
Keith A. Taylor, Secretary
Economic Development Authority of
James City County, Virginia

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Judith N. Knudson, Executive Director, Olde Towne Medical Center
SUBJECT: Establishment of Positions - Williamsburg Area Medical Assistance Corporation

Pursuant to the agreement between James City County and the Williamsburg Area Medical Assistance Corporation (WAMAC), the WAMAC Board of Directors is requesting three additional positions for Olde Towne Medical Center (OTMC). The positions are Medication Assistance Program (MAP) Supervisor, a second Clinical Assistant (MAP) and a Clinic Secretary (MAP). OTMC was recently awarded a grant to expand our Medications program. These three full-time other positions will work in this expanded program.

The WAMAC Board of Directors has reviewed and approved this request. Staff recommends adoption of the attached resolution.


Judith N. Knudson

JNK/nb
WAMedAsstCorp.mem

Attachment

RESOLUTION

ESTABLISHMENT OF POSITIONS -

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) has received a grant from the Virginia Health Care Foundation to expand the Medications Assistance Program (MAP) at Olde Towne Medical Center; and

WHEREAS, the Board of Directors has approved the addition of a MAP Supervisor, a second Clinical Assistant (MAP), and a Clinic Secretary (MAP) to the staff of Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for the Williamsburg Area Medical Assistance Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisor of James City County, Virginia, approves the addition of three full-time other positions including a MAP Supervisor, a second Clinical Assistant (MAP) and a Clinic Secretary (MAP) to the staff of Olde Towne Medical Center.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

WAMedAsstCorp.res



RESOLUTION

April 5, 2005

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) has received a grant from the Virginia Health Care Foundation to expand the Medications Assistance Program at Olde Towne Medical Center; and

WHEREAS, the Board of Directors has approved the addition of a Medications Supervisor, a second Medications Assistant, and a Medications Secretary to the staff of Olde Towne Medical Center, and

WHEREAS, James City County is the Fiscal Agent for the Williamsburg Area Medical Assistance Corporation,

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Williamsburg Area Medical Assistance Corporation requests that the Board of Supervisors of James City County approve the addition of three positions including a Medications Supervisor, a second Medications Assistant and a Medications Secretary to the staff of Olde Towne Medical Center.



John Favret
President of the Board of Directors

4-5-05

Date

REZONING CASE NO. Z-05-05. 8907 Pocahontas Trail - James River Commerce Center Rezoning Staff Report for the April 26, 2005, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building C Board Room; County Government Complex

April 4, 2005, 7:00 p.m.
April 26, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Keith Taylor

Land Owner: Williamsburg Developments, Inc.; Economic Development Authority of James City County; DYARRCC, Inc.; Liberty Property Development, LLC; Jeanne Reed's, LTD; Hallmark Enterprise, LLC; Montrose, LLC; and James River Commerce Center Association, Inc.

Proposal: The applicant has proposed to update the proffered uses in the park, and all of the proposed uses are currently permitted uses in property zoned M-1.

Location: 8907 Pocahontas Trail: James River Commerce Center

Tax Map/Parcel Nos. Parcel Nos. (1-17), (1-45), (1-49), (1-50), (1-51), (1-52), (1-53), (1-54), (1-55), and (1-56) on Tax Map No. (59-2)

Parcel Size: 219 acres

Proposed Zoning: M-1, Limited Business/Industrial, with amended proffers

Existing Zoning: M-1, Limited Business/Industrial, with proffers

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff feels that amending the proffers for the properties within the James River Commerce Center would not negatively impact the adjacent properties. All of the uses proposed by this proffer amendment are uses currently permitted in the M-1 Zoning District and staff feels that the proposal is consistent with the Land Use policies of the Comprehensive Plan. Staff recommends that the Board of Supervisors recommend approval of the amended proffers for the James River Commerce Center.

Staff Contact: Matthew Smolnik, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On April 4, 2005, the Planning Commission voted 5 to 0 to approve this application.

Proposed Changes Made After Planning Commission Consideration

None

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

PROJECT DESCRIPTION

In 1991, James City County, the Colonial Williamsburg Foundation, and the Williamsburg/James City County School System agreed to a property exchange. The Colonial Williamsburg Foundation acquired the former Bruton School site in the City of Williamsburg, which has been renovated and used for administrative and educational purposes. The Williamsburg/James City County School System acquired a site adjacent to Carter's Grove, which has become the James River Elementary School and Community Center. The property lying between the James River Elementary School site and the Ball Metal Container Corporation, now known as the James River Commerce Center, became a business and industrial park developed cooperatively between the Colonial Williamsburg Foundation and James City County.

The entities vested with title to the business park property were Williamsburg Developments Inc. (WDI), a subsidiary of the Colonial Williamsburg Foundation and the Industrial Development Authority of James City County, whose name was changed in 2004 to the Economic Development Authority of James City County (EDA).

This property was rezoned to M-1, Limited Business/Industrial, in 1995 following approval by the Board of Supervisors. Rather than adopt by reference all M-1 uses, the proffers accompanying the rezoning request included a selected list of uses to be permitted by-right. The applicant has proposed to update the proffered uses in the park, which are all currently permitted uses in property zoned M-1, in order to include new uses, promote taxable capital investment, attract new and relocating businesses, and create new jobs in the area. The following uses are requested to be added to the current proffers with the aforementioned properties:

- Industrial dry cleaner and laundry.
- Manufacture and storage of ice, including dry ice.
- Manufacture, assembly, or fabrication of sheet metal products.
- Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiberglass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, yarn, and stone.
- Manufacture of furniture.
- Micro-breweries.

PUBLIC IMPACTS

- **Environmental Impacts:** None.
- **Watershed:** James River and Skiffe's Creek
- **Environmental Staff Conclusions:** The Environmental Division has reviewed and approved the amended proffers for Case No. Z-05-05. 8907 Pocahontas Trail - James River Commerce Center Rezoning.
- **Public Utilities:** The site is served by public water and sewer.
- **JSCA Staff Comments:** The James City Service Authority (JCSA) has reviewed and approved the amended proffers for Case No. Z-05-05. 8907 Pocahontas Trail – James River Commerce Center Rezoning.
- **Traffic:** Properties within the James River Commerce Center are served by Endeavor Drive and will be served by Columbia Drive, which is currently under construction. Endeavor Drive is the only road within the James River Commerce Center that intersects U.S. Route 60.
- **VDOT Comments:** The Virginia Department of Transportation (VDOT) has reviewed and approved the amended proffers for Case No. Z-05-05. 8907 Pocahontas Trail – James River Commerce Center Rezoning.

COMPREHENSIVE PLAN:

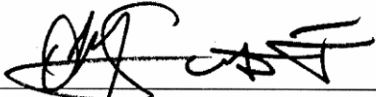
- **Land Use Map Designation:** The Comprehensive Plan designates this property as Mixed Use. Staff feels that the amended proffers will encourage future growth of the James River Commerce Center that is consistent with the Comprehensive Plan. Principle suggested land uses are limited industrial and office development, while public facilities are suggested as clearly secondary uses.

RECOMMENDATION:

Staff feels that amending the proffers for the properties within the James River Commerce Center would not negatively impact the adjacent properties. All of the uses proposed by this proffer amendment are uses currently permitted in the M-1 Zoning District and staff feels that the proposal is consistent with the Land Use policies of the Comprehensive Plan. Staff recommends that the Board of Supervisors recommend approval of the amended proffers for the James River Commerce Center.

Matthew Smolnik

CONCUR:



O. Marvin Sowers, Jr.

MS/gb
z-05-05.doc

Attachments:

1. Minutes from the April 4, 2005, Planning Commission Meeting
2. Location map
3. Amended proffers

**UNAPPROVED MINUTES OF THE APRIL 4TH MEETING OF THE
PLANNING COMMISSION**

Z-5-05 James River Commerce Center Proffer Amendment

Mr. Matt Smolnik presented the staff report. Mr. Keith Taylor, Economic Development Authority, has applied to amend the proffers for approximately 219 acres at 8907 Pocahontas Trail currently zoned M-1, Limited Business/Industrial, with proffers. This property was zoned M-1 in 1995 following approval by the Board of Supervisors for James City County. Rather than adopt by reference all M-1 uses, the proffers accompanying the rezoning request included a selected list of uses to be permitted by right. The applicant has proposed to update the proffered uses in the park, which are all currently permitted uses in property zoned M-1. Staff recommended approval.

Ms. Blanton recused herself as an employee of Colonial Williamsburg Foundation, co-owner of the property.

Mr. Billups wanted to know what new uses were being proposed.

Mr. Smolnik said the amendment proposes to update the proffered uses to make them consistent with uses already permitted in the M-1 Zoning District.

Mr. Sowers explained that when the proffers were originally adopted they spelled out the uses that were allowed at that time. Since then new uses have been added to the M-1 Zoning District.

Mr. Billups asked how the new uses would impact surrounding property.

Mr. Smolnik said the new uses are consistent with other uses in the Commerce Center.

Mr. Hunt opened the public hearing

Hearing no requests, he closed the public hearing

Mr. Kennedy motioned to approve the application.

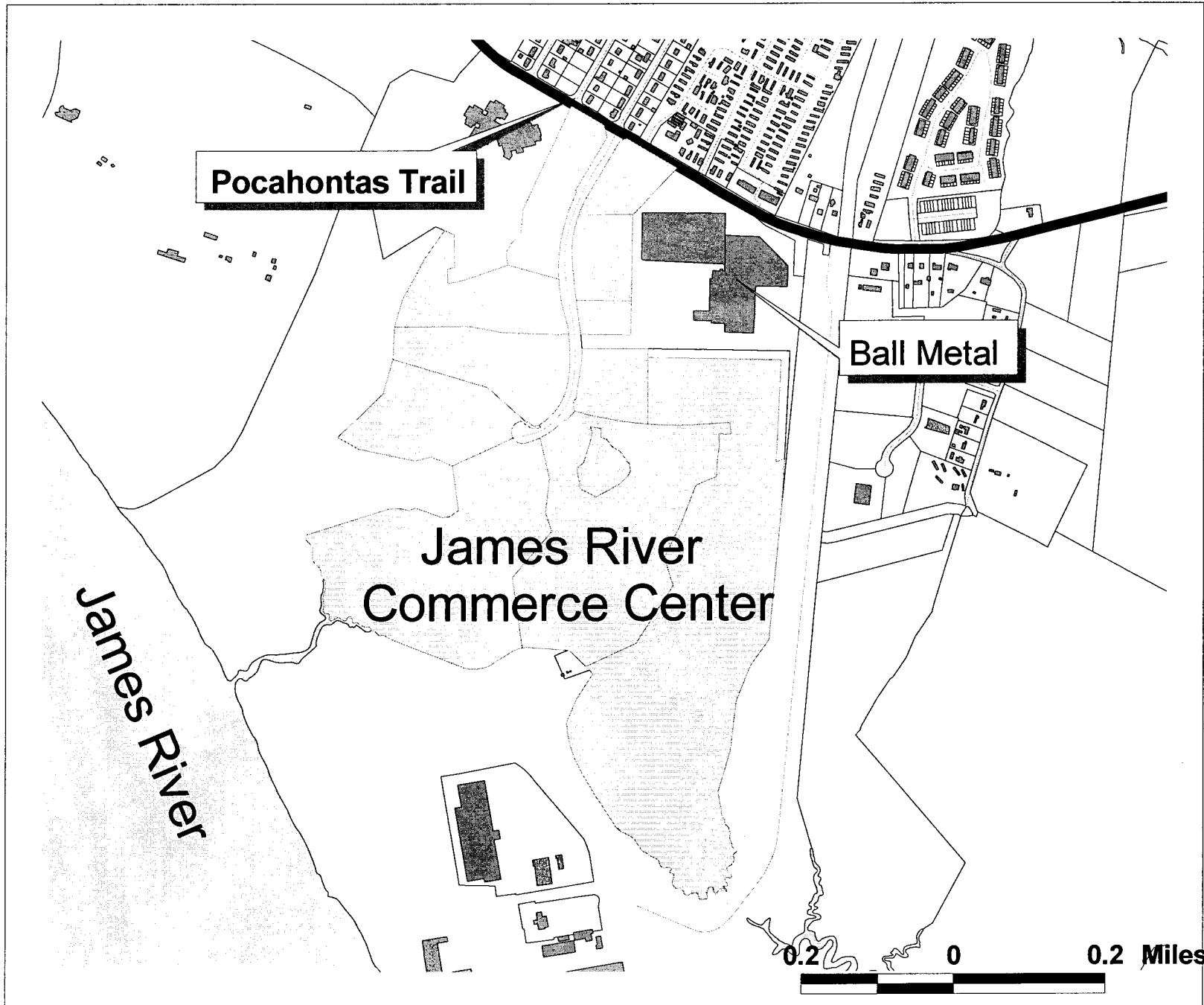
Mr. Fraley seconded the motion.

Mr. Billups asked what prompted this amendment to come forward at this time.

Ms. Kathryn Aston answered that the changes are administrative in nature. This proposal amends the proffers to match current M-1 uses that have been added since this rezoning was approved in 1995. This gives potential owners clear understanding of uses would be allowed.

In a roll call vote the motioned passed 5:0 (1 member abstained). AYE: Billups, Kennedy, Fraley, Jones, Hunt (5). Blanton abstained, Kale Absent.

JCC Z-05-05: 8907 Pocahontas Trail James River Commerce Center



**JAMES RIVER COMMERCE CENTER
AMENDED PROFFER AGREEMENT**

This Agreement made this 4th day of March, 2005, by and between WILLIAMSBURG DEVELOPMENTS, INC., a Virginia Corporation, the ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA, previously known as the Industrial Development Authority of James City County, Virginia, a political entity of the Commonwealth of Virginia, DYARRCC, INC., a Virginia Corporation, LIBERTY PROPERTY DEVELOPMENT, LLC, a Virginia Limited Liability Corporation, JEANNE REED'S, LTD., a Virginia Corporation, HALLMARK ENTERPRISE, LLC, a Virginia Limited Liability Corporation, MONTROSE, LLC, a Virginia Limited Liability Corporation, and JAMES RIVER COMMERCE CENTER ASSOCIATION, INC., a Virginia Corporation, ("the Owners"), and the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia ("the County").

Whereas, each of the Owners owns a separate tract of land situated in James City County, Virginia, the combination of which tracts is known as the James River Commerce Center, containing 208.14 acres, more or less, and lying adjacent to and on the southerly side of U.S. Route 60 East, Pocahontas Trail, more particularly described on Exhibits A, and B attached, but less and except the property described on Exhibit C (collectively "the Property"); and

Whereas, the Owners have applied for a rezoning of the Property from the Limited Business/Industrial District, M-1 with proffers ("the Existing Zoning") to the Limited Business/Industrial District, M-1 with amended proffers ("the Proposed Zoning"); and

Whereas, the provisions of the County's Zoning Ordinance have changed since the time of the first proffers and the existing proffers may be deemed inadequate for the orderly development of the Property; and

Whereas, the Owners are desirous of offering certain conditions for the protection of the community that are not generally applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning regulations for protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.2-2296 et. seq. of the Code of Virginia, 1950, as amended, and Section 24-16 of the Zoning Ordinance of the County, the Owners agree that in addition to the regulations provided in the Proposed Zoning, they and each of them will meet and comply with all of the following conditions in the development of the Property. In the event the requested rezoning is not granted by the County, these proffers shall thereupon become null and void.

1. **Limitations on Use.** Without the amendment of this Agreement (as to uses otherwise generally permitted by the County's Zoning Ordinance) or the issuance of the applicable special use permit (as to uses only specially permitted by the County's Zoning Ordinance) the Property shall only be used for one or more of the following generally permitted uses provided, however, that the combination of floor area of (1) business, professional and governmental offices and (2) research and development offices which is not accessory to other permitted uses shall be limited to a total of 264,000 square feet.

Accessory uses as defined in Section 24-2 of the County's Zoning Ordinance.

Apartment or living quarters for a guard, caretaker or other person employed on the premises which is clearly secondary to the business or industrial use of the property.

Banks and other similar financial institutions.

Barber and beauty shops.

Book stores.

Business, professional, and governmental offices.

Contractor offices, equipment storage yards, shops and warehouses with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

Employment services or agencies.

Fire stations.

Heavy equipment sales and service, with major repair (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Indoor sports facilities, health clubs, exercise clubs and fitness centers.

Industrial dry cleaner and laundry.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Lumber and building supply wholesale stores with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair (limited to a fully enclosed building).

Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly, or fabrication of sheet metal products.

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

Manufacture, compounding, processing or packaging of cosmetic, toiletry, and pharmaceutical products.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products, and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.

Micro-breweries.

Non-emergency medical transport.

Nurseries (wholesale only).

Off-street parking as required by Section 20-53 of the County's Zoning Ordinance.

Plant, garden supply, hardware and paint wholesale stores.

Plumbing and electrical supply wholesale stores with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Post offices.

Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.

Radio and television stations, and accessory antenna or towers, self-supported (not attached to buildings) which are sixty feet or less in height.

Research, development, and design facilities.

Restaurants, tea rooms and taverns.

Security service offices.

Telephone exchanges and telephone switching stations.

Travel bureaus.

Warehouse, storage, and distribution centers with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Welding and machine shops with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

2. **Initial Road Improvements.** Access to the Property shall be limited to one entrance on U.S. Route 60 opposite Tarleton Bivouac. Additional commercial entrances to the Property shall be allowed but only with the prior review and approval of both the County's Director of Planning and the Virginia Department of Transportation ("VDOT"). Prior to issuance of the Certificate of Occupancy on the Property, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia will make the following road improvements:

The installation of: (1) the main entrance to the Property from U.S. Route 60 the right-of-way for which main entrance shall be approximately 300 feet in depth tapering back to a two-lane right-of-way and which main entrance shall incorporate a three-lane roadway (one entering and two exiting) with right-of-way of sufficient width to accommodate a third exiting lane; (2) a right turn lane on the eastbound U.S. Route 60 approach; (3) a left turn lane on the eastbound U.S. Route 60 approach; (4) a left turn lane on the westbound U.S. Route 60 approach; and (5) separate left and right turn lanes exiting the Property.

3. **Traffic Light Improvements.** Upon meeting applicable VDOT warrants, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia shall signalize, in a manner acceptable to VDOT, the intersection of the entrance roadway to the Property with U.S. Route 60.

4. Subsequent Road Improvements. Except as hereinafter provided, development on the Property shall be limited to no more than 708,000 square feet of interior building area until the following road improvements are in place.

- a. Widening of U.S. Route 60 from the existing two-lane facility to a four-lane divided (urban minor) arterial roadway along the entire frontage of the Property from the James River Elementary School property to the Ball Metal property; and
- b. Installation of a second northbound left turn lane onto U.S. Route 60 within the main entrance to the Property.

Notwithstanding the above limitation, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia may conduct a traffic analysis either (1) when VDOT includes for construction in its Six Year Plan alternate U.S. Route 60 East as generally shown on the County's Comprehensive Plan or (2) when development on the Property reaches or exceeds 300,000 square feet of interior building area. The Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia shall submit the traffic analysis to the Director of Planning for approval. If the approved results of that analysis indicate that additional development above 708,000 square feet of interior building area can be accommodated with only the initial road improvements specified in paragraph 2 above, the Director of Planning may allow such additional development prior to the installation of the improvements specified in subparagraphs a and b above.

5. **Setback from U.S. Route 60 East.** No building (or parking lot) shall be located within 140 feet of the centerline of the right-of-way of U.S. Route 60 East, existing at the time of approval of the rezoning of the Property.
6. **Owner's Association.** The Owners have provided documentation acceptable to the County Attorney demonstrating that an owners' association has been legally established with authority to impose, raise, and collect assessments against the owners of lots according to law. The association has the ability to place a lien on any lot within the Property for unpaid assessments levied against that lot.
7. **Limitations on Land Disturbing Activities.** No land disturbing activities with the exception of stormwater facilities or other utilities approved by the Development Review Committee, and archaeological research, shall take place in any area shown as "Undevelopable Land" on the plats entitled "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the Locust Grove Tract, Situated in the Roberts District, James City County, Virginia", dated 8/7/91, recorded in James City County Plat Book 55, Page 43 and "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the Conveyance to Williamsburg Developments, Inc. Situated in the Roberts District, James City County, Virginia" dated April 27, 1992 recorded in James City County Plat Book 56, Pages 32-33.
8. **Conflict with Declaration of Covenants and Restrictions.** If any one or more of these proffers or any portion thereof be in conflict with any one or more of the conditions contained in the Declaration of Covenants and Restrictions recorded in James City County Deed Book 545, Page 361, et. seq., the

Supplemental Declaration thereto recorded in James City County Deed Book 583, Page 676, et. seq. or any amendment to either or both of said declarations, the more restrictive provision(s) shall govern.

9. **Contract Not Amended.** Nothing in this Agreement shall be deemed to change any provision of the Agreement dated December 1, 1991 between the City of Williamsburg, Virginia, the County of James City, Virginia, The Colonial Williamsburg Foundation and Williamsburg Developments, Inc. and the limitations on the financial responsibilities of the parties thereto.
10. **No Relationship Created.** Nothing in the execution and delivery of this Proffer Agreement is intended to create a joint venture, partnership, agency, or other legal combination among and/or between any or all of the Owners.
11. **Binding Upon Successors.** The obligations created by this Agreement shall be binding upon each of the successors in title to each of Williamsburg Developments, Inc., and the Economic Development Authority of James City County, Virginia.
12. **Headings.** All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.
13. **Prior Proffers Void.** Upon the approval of the requested rezoning, all prior proffers on the Property in favor of the County shall become null and void.
14. **Severability.** If any clause, sentence, paragraph, section, or subsection of these proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including, but not limited to, a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States of America, or if the application thereof to the Owner or to any government agency

or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section, or subsection hereof, or affect the validity or application thereof to the Owner or to any other government agency, person or circumstance.

WILLIAMSBURG DEVELOPMENTS, INC.

By: Victoria Gussman
Victoria Gussman, Vice President

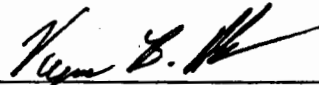
STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing document was acknowledged before me this 8th day of March, 2005 by Victoria Gussman, Vice President, of and acting on behalf of Williamsburg Developments, Inc.

J. Brooks
Notary Public

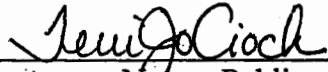
My commission expires: 11/30/08

ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA

By: 
Virginia B. Hartmann, Chairman

STATE OF VIRGINIA
CITY/COUNTY OF James City, to-wit:

The foregoing document was acknowledged before me this 10th day of March, 2005 by Virginia B. Hartmann, Chairman, of and acting on behalf of the Economic Development Authority of James City County, Virginia.


Notary Public

My commission expires: January 31, 2007

LIBERTY DEVELOPMENT CO., LLC

By:


L. Ronald Miller, Owner

STATE OF VIRGINIA

CITY/COUNTY OF YORK, to-wit:

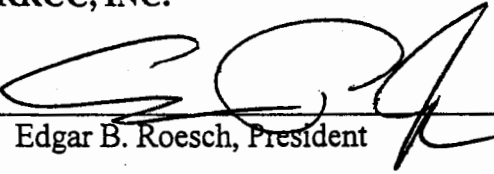
The foregoing document was acknowledged before me this 4 day of March, 2005 by L. Ronald Miller, Owner, of and acting on behalf of Liberty Development Company, LLC.


Notary Public

My commission expires: June 30, 2007

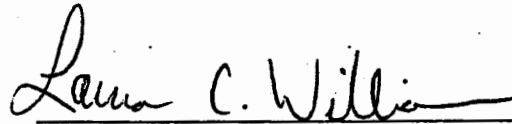
DYARRCC, INC.

By:


Edgar B. Roesch, President

STATE OF VIRGINIA
CITY/COUNTY OF James City Co., to-wit:

The foregoing document was acknowledged before me this 24th day of MARCH, 2005 by Edgar B. Roesch, President of and acting on behalf of DYARRCC, Inc..



Notary Public

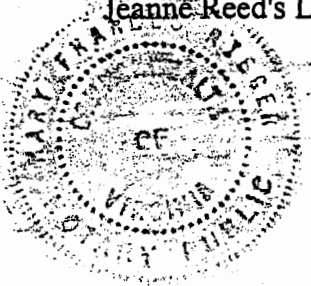
My commission expires: 8-31-08

JEANNE REED'S LTD.

By: *Robert B. Halkowich* *president*
Robert B. Halkowich, President

STATE OF VIRGINIA
~~CITY~~/COUNTY OF *James City*, to-wit:


The foregoing document was acknowledged before me this *18th* day of *March*, 2005 by Robert B. Halkowich, President, of and acting on behalf of *Jeanne Reed's Ltd.*



Mary Frances Rieger
Notary Public

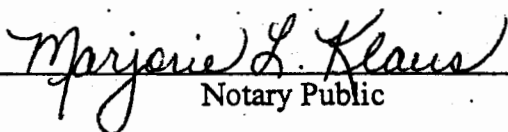
My commission expires: *October 31, 2005.*

HALLMARK ENTERPRISE, LLC

By: 
Huifang Ho, Vice President

STATE OF VIRGINIA
CITY/COUNTY OF Roanoke, to-wit:

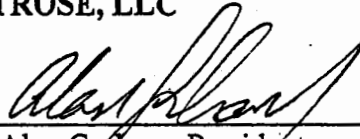
The foregoing document was acknowledged before me this 9th day of March, 2005 by Huifang Ho, Vice President of and acting on behalf of Hallmark Enterprise, LLC.


Notary Public

My commission expires: 3-31-07

MONTROSE, LLC

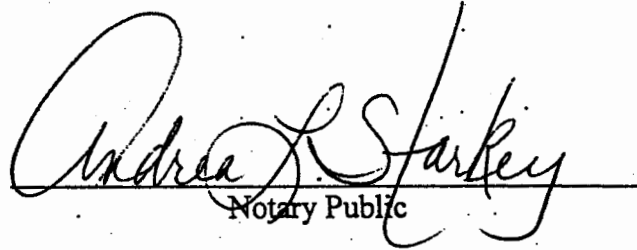
By:


Alan Graham, President

STATE OF VIRGINIA

CITY/COUNTY OF Newport News, to-wit:

The foregoing document was acknowledged before me this 8th day of March, 2005 by Alan Graham, President of and acting on behalf of Montrose, LLC.


Notary Public

My commission expires:

February 29, 2008

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: Victoria Gussman
Victoria Gussman, President & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg to-wit:

The foregoing document was acknowledged before me this 11th day of March, 2005 by Victoria Gussman, President and Trustee of and acting on behalf of the James River Commerce Center Association.

Jo Brooks
Notary Public

My commission expires: November 30, 2008

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: Leo P. Rogers
Leo Rogers, Vice President & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF James City, to-wit:

The foregoing document was acknowledged before me this 9th day of March, 2005 by Leo Rogers, Vice President and Trustee of and acting on behalf of the James River Commerce Center Association.

Mary Frances Reeger
Notary Public

My commission expires: October 31, 2005

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: Gail Waddell
Gail Waddell, Secretary & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing document was acknowledged before me this 17th day of MARCH, 2005 by Gail Waddell, Secretary and Trustee of and acting on behalf of the James River Commerce Center Association.

Marie A. Ganeri
Notary Public

My commission expires: October 31, 2008

EXHIBIT "A"

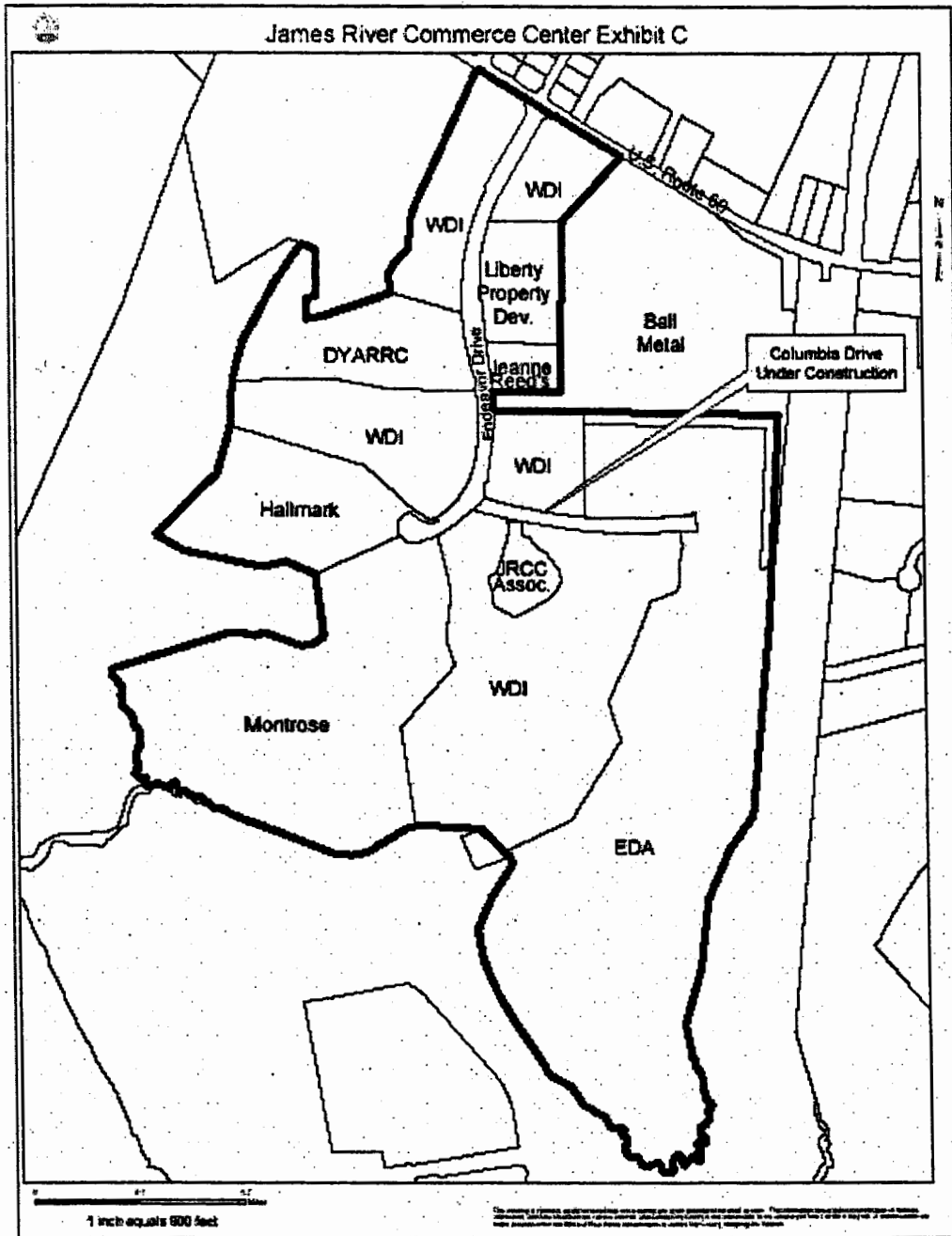
All that certain lot, piece or parcel of land, with improvements thereon and appurtenances thereunto belonging, lying and being in Roberts District, James City County, Virginia, as shown on a plat of survey prepared by Langley and McDonald, P.C., a professional corporation, Engineers-Planners-Surveyors, dated 08/07/91 entitled "SUBDIVISION OF PROPERTY OF COLONIAL WILLIAMSBURG FOUNDATION, BEING PART OF THE LOCUST GROVE TRACT, SITUATED IN THE ROBERTS DISTRICT, JAMES CITY COUNTY, VIRGINIA", on which plat the property hereby conveyed is more particularly described as "PARCEL 2, TOTAL AREA = 61.2113 ACRES, NET DEVELOPABLE AREA - 45.0000 ACRES, UNDEVELOPABLE AREA = 16.2113 ACRES" together with "ADDITIONAL AREA REQUIRED FOR SUBDIVISION APPROVAL = 3.1387 ACRES" which plat is recorded in Plat Book 55, Page 43, less and except any right of way dedicated to any State or local government.

EXHIBIT "B"

All that certain lot, piece or parcel of land, containing 154.8946 acres, with improvements thereon, and appurtenances thereunto belonging, lying and being in James City County, Virginia, as shown on a plat of survey prepared by Langley and McDonald, P.C., dated April 27, 1992, entitled "Subdivision of Property of Colonial Williamsburg Foundation Being Part of The Locust Grove Tract to be conveyed to Williamsburg Developments, Inc. situated in the Roberts District, James City County, Virginia," which plat is recorded in Plat Book 56, Pages 32 and 33, less and except:

- 1) All that certain piece, parcel or lot of land situated in James City County, Virginia, identified as Parcel "A", containing 11.2531 acres, as shown on a certain plat entitled "SUBDIVISION OF PROPERTY OF WILLIAMSBURG DEVELOPEMNTS, INC., (D.B. 583, PG. 672), BEING PART OF THE LOCUST GROVE TRACT SITUATED IN ROBERTS DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated December 6, 1996 and made by Langley and McDonald, P. C. of Virginia Beach and Williamsburg, Virginia. It being that same property as that conveyed to Ball Metal Container Corporation, a Colorado Corporation, by deed dated December 16, 1996 from Williamsburg Development, Inc., and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia on Instrument No. 97000760 recorded in Plat Book 65, Page 90.
- 2) Any right of way dedicated to any State or local government.

EXHIBIT "C"



RESOLUTION

CASE NO. Z-05-05. POCAHONTAS TRAIL -

JAMES RIVER COMMERCE CENTER REZONING

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners were notified, and a hearing was scheduled for Case No. Z-05-05 for amending the proffers for approximately 219 acres from M-1, Limited Business/Industrial, with proffers, to M-1, Limited Business/Industrial, with amended proffers; and

WHEREAS, the site can be further identified as Parcel Nos. (1-17), (1-45), (1-49), (1-50), (1-51), (1-52), (1-53), (1-54), (1-55), and (1-56) on James City County Real Estate Tax Map No. (59-2); and

WHEREAS, Planning Commission of James City County, following its public hearing on April 4, 2005, recommended approval of Case No. Z-05-05, by a vote of 5 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-05-05 as described herein and accepts the amended proffers.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

z-05-05.res

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Kimberly Finnegan and Matthew Widmer, Law Interns
SUBJECT: Case No. ZO-02-05. Zoning Ordinance Amendment, Proffer Appeal Process,
Section 24-19. Petition for Review of Decision

At the April 4, 2005, Planning Commission meeting, the initiating resolution for this Zoning Ordinance amendment was approved by a vote of 5-0. The resolution requested staff to initiate review of Section 24-19 of the Zoning Ordinance for the consideration of the process for appealing a decision of the Zoning Administrator in regards to administering and enforcing conditions attached to a rezoning or amendment to a zoning map.

The proposed amendment sets forth, in greater specificity, the procedure used when a party wishes to have a decision reviewed by the Board of Supervisors. The amendment requires the Board of Supervisors to hear the appeal 45 days after the petition requesting review has been filed. The amendment also details the notice requirement that will be in effect. Public notice must be given, as well as written notice to any party involved in the appeal and to property owners immediately surrounding the affected parcels. This amendment adds specificity to the appeals process.

Staff finds that this amendment will provide greater guidance to those parties wishing to appeal a decision of the Zoning Administrator. Staff recommends approval of the Zoning Ordinance Amendment as attached.

Kimberly Finnegan

Matthew Widmer

CONCUR:

Allen J. Murphy, Jr.

Michael Drewry

KF/MW/nb
ZO-02-05.mem

- Attachments:
1. Planning Commission Minutes
 2. Ordinance Amendment

**UNAPPROVED MINUTES OF THE APRIL 4TH MEETING OF THE
PLANNING COMMISSION**

Ms. Kimberly Finnigan, Law Intern presented the staff report. An ordinance to amend and reordain Chapter 24, Zoning, of the Code of the County of James City, Virginia, by amending Article 1, In General, Section 24-19, Petition for review of decision, to clarify the process for the Board of Supervisors to consider appeals of actions or decisions of the Zoning Administrator in regards to administering and enforcing conditions attached to a rezoning or amendment to a zoning map.

Staff recommended approval.

Mr. Hunt opened the public hearing.

Hearing no requests, the public hearing was closed.

Mr. Kennedy motioned to approve the amendment.

Ms. Blanton seconded the motioned.

Mr. Billups asked for more information regarding the types of cases that may be affected.

Mr. Murphy stated that the Zoning Administrator's decisions regarding enforcement and administration of proffers are binding unless appealed. This amendment establishes a process for such appeals to take place along with some provisions.

Mr. Billups wanted to know if this was considered a due process procedure.

Mr. Murphy responded yes.

The amendment was approved by a unanimous voice vote.

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-19, PETITION FOR REVIEW OF DECISION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-19, Petition for review of decision.

Chapter 24. Zoning

Article I. In General

Sec. 24-19. Petition for review of decision.

(a) Any zoning applicant who is aggrieved by ~~the~~ a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the board of supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the board of supervisors all of the papers constituting the record upon which the action appealed from was taken, ~~and the board of supervisors shall proceed to hear the appeal at its next regular schedule meeting.~~ *The board of supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, as well as written notice shall be given at least five days before the hearing to the owner or owners, their*

agent or the occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of supervisors, after notice of appeal has been filed with him, that, by reason of *the* facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

profferappeal_ord

MEMORANDUM

DATE: April 26, 2005

TO: The Board of Supervisors

FROM: O. Marvin Sowers, Jr., Planning Director
Michael Drewry, Assistant County Attorney

SUBJECT: Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail

The Virginia Department of Transportation (VDOT), in cooperation with James City County, has begun right-of-way acquisition for the Greensprings Trail, a paved ten-foot-wide multi-use path that extends from John Tyler Highway (Route 5) to the Colonial Parkway. The County owns a stormwater management and access easement on property at 3651 John Tyler Highway which must be extinguished to permit the trail. VDOT has requested that the easement be extinguished at this time to expedite the right-of-way assembly process so that bids can be advertised in May 2005 and construction started by fall 2005.

The Greensprings Trail will extend northward from the existing Greensprings Trailhead behind Jamestown High School within the Eagle Way right-of-way. It will then extend westward from the intersection of Route 5 and Eagle Way onto Jamestown High School (JHS) property, and then turn southward on a route generally parallel to Greensprings Road on properties owned by the Williamsburg Land Conservancy, James County, the Economic Development Authority (Mainland Farm) and several private parties. The trail will then parallel Jamestown Road and connect to an existing multi-use path along Route 359.

The Greensprings Trail is being constructed in support of the Jamestown 2007 commemoration, and is supported by the Governor. The Governor's Office is planning a groundbreaking event for this summer. The trail is part of the larger Virginia Capital Trail that will extend from Richmond to Jamestown. Sections in Charles City County and Henrico are also in progress. The last section in James City County between Charles City County and Greensprings Road is expected to begin construction this fall.

The 41.899-acre parcel containing the easement is owned by the Williamsburg Land Conservancy (WLC). The parcel is located south of Route 5, and adjoins Route 5, the Fieldcrest subdivision, Jamestown High School and a County owned parcel. The County acquired the easement in 1991 to partially satisfy stormwater management needs for the entire watershed which included Jamestown High School and a number of other properties. Stormwater facilities have been constructed within the easement. One of these improvements consists of an earthen dam that runs parallel to Route 5. Due to installation of other upstream stormwater management facilities by both neighborhoods and JHS, the full capacity provided by the dam is no longer needed.

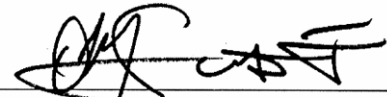
Extensive discussions have taken place among VDOT, the Virginia Department of Game and Inland Fisheries (VDGIF), WLC, the Fieldcrest subdivision and the County regarding drainage and wildlife management issues in the area during the course of planning for the trail. A memorandum of agreement (MOA) is currently under consideration to address these issues. Under this agreement, WLC's property would be transferred to VDGIF and VDGIF would then assume wildlife management responsibilities. WLC would be permitted to place a conservation easement on the property. VDOT would make certain drainage improvements aimed at bringing the hydraulics of the WLC property back to their natural state and reducing the amount of maintenance related to the presence of beavers and the accumulation of debris that impedes storm water flow. This includes the removal of 300 feet of the earthen dam. The goal is to reduce water levels to the pre-dam state. The County would extinguish the stormwater management and access easement to allow VDOT to remove the dam.

Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail

April 26, 2005

Page 2

Staff recommends that the Board of Supervisors approve the attached resolution authorizing the County Administrator to sign the necessary documents to extinguish the stormwater management and access easement for the purpose of complying with the proposed memorandum of agreement regarding the Virginia Capital Trail-Greensprings Phase.



O. Marvin Sowers, Jr.

CONCUR:

Michael Drewry

MD/OMS/tlc
doextinguish.mem

Attachments:

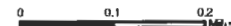
1. Greensprings Trail Conceptual Site Diagram
2. Parcel Location Map
3. Plat of Survey for Easement
4. Resolution

James City County - Proposed Greensprings Trail - Conceptual Site Diagram



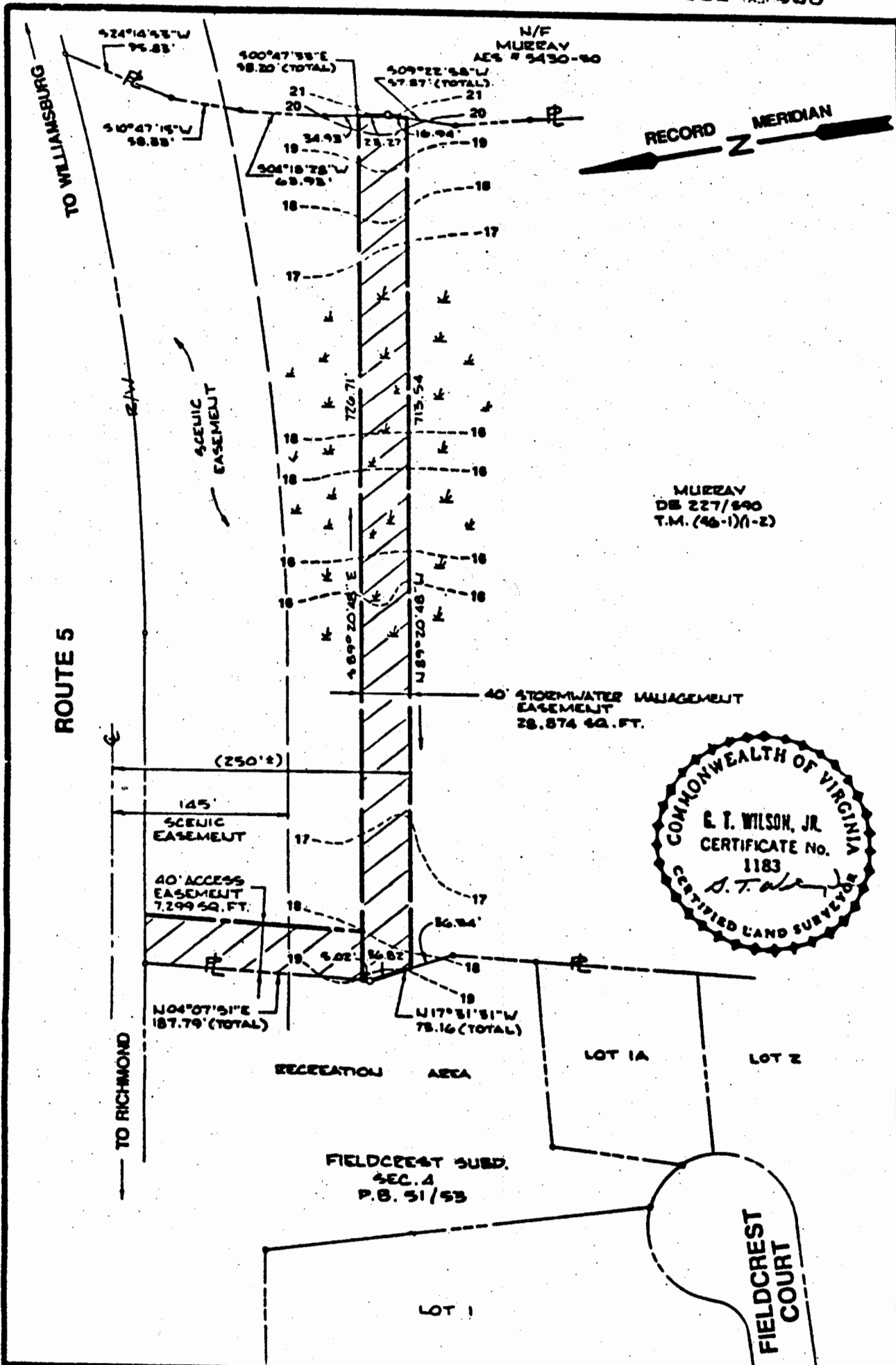
This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section. Aerial Imagery Copyright 2002 Commonwealth of Virginia.

1 inch equals 1,100 feet



Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail





AES, a professional corporation engineers, surveyors, planners Williamsburg, Virginia

**PLAT OF SURVEY FOR
STORMWATER MANAGEMENT EASEMENT
& ACCESS EASEMENT TO BE CONVEYED
TO JAMES CITY COUNTY**

BERKELEY DISTRICT JAMES CITY COUNTY VIRGINIA
Scale: 1" = 100' Ref.: NOTED Date: 6/24/91 Job No. 5430-54

RESOLUTION

EXTINGUISHMENT OF EASEMENT AT 3651 JOHN TYLER HIGHWAY

FOR THE GREENSPRINGS TRAIL

WHEREAS, James City County currently has a Deed of Easement in Deed Book 521, Page 567, on a certain parcel located at 3651 John Tyler Highway in the Berkeley District designated as Tax Parcel No. 4610100002; and

WHEREAS, there is a proposed Memorandum of Agreement with the Virginia Department of Game and Inland Fisheries, the Virginia Department of Transportation, James City County, the Williamsburg Land Conservancy, and the FieldCrest Homeowner's Association ("Memorandum of Agreement"), regarding the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Deed of Easement is identified in the Memorandum of Agreement as an easement burdening the development of the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion the County should extinguish the Deed of Easement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to extinguish the Deed of Easement, previously recorded in Deed Book 521, Page 567, on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002 for the purpose of complying with the proposed Memorandum of Agreement regarding the Virginia Capital Trail-Greensprings Phase.

BE IT FURTHER 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 extinguish the Deed of Easement on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

doextinguish.res

MEMORANDUM

DATE: April 26, 2005

TO: The Board of Supervisors

FROM: Michael Drewry, Assistant County Attorney
O. Marvin Sowers, Jr., Planning Director

SUBJECT: Greensprings Trail Transfer of Right-of-Way and Temporary Construction Easement on
2900 Greensprings Road

The Virginia Department of Transportation (VDOT), in cooperation with James City County, has begun right-of-way acquisition for the Greensprings Trail, a paved ten-foot-wide multi-use path that extends from John Tyler Highway (Route 5) to the Colonial Parkway. The County owns a certain parcel containing 66.645 acres located at 2900 Greensprings Road (the "Property"). VDOT has requested a transfer of right-of-way of approximately 0.403 acres, more or less, of the Property and a temporary construction easement on 0.305 acres, more or less, of the Property for the development of the Greensprings Trail. The right-of-way would be approximately 825 feet in length and 16 feet wide, while the temporary construction easement would be approximately 30 feet wide. The temporary construction easement is needed for proper construction for cut and/or fill slopes and shall terminate at such time as the construction of the Greensprings Trail is completed. VDOT has requested at this time to expedite the right-of-way assembly process and temporary construction easement so that bids can be advertised in May 2005 and construction started by fall 2005.

The Greensprings Trail will extend northward from the existing Greensprings Trailhead walking trail behind Jamestown High School (JHS) within the Eagle Way right-of-way. It will then extend westward from the intersection of John Tyler Highway (Route 5) and Eagle Way onto JHS property, and then turn southward on a route generally parallel to Greensprings Road on properties owned by the Williamsburg Land Conservancy, James City County, the Economic Development Authority (Mainland Farm), and several private parties. The Trail will then parallel Jamestown Road and connect to an existing multi-use path along Route 359 (the relocated Colonial Parkway entrance road).

The Greensprings Trail is being constructed in support of the Jamestown 2007 event, and is supported by Governor Mark Warner. The Governor's Office is planning a groundbreaking event for this summer. The Trail is part of the larger Virginia Capital Trail that will extend from Richmond to Jamestown. Sections in Charles City County and Henrico are also in progress. The last section in James City County between Charles City County and Greensprings Road is expected to begin construction this fall.

Currently the Property contains wetlands, open space, beaver ponds, and the Greensprings Walking Trail. The requested temporary construction easement will be following the current Greensprings Walking Trail path located on the Property. The Property is surrounded by the Deer Run subdivision, the Jamestown Hundred subdivision, Mainland Farm, the JHS property, and property owned by the Williamsburg Land Conservancy.

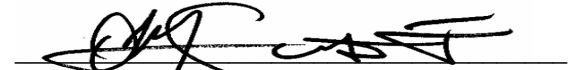
Staff recommends that the Board of Supervisors approve the attached resolution authorizing the County Administrator to transfer the right-of-way of 0.403 acres, more or less, and the temporary construction easement of 0.305 acres, more or less, on the Property for the purpose of facilitating the development of the Greensprings Trail.

April 26, 2005

Page 2

Michael Drewry

CONCUR:



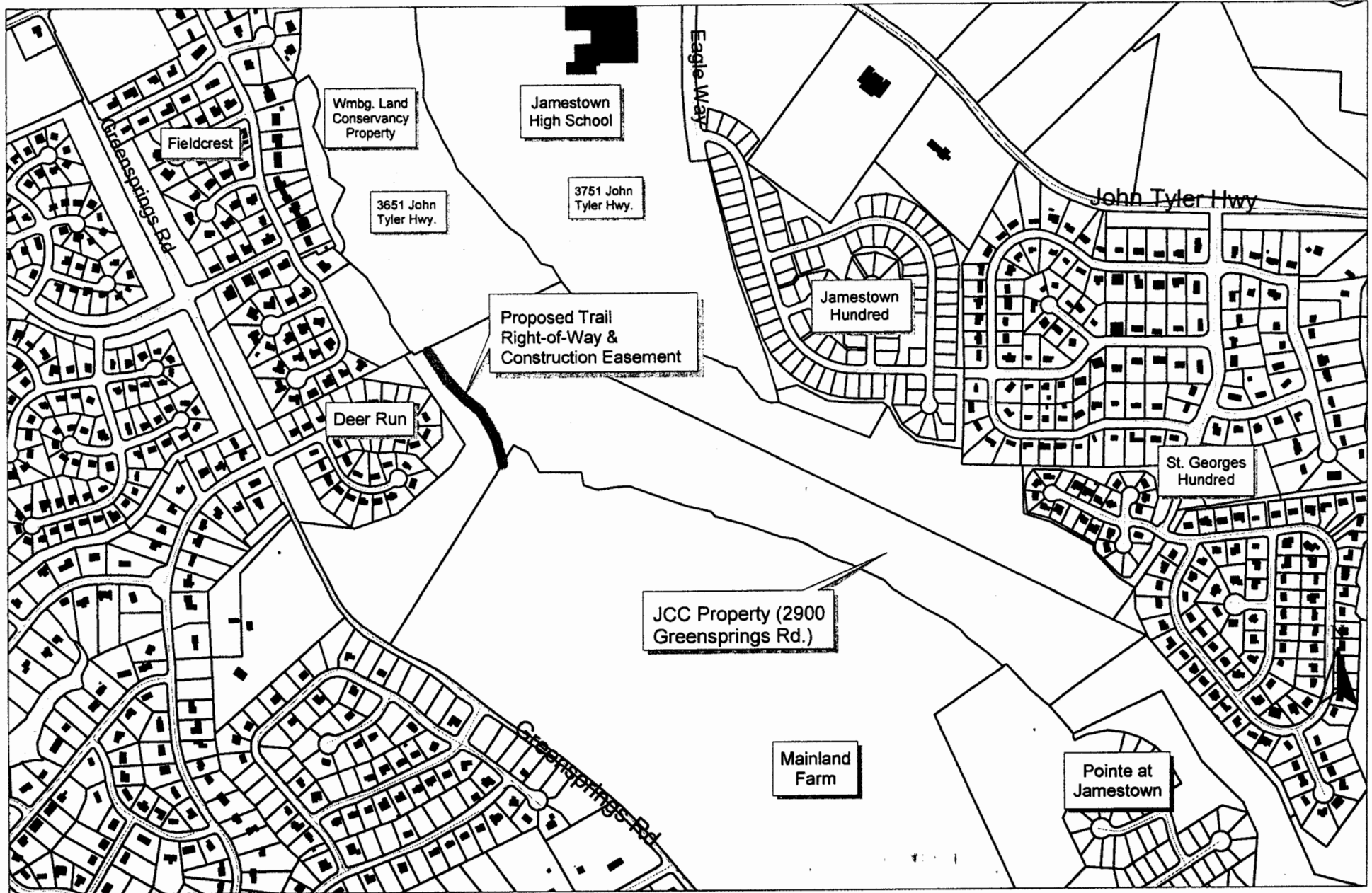
O. Marvin Sowers, Jr.

MHD/OMS/gs
grnsprgease.mem

Attachments:

1. Parcel Location Map
2. Greensprings Trail Plan Sheet No. 5
3. Resolution

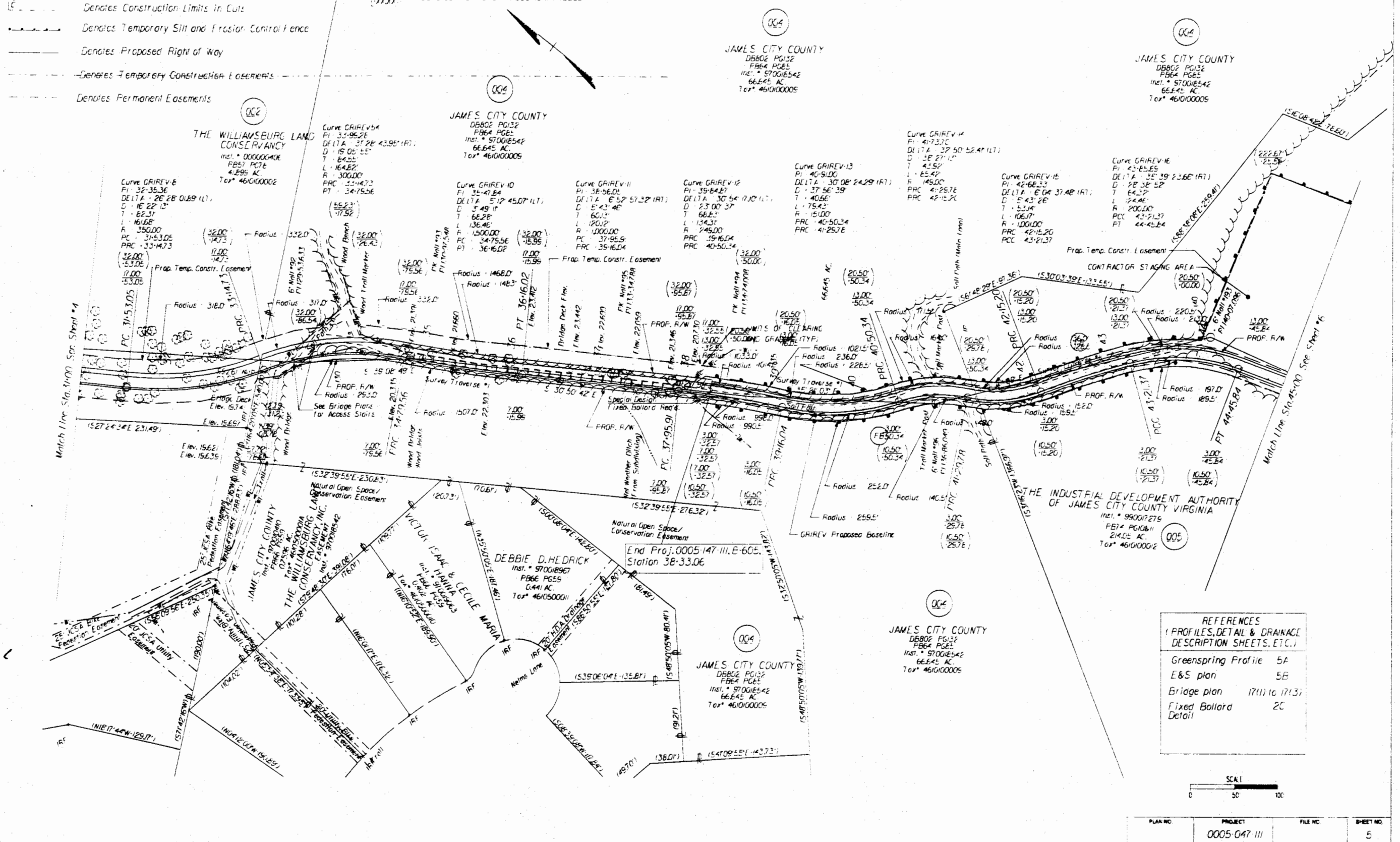
Greensprings Trail Transfer of Right-of-Way and Temporary Construction Easement on 2900 Greensprings Road



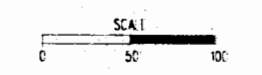
- Denotes Proposed Shore Use Plan
- Denotes Construction Limits in Fills
- Denotes Construction Limits in Cuts
- - - Denotes Temporary Silt and Erosion Control Fence
- Denotes Proposed Right of Way
- - - Denotes Temporary Construction Easements
- Denotes Permanent Easements

- XX.XX Denotes Proposed Right of Way Pluses
- XX.XX Denotes Temporary Construction Easement Pluses
- XX.XX Denotes Permanent Easement Pluses

REVISION	DATE	FEDERAL AC PROJECT	ROUTE	STATE PROJECT	SHEET NO
			5	0005-047 III 501	5
				18 602 RW 201	



REFERENCES	
(PROFILES, DETAIL & DRAINAGE DESCRIPTION SHEETS, ETC.)	
Greenspring Profile	5A
E&S plan	5B
Bridge plan	17111 to 17131
Fixed Ballard Detail	2C



PLAN NO	PROJECT	FILE NO	SHEET NO
	0005-047 III		5

RESOLUTION

GREENSPRINGS TRAIL TRANSFER OF RIGHT-OF-WAY AND TEMPORARY

CONSTRUCTION EASEMENT ON 2900 GREENSPRINGS ROAD

WHEREAS, James City County currently owns a certain parcel containing 66.645 acres located at 2900 Greensprings Road in the Berkeley District designated as Tax Parcel No. 461010009, (the "Property"); and

WHEREAS, 0.403 acres, more or less, of the Property shall be needed for the development of the Virginia Capital Trail - Greensprings Phase Plans, and 0.305 acres, more or less, of the Property shall be needed for a temporary construction easement ("Right-of-Way and Easement"), as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion the County should transfer the Right-of-Way and Easement, by deed, to the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to transfer the Right-of-Way and Easement by Deed on the Property, as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201.

BE IT FURTHER 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 transfer the Right-of-Way and Easement on the Property.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

grnsprgease.res

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Stephanie Ahrendt, Acting Director of Budget and Accounting
SUBJECT: Appropriation Resolution - FY 2006 Budget

The Appropriation Resolution for the FY 2006 Budget is provided separately. The resolution reflects the County Administrator's Proposed Budget and the changes made by the Board at its Budget Work Sessions.

Stephanie Ahrendt

CONCUR:

John E. McDonald

SA/gb
Bdgtapp06.mem

Attachment

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 2005 and ending June 30, 2006, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2005, and ending June 30, 2006, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the FY 2006 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2006</u>
General Property Taxes	\$ 81,137,835
Other Local Taxes	17,994,518
Licenses, Permits and Fees	8,097,535
Fines and Forfeitures	313,000
Revenue from Use of Money and Property	464,131
Revenue from the Commonwealth	21,118,528
Revenue from the Federal Government	8,100
Charges for Current Services	3,279,007
Miscellaneous Revenues	<u>83,100</u>
TOTAL REVENUES	<u>\$132,495,754</u>

GENERAL FUND EXPENDITURES

	<u>FY 2006</u>
Administrative	\$ 1,099,042
Elections	274,970
Human Resources	1,177,355
Financial Administration	3,442,364
General Services	4,946,073
Information Resource Management	1,936,719

Development Management	4,049,164
Judicial	2,566,614
Public Safety	17,032,428
Community Services	5,804,137
Contributions - Other	3,299,654
Library and Arts Center	3,955,989
Health Services	1,311,350
Regional Jail	1,627,200
Nondepartmental	3,886,000
WJCC Schools	71,882,437
Contribution - Capital Projects Fund	2,232,436
Contributions - Other Funds	<u>1,971,822</u>
TOTAL EXPENDITURES	<u>\$132,495,754</u>

The appropriation for education includes \$60,193,282 as a local contribution to the Williamsburg-James City County Schools operations.

Year-End Fund Balance	\$ 2,165,522
Contribution to Capital Projects Budget	\$ 2,165,522

2. That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.825
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated in other budgets in FY 2006 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues:

Debt Proceeds	\$89,697,000
Contribution from General Fund	4,369,958
Proffer Revenue	1,800,000
Other Revenue	<u>460,000</u>
	<u>\$96,326,958</u>

Expenditures:

Schools	\$57,247,085
Community Development	3,700,990
Parks and Recreation	15,050,000
General Services	19,374,623
Public Safety	<u>954,260</u>
	<u>\$96,326,958</u>

DEBT SERVICE BUDGET

From General Fund - Schools	\$11,670,000
From General Fund - Other	2,250,000
Other Revenue	<u>516,817</u>
Total Debt Service Fund Revenues	<u>\$14,436,817</u>
Current Year Expenditures	\$14,334,834
To Fund Balance - Capital Reserve	<u>101,983</u>
Debt Service Fund Disbursements	<u>\$14,436,817</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$ 4,176,487
From the General Fund	1,365,296
Comprehensive Services Act	174,050
Revenue Maximization	241,447
Other	<u>422,115</u>
Total Virginia Public Assistance Fund Revenues	<u>\$ 6,379,395</u>

Expenditures:

Administration and Assistance	\$ 6,137,948
Revenue Maximization	<u>241,447</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$ 6,379,395</u>

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 711,910
Grants	1,494,508
Generated Program Income	470,000
Other	<u>100,000</u>

Total Community Development Fund Revenues & Fund Balance	<u>\$ 2,776,418</u>
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Expenditures:

Administration and Programs	\$ 600,636
Housing & Community Development Programs	<u>2,175,782</u>

Total Community Development Fund Expenditures	<u>\$2,776,418</u>
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SPECIAL PROJECTS/GRANTS FUND

Revenues:

Colonial Drug Task Force	\$ 27,000
Transfer from General Fund	89,764
Revenues from the Commonwealth	<u>68,700</u>

\$ 185,464

Expenditures:

Colonial Drug Task Force	\$ 27,000
Litter Control Grant	8,700
COPS Grant	<u>149,764</u>

\$ 185,464

JAMESTOWN 2007 FUND

Revenues:

County Contribution	\$ 60,000
From Fund Balance	<u>193,000</u>

Total Revenues	<u>\$ 253,000</u>
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Expenditures:

Historic Triangle Corridor Enhancement Program	\$ 25,000
Jamestown Settlement	200,000
Community Activities	20,000
Historic Triangle 2007 Host Committee	<u>8,000</u>
Total Expenditures	<u>\$253,000</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary increase included on the employee's salary with variable increases based on performance and funded at an average of 4 percent.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
7. All outstanding encumbrances in all County funds at June 30, 2005, shall be an amendment to the FY 2006 budget, and appropriated to the FY 2006 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning only:

CAPITAL IMPROVEMENT PROGRAM:

FY 2007

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>6,545,290</u>
	<u>\$6,545,290</u>

Expenditures:

Schools	\$2,891,110
Development Management	1,258,524
PDR/Greenspace Debt Service	1,200,000
Public Safety	945,656
Parks and Recreation	<u>250,000</u>
	<u>\$6,545,290</u>

FY 2008

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>7,158,350</u>
	<u>\$ 7,158,350</u>

Expenditures:

Schools	\$3,093,350
Development Management	1,223,661
Public Safety	1,226,336
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>415,000</u>
	<u>\$7,158,350</u>

FY 2009

Revenues:

Debt Proceeds	\$16,000,000
Other Funding	<u>7,796,370</u>
	<u>\$23,796,370</u>

Expenditures:

Schools	\$19,231,370
Development Management	1,585,000
Public Safety	1,220,000
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>560,000</u>
	<u>\$23,796,370</u>

FY 2010

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>8,503,820</u>
	<u>\$ 8,503,820</u>

Expenditures:

Schools	\$3,339,820
Development Management	1,289,115
Public Safety	1,774,885
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>900,000</u>
	<u>\$8,503,820</u>

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of
April, 2005.

bdgtapp06.res

Water & Sewer	Development is served by Newport News Waterworks.	Development is served by Newport News Waterworks.
Community Impacts	\$1,000 per lot (for 72 of the 96 lots)	\$425 per "Restricted" lot (38 of the 96 lots); AND \$1,250 per non "Affordable" or "Restricted" lot (34 of 96)
Community Impacts: Schools	\$700 per lot (for 72 of the 96 lots)	\$1,275 per "Restricted" lot (38 of the 96 lots); AND \$3,750 per non "Affordable" or "Restricted" lot (34 of 96)
Homeowners Reserve Fund (From the Owners Association Proffer)	\$12,960.00	\$12,960.00
Total Amount (2005 dollars)	\$135,360	\$247,560
Total Per Lot	\$1,410 per lot (For all 96 proposed lots)	\$2,578.75 per lot (for all 96 proposed lots) - \$1,835 per "Restricted" lot (38) - \$5,135 per non "Affordable" or "Restricted" lot (34)

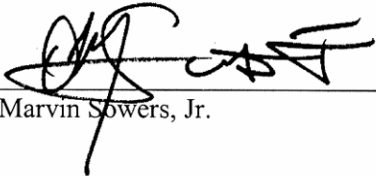
Staff Contact:

Ellen Cook

Phone: 253-6685

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/gs

z-14-04_MP-01-05

Attachments:

1. Revised Proffers
2. Resolution

PROFFER AMENDMENT

THIS PROFFER AMENDMENT is made this 24th day of February, 2005, by RML III Corporation (together with its successors and assigns, the "Owner") and Jay Epstein (Developer), and PROFFERS dated July 31, 2003, which were accepted and approved as Agenda Item No. H-3 Rezoning Z-3-03 Pocahontas Square, by James City County Board of Supervisors on August 12, 2003. The existing proffers recorded in the James City County Clerk's office on August 21, 2003, as instrument #030024660 (Attached as Exhibit "A") remain in effect, except as amended by the following:

RECITALS

WHEREAS, Owner is the record title owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 8814 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100004, the second with an address of 8838 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100005A, and the third with an address of 8844 Pocahontas Trail, Williamsburg, Virginia, and being Tax Parcel 5920100005 (together, the "Property").

WHEREAS, Jay Epstein, and/or assigns (Developer), has contracted to purchase the property conditioned upon rezoning and Proffer Amendment.

WHEREAS, the property is currently subject to Proffers made the 31st day of July, 2003, by Rose Marie Hall and RML III Corporation (See Exhibit "A" attached).

WHEREAS, the Owner and Developer desire to offer to the County certain amended conditions on the development of the property, not generally under current zoning.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

AMENDED CONDITIONS

1. Master Plan. The Property shall be subdivided and developed generally as shown on the revised Master Plan dated January 30, 2005, with only minor changes thereto that the Development Review Committee determines, which do not change the basic concept or character of the development.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management, BMPs, recreation areas, private road and parking areas ("Reserve"), and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

Owner shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize Association dues during that period so as to not adversely affect purchaser's ability to qualify for a home mortgage. At the time Owner's maintenance obligation under this Section ends, there shall be at least \$12,960.00 in the Reserve and Owner shall supply evidence of the same to the Planning Director prior to final subdivision approval.

3. Water Conservation. See Exhibit "A" attached.

4. Affordable Housing. A minimum of 24 of the lots with townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$110,000.00 subject to adjustment as set forth herein. If required by James City County Housing, a second deed of trust shall be assigned unto James City County Housing for the difference of the appraised value of the townhouse and the net sales price paid by the purchaser of the townhouse, which shall be reflected on a settlement statement for review prior to closing. This deed of trust shall, subject to the request of James City County Housing, be assigned at the time of closing, utilizing appropriate approved procedures and identifying the net sales price paid by the purchaser of the townhouse for the 24 townhouses sold through James City County for \$110,000 or less ("Affordable Units"). The second deed of trust will be prepared by the Owner as a 15 year forgivable loan in a form approved by Housing and Community Development, the County Attorney, and Virginia Housing Development Authority. A minimum of 38 of the lots with townhouse dwelling units shall be reserved and offered for sale at a price at or below \$155,000.00 subject to adjustment as set forth herein ("Restricted Units"). The maximum prices set forth herein shall be adjusted annually, or January 1st of each year,

by increasing such prices by the cumulative rate of inflation as measured by the Consumer Price Index – Urban, U.S. City Average annual average change for the period from January 1, 2005 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

5. Archaeology. See Exhibit “A” attached.
6. Route 60 Landscape Buffer. See Exhibit “A” attached.
7. Entrance/Turn Lanes. See Exhibit “A” attached.
8. Underground Storage Tanks. See Exhibit “A” attached.
9. Sidewalk Connections. There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. Sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units.
10. Sidewalk Design. See Exhibit “A” attached.
11. Pedestrian Trail. See Exhibit “A” attached.
12. Private Streets. See Exhibit “A” attached.
13. Architectural Elevations. The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the revised Proposed

Typical Elevations for Pocahontas Square dated February 24, 2005, as determined by the Director of Planning.

14. Cash Contributions for Community Impacts.

(a) A contribution of \$1,275.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$425.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$3,750.00 for each dwelling unit other than an Affordable Unit or a Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(d) A contribution of \$1,250.00 for each dwelling unit other than an Affordable Unit or a Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

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

(f) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average. All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPIs as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the

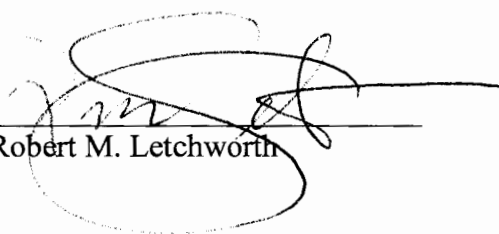
manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

ALL OTHER PROFFERS, RECITALS AND CONDITIONS SHALL REMAIN THE SAME.

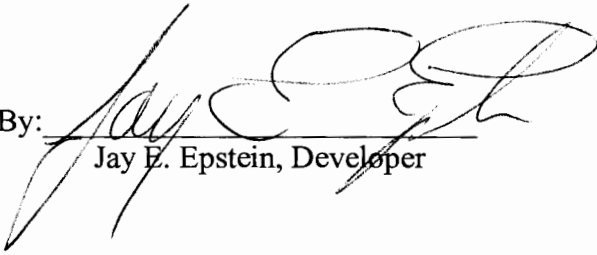
WITNESS the following signatures:

RML III, CORPORATION

By:


Robert M. Letchworth

By:


Jay E. Epstein, Developer

Commonwealth of Virginia
CITY/COUNTY OF Newport News, to wit:

The foregoing instrument was acknowledged this 16th day of April, 2005, by Robert M. Letchworth.


NOTARY PUBLIC

My commission expires: Nov. 30, 2005

Commonwealth of Virginia
CITY/COUNTY OF Newport News, to wit:

The foregoing instrument was acknowledged this 16th day of April, 2005, by Jay E. Epstein.


NOTARY PUBLIC

My commission expires: Nov. 30, 2005

(342796)

PROFFERS

THESE PROFFERS are made this 31st day of July, 2003 by ROSE MARIE HALL (together with her successors and assigns, the "Owner") and RML III CORPORATION.

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 8814 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100004, the second with an address of 8838 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005A, and the third with an address of 8844 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005 (together, the "Property"). A portion of the Property is now zoned LB and a portion is now zoned R-8.

B. RML III Corporation and/or assigns ("Buyer") has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from LB and R-8 to R-5, Multifamily Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan of Pocahontas Square" prepared by MSA, P.C. dated 05/13/2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

Instrument # 030024660

Recorded on Aug. 21, 2003

EXHIBIT

A

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-5.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Master Plan.** The Property shall be subdivided and developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

2. **Owners Association.** There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an

annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

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

4. **Affordable Housing.** A minimum of 75 percent of the lots with dwelling units shall be reserved and offered for sale at a price at or below \$100,000.00 subject to adjustment as set forth herein. The balance of the lots with dwelling units shall be

reserved and offered for sale at a price at or below \$110,000.00 subject to adjustment as set forth herein. The maximum prices set forth herein shall be adjusted annually as of January 1 of each year by increasing such prices by the cumulative rate of inflation as measured by the Consumer Price Index - Urban, U.S. City Average annual average change for the period from January 1, 2004 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

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

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

6. **Route 60 Landscape Buffer**. There shall be a 50 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of right-of-way after the installation of the proffered turn lanes generally as shown on the Master Plan.

Prior to the County being obligated to grant final development plan approval for the Property, a landscaping plan for the 50 foot landscape buffer along the Route 60 frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval of the Director of Planning. The landscaping plan shall include additional shrubs to supplement the trees in the buffer and to buffer the adjacent parking areas generally as shown on the Master Plan and, where possible shall require that existing mature/specimen trees and groups of trees be protected and preserved to promote a sense of maturity to the landscape. In addition, the landscape plan for the entire project where possible shall require that existing mature/specimen trees and groups of trees located in setback or other open space areas be protected and preserved to promote a sense of maturity to the landscape. Mature/specimen trees to be preserved shall be identified on the site plan for the development. The approved landscaping plan shall be either (i) implemented in the development of the Property or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy. The buffer shall be exclusive of any lots or units and shall be undisturbed, except for the landscaping proffered herein and, with the approval of the Development Review Committee, utilities, the entrance as shown

generally on the Master Plan, the pedestrian trail proffered hereby, lighting, entrance features and signs.

7. **Entrance/Turn Lanes.** There shall be one entrance into the Property from Pocohantas Trail. The entrance shall have two exiting lanes and one entering lane. Right and left turn lanes and tapers shall be constructed at the entrance to the Property from Route 60. The right turn lane shall have 150 feet of storage and a 150 foot taper and the left turn lane shall have 200 feet of storage and a 200 foot taper. The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

8. **Underground Storage Tanks.** The existing underground storage tanks on the Property (which were taken out of service in June 1986) shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

9. **Sidewalk Connections.** There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. These connections shall be installed prior to the issuance of the first certificate of occupancy.

10. **Sidewalk Design.** The design of the sidewalks adjacent to parking areas shall be subject to the approval of the Director of Planning to ensure adequate sidewalk width to provide for pedestrian circulation.

11. **Pedestrian Trail.** There shall be a paved walking trail at least four feet in width installed on the Property generally as shown on the Master Plan. The trail shall be located to avoid mature or specimen trees where reasonably feasible and the exact location of the trail shall be approved by the Director of Planning. The trail shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy.

12. **Private Streets.** The private streets in the development shall be constructed in accordance with applicable County standards for private streets.

13. **Architectural Elevations.** The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the Proposed Typical Elevations for Pocahontas Square dated 5/13/03 submitted as a part of the Community Impact Statement as determined by the Director of Planning.

Z-03-03
Pocahontas Square

PR-082

WITNESS the following signature.)

Rose Marie Hall
Rose Marie Hall

RML III Corporation

By: J. O. Meyers, Jr.
Title: DIRECTOR

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1st
day of August, 2003, by Rose Marie Hall.

Barbara J. Claus
NOTARY PUBLIC

My commission expires: 1/31/07.

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1st
day of August, 2003, by James O. Meyers, Jr., as
Director of RML III Corporation on behalf of the corporation.

Barbara J. Claus
NOTARY PUBLIC

My commission expires: 1/31/07.

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185
(757) 220-6500

Z-03-03
Pocahontas Square

PR-082

RESOLUTION

CASE NO. Z-14-04/MP-01-05. POCAHONTAS SQUARE PROFFER AMENDMENT

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-14-04/MP-01-05 for amending the existing Pocahontas Square master plan and proffers; and
- WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 7, 2005, recommended approval of Case No. Z-14-04/MP-01-05, by a vote of 7 to 0; and
- WHEREAS, the proposed change is shown on the amended master plan prepared by MSA, P.C. and Jay Epstein, dated March 1, 2005, and entitled “Master Plan of Pocahontas Square”; and
- WHEREAS, the property is located at 8814, 8838, 8844 Pocahontas Trail and further identified as Parcel Nos. (1-4), (1-5A), and (1-5) on James City County Real Estate Tax Map No. (59-2).
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-14-04/MP-01-05 and accept the voluntary proffers.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

z-14-04_MP-01-05.res

MEMORANDUM

DATE: April 26, 2005
TO: The Board of Supervisors
FROM: Richard B. Hanson, Housing and Community Development Administrator
SUBJECT: Ironbound Square Regional Stormwater Basin Appropriation

The development of senior citizen apartments and new single-family homes within the Ironbound Square Redevelopment Area, as well as the planned widening of Ironbound Road by the Virginia Department of Transportation, will require construction of stormwater management facilities. The development of a regional stormwater basin to accommodate the planned development within this thirty-acre watershed will provide greater benefits than development of individual facilities. In addition to the \$180,000 of County funds previously appropriated for this project, funding is anticipated to be provided by the Virginia Department of Transportation. In order to allow adequate time for the permitting of this facility it is necessary to begin design as soon as possible and therefore appropriation of these funds is being requested.

Staff recommends that the Board of Supervisors adopt the attached resolution appropriating Water Quality funds previously transferred to the Community Development Fund for development of the Ironbound Square Regional Stormwater Basin.


Richard B. Hanson

CONCUR:


Doug Powell

RBH/tlc
IBSwtrbasin.mem

Attachments

RESOLUTION

IRONBOUND SQUARE REGIONAL STORMWATER BASIN APPROPRIATION

WHEREAS, development of a regional stormwater basin is required to accommodate planned development in a thirty-acre watershed which includes a senior citizen apartment development, new single-family homes, and the widening of Ironbound Road; and

WHEREAS, \$180,000 was appropriated by the Board of Supervisors in the FY 2003 Budget for this purpose and transferred into the Community Development Fund.

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

Revenue:

Water Quality Fund Balance	<u>\$180,000</u>
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Expenditure:

Housing and Community Development Programs	<u>\$180,000</u>
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and that the appropriation of the water quality fund balance funds be designated a continuing appropriation, to carry beyond FY 2005 until completion of the development of the Ironbound Square Regional Stormwater Basin.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

IBSwtrbasin.res

