

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 28, 2005

7:00 P.M.

Page

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE - Hanna Razer, a fifth-grade student at Stonehouse Elementary School

D. HIGHWAY MATTERS

E. PRESENTATIONS

1. Hampton Roads Health Coalition - 2005 Wellness in the Workplace Award

2. PRIDE Team Progress Report

F. PUBLIC COMMENT

G. CONSENT CALENDAR

1. Minutes

 a. May 24, 2005, Joint Work Session 1

 b. June 14, 2005, Regular Meeting 5

2. Installation of "Watch for Children" Signs

 a. Old Stage Road 23

 b. Mill Creek Landing..... 27

Supports County's Strategic Pathway 2.a - address the needs of the underserved and protect the vulnerable

3. Proposed Relocation of Route 60, Pocahontas Trail 31

Supports County's Strategic Pathway 3.e - match community growth with the ability to maintain a high quality natural and man-made environment

4. Budget Amendment - Reduction in Planning Fee Estimate..... 37

Supports County's Strategic Pathway 3.b - ensure ongoing operational costs are funded

5. Appropriation of Funds - Chesapeake Bay Restoration Fund Grant - \$5,720 39

Supports County's Strategic Pathway 4.b - provide environmental education for citizens

6. Appropriation of Funds - VDEM LCAR Update Funds Grant - \$2,000 41

Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes

7. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - David R. Tuftee 43

Supports County's Strategic Pathway 4.c - ensure private development and government operations are environmentally sensitive

8.	Appointment - 2005 County Fair Committee	47
9.	Appointment - Alternate to the Virginia Peninsula Regional Jail Board.....	51
10.	Advance Hiring of Administrative Assistant - Commonwealth Attorney's Office <i>Supports County's Strategic Pathway 5.b - Maintain a well-trained and high performing workforce for normal and emergency operations</i>	

H. PUBLIC HEARINGS

1.	Case Nos. Z-15-04/MP-11-04/SUP-34-04. Villas at Jamestown (continued from June 14, 2005)	53
2.	Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc.; to Increase Fees	117
	<i>Supports County's Strategic Pathway 3.b - Ensure ongoing operational costs are funded</i>	
3.	Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law Generally.....	121

I. BOARD CONSIDERATIONS

1.	Resolution Requesting the Circuit Court to Order an Election on Issuance of General Obligation Bonds in the Maximum Amount of \$15,000,000 for Parks and Recreation Improvements and \$20,000,000 for Land or Voluntary Land Easements	125
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J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1.	Consideration of Appointments of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia	
	a. Historic Triangle Bicycle Advisory Committee	
	b. Parks and Recreation Advisory Commission	
	c. Peninsula Disabilities Service Board	
	d. Williamsburg Area Arts Commission	

N. ADJOURNMENT

AT A JOINT WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, AND THE PLANNING COMMISSION, HELD ON THE 24TH DAY OF MAY, 2005, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. DISCUSSIONS

1. The Role of the Planning Commission in Development Review

The Board and Planning Commission members discussed the role of the Planning Commission (PC) in the development review process, increased efforts to get information to citizen and to get citizens involved with the PC.

The Board requested that the PC review the work and recommendations of the County staff; consider land use issues in respect to the Comprehensive Plan, Ordinances, and Code requirements; provide input to the Board on how the PC views the impacts to the community; how deferral issues should be handled by staff and the PC; and guidelines used by the PC to make decisions about land use issues.

2. Balancing Residential and Non-Residential Development

The PC and the Board discussed the pace and balance of development in the County.

3. Purchase of Development Rights

The Planning Commission and the Board discussed the Board's commitment level to the Purchase of Development Rights program, the bond referendum to be considered by voters in November, support for the program by citizens.

4. Rural Lands Study Status

Mr. Don Davis, Principal Planner, and the Board discussed the status of the Rural Lands study, desire of the Board to have an ordinance that citizens can provide input in its development, and those most affected by the ordinance will be comfortable with the recommendations.

A timeline of seven to nine months was identified for the study, the Board requested that staff

develop an Request for Proposal (RFP) that could move forward, and requested staff to present information on the objectives on the RFP for a consultant to perform this type of study.

Mr. Brown thanked the PC for the discussions.

At 5:30 p.m. Mr. Brown recessed the Board for a break.

At 5:44 p.m. Mr. Brown reconvened the Board.

C. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; Section 2.2-3711(A)(1), to consider a personnel matter, the evaluation of the County Attorney; and Section 2.2-3711(A)(7), to consult with legal counsel and staff members pertaining to actual or probable litigation.

Mr. Brown adjourned the Board into Closed Session at 5:45 p.m.

Mr. Brown reconvened the Board into Open Session at 6:53 p.m.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; Section 2.2-3711(A)(1), to consider a personnel matter, the evaluation of the County Attorney; and Section 2.2-3711(A)(7), to consult with legal counsel and staff members (or consultant) pertaining to actual or probable litigation.

D. RECESSED

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 6:54 p.m. Mr. Brown recessed the Board until 7 p.m.

Sanford B. Wanner
Secretary to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF JUNE 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, Absent
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Matthew Koehler, a fifth-grade student at Stonehouse Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. John E. Hall, 117 Olde Jamestown Court; suggested James City County is a bedroom community and the current tax base structure is not the proper tax base for the County; recommended the County look to other sources for the primary tax base; and stated that in consideration of the volume of tourists anticipated for the 2007 events the County needs to consider the impact to citizens who use the public transportation service and taxi cabs to ensure adequate transportation is available.

2. Mr. Walt Rybak, Mill Pond at Stonehouse, stated that members of the Stonehouse development held a special meeting to discuss their opposition to the proposal for private streets in the subdivision; stated concern regarding the standards of environmental review for that portion of the development has not been held to the same standards required of the previous sections; requested clarification and specifications on quality of roadway construction for the proposed private streets; stated concern about credibility of the developer resulting from the lack of communication with the adjacent existing development; inquired about what assurances do current residents have for standards, quality, and for the maintenance of the private roadways; and requested the Board not approve the request for private streets in Stonehouse.

3. Mr. Matt Stauch, Jamestown 2007 Corridor Constructors, stated that lane shifts will be required to complete Segment II improvements to Route 199. Mr. Stauch stated that the lane shifts will occur

on June 27 and remain in effect through September 2, 2005, with expected delays for motorists of approximately 12 to 18 minutes during rush hour. Mr. Stauch stated the speed limit in the construction zone will be reduced to 25 mph.

4. Ms. Angela Miller, 3008 Heartwood Crossing, supported the comments made by Mr. Rybak regarding the issues associated with the proposed private streets in the Stonehouse subdivision; requested the Board defer consideration of the proposal so the developer can provide information to the surrounding residents; and stated that over 100 individuals have signed a petition to defer the privatization of streets in the Stonehouse subdivision.

5. Mr. Ed Oyer, 139 Indian Circle, commented on Memorial Day services and Flag Day; displayed receipts of donations he made to the Fire Department; stated that in October 1993 and October 1994 discussion was held on funds for the Fire Department and the duties of the Fire Marshal, and the Flower Fund has been mentioned in the papers on several occasions; stated that the decentralization of local government into New Town is unwise when considering the overhead costs association with such a proposal; stated that the occurrence of driving while under the influence is far too common and stated that if a DUI individual involves his family, he would be forever relentless.

E. CONSENT CALENDAR

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

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

1. Minutes -
 - a. May 10, 2005, Regular Meeting
 - b. May 24, 2005, Regular Meeting
2. Strengthening Families Program – Historic Triangle Substance Abuse Coalition Grant

RESOLUTION

STRENGTHENING FAMILIES PROGRAM -

HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION GRANT

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

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

Revenue:

Historic Triangle Substance Abuse Coalition	<u>\$2,395</u>
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Expenditure:

Strengthening Families Program \$2,395

3. Virginia Department of Health – Tobacco Use Control Grant

RESOLUTION

VIRGINIA DEPARTMENT OF HEALTH - TOBACCO USE CONTROL GRANT

WHEREAS, the Virginia Department of Health has made funds available to educate youth that tobacco use is the leading cause of preventable death in Virginia; and

WHEREAS, funds are needed to add a health component to the Division’s summer sports camps.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$2,250 grant awarded by the Virginia Department of Health to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation.

REVENUES:

From the Commonwealth \$2,250

EXPENDITURES:

Virginia Department of Health Tobacco Use Control Project \$2,250

4. Award of Contract – Employee Medical and Dental Insurance

RESOLUTION

AWARD OF CONTRACT – EMPLOYEE MEDICAL AND DENTAL INSURANCE

WHEREAS, bids have been received for the County’s Employee Medical and Dental Insurance; and

WHEREAS, the Board of Supervisors desires to offer County employees Medical and Dental coverage.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute an initial 12-month contract with options to renew for four additional years, one year at a time, with Anthem Blue Cross and Blue Shield, Optima Health Plan and Delta Dental of Virginia to provide medical and dental insurance to County and other employees, as approved from time to time, or required by law.

5. Williamsburg Area Medical Assistance Corporation (WAMAC) Medical Director – Conversion to Full-Time Position

RESOLUTION

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION (WAMAC)

MEDICAL DIRECTOR - CONVERSION TO FULL-TIME POSITION

- WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to have a full-time Medical Director for Olde Towne Medical Center; and
- WHEREAS, James City County serves as the fiscal agent for WAMAC; and
- WHEREAS, the Board of Directors of WAMAC has approved a resolution requesting that the Board of Supervisors create the position of full-time Medical Director.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby creates the position of full-time Other Medical Director for Olde Towne Medical Center effective August 1, 2005.

BE IT FURTHER RESOLVED that the position of part-time Medical Director is eliminated.

6. Establishment of Positions and On-Call Hours for Mooretown Road Corridor for Williamsburg Area Transport

RESOLUTION

ESTABLISHMENT OF POSITIONS AND ON-CALL HOURS FOR

MOORETOWN ROAD CORRIDOR FOR WILLIAMSBURG AREA TRANSPORT

- WHEREAS, Williamsburg Area Transport plans to implement fixed-route service in support of commercial and medical development along the Mooretown Road corridor.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes two full-time limited-term bus driver positions; two part-time limited-term bus drivers for 416 hours each per year to drive on Saturdays; 201 part-time temporary hours to cover peak hours during the summer; and 520 on-call hours to cover absences to provide this demonstration service.

7. Advance Hiring of Social Services Chief of Eligibility

RESOLUTION

ADVANCE HIRING OF SOCIAL SERVICES CHIEF OF ELIGIBILITY

- WHEREAS, the Chief of Eligibility will be retiring effective September 1, 2005, and will be on leave until that time; and
- WHEREAS, this position is responsible for the overall administration of all of the benefit programs in the Division of Social Services; and
- WHEREAS, it is necessary to fill this position as soon as possible after July 1, 2005, in order to offer continued quality services; and
- WHEREAS, the Division of Social Services will have sufficient funds in its FY 2006 Budget to pay the salary and fringe benefits of the newly hired Chief of Eligibility.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of the Chief of Eligibility effective July 1, 2005.

8. **Award of Contract – Ambulance Replacement**

RESOLUTION

AWARD OF CONTRACT-AMBULANCE REPLACEMENT

- WHEREAS, funds are available in the Capital Improvement Program budget and from a Rescue Squad Assistance Grant from the Commonwealth of Virginia for purchase of a replacement ambulance; and
- WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act and the City of Newport News issued a cooperative purchasing contract to Performance Specialty Vehicles, LLC as a result of a competitive sealed Request for Proposals; and
- WHEREAS, Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$174,023 with Performance Specialty Vehicles, LLC for a Freightliner M2/American LaFrance medium-duty ambulance unit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract between James City County and Performance Specialty Vehicles, LLC, in the amount of \$174,023.

9. **2005 State Homeland Security Program (SHSP) Grant – Designation of Applicant's Agent**

RESOLUTION

DESIGNATION OF APPLICANTS AGENT

BE IT RESOLVED BY OF Board of Supervisors of James City County
(Governing Body) (Public Entity)
THAT Sanford B. Wanner, County Administrator
(Name of Incumbent) (Official Position)

Is hereby authorized to execute for and in behalf of
James City County, a public entity established under the laws of the State of Virginia this application and to file it in the appropriate State Office for the purpose of obtaining certain Federal financial assistance under the OJP, National Domestic Preparedness Office Grant Program(s), administered by the Commonwealth of Virginia.

That, James City County a public entity established under the laws of the Commonwealth of Virginia, hereby authorizes its agent to provide to the Commonwealth and to the Office of Justice Programs (OJP) for all matters pertaining to such Federal financial assistance any and all information pertaining to these Grants as may be requested.

Passed and approved this 14th day of June, 2005

(Name and Title)

(Name and Title)

(Name and Title)

(Name and Title)

(Name and Title)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)
_____, do hereby certify that the above is a true and correct of a
(Entity)
Resolution passed and approved by the _____ of _____
(Governing Body) (Public Entity)

On the 14th Day of June, 2005.

Date: _____ Chairman _____
(Official Position)

F. PUBLIC HEARINGS

- 1. Case Nos. Z-15-04/MP-11-04/SUP-34-04. Villas at Jamestown

Ms. Ellen Cook, Planner, stated that the applicant has requested a deferral on the consideration of his application to June 28, 2005, to allow more time to resolve outstanding issues that the Planning Commission recommended be addressed prior to the Board meeting.

Staff concurred with the applicants request for deferral.

Mr. Brown opened the Public Hearing.

As no one wished to speak to this matter at this time, Mr. Brown continued the Public Hearing to June 28, 2005.

2. Case No. SUP-36-04. Farm Fresh Gas Pumps

Mr. Trey Davis, Planner, stated that Thomas C. Kleine, Troutman Sanders, LLP, applied on behalf of Farm Fresh, Inc. for a special use permit (SUP) to allow for the placement of four gas pumps (eight full-service positions) and a canopy in the parking lot of the Farm Fresh in the Norge Plaza located at 115 Norge Lane, zoned B-1, General Business, with proffers, and further identified as Parcel No. (1-71F) on James City County Real Estate Tax Map No. (23-2).

Staff found the proposal, with conditions, will not negatively impact surrounding property. Staff also found the proposal, with conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the case by a vote of 6-0 with one abstention.

Staff recommended adoption of the application with the listed conditions.

Mr. Brown opened the Public Hearing.

1. Mr. Thomas C. Kleine, Troutman Sanders, LLP, provided an overview of the application, stated that the architecture is in keeping with the surrounding community and will be situated on the site to minimize the impact to surrounding properties, no additional curb cuts to Richmond Road are proposed.

Mr. McGlennon inquired if a kiosk would be located on the site with the gas pumps.

Mr. Kleine stated that although there will be a staffing station at the site, there will be no sale of amenities or goods other than motor fuel at the pumps.

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

Mr. Bradshaw made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-36-04. FARM FRESH GAS PUMPS

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, the applicant has requested a special use permit to allow four gasoline pumps and a canopy in a B-1, General Business District, with proffers, located at 115 Norge Lane, further identified as a Parcel No. (1-71F) on James City County Real Estate Tax Map No. (23-2).

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. 36-04 as described herein with the following conditions:

1. The architecture of the canopy shall be generally compatible with that of the Farm Fresh Store and contain architectural features, colors, and materials that reflect the surrounding character of the Norge community as determined by the Planning Director. The architectural design, color, and materials for the canopy shall be approved by the Planning Director prior to final site plan approval.
2. There shall be no more than four gas pumps (a total of eight vehicle fueling stations) permitted on the property. The pumps shall be arranged in a configuration generally consistent with the attached conceptual site layout titled "Exhibit for Special Use Permit", prepared by MSA, P.C. and dated 03/24/2005, herein after referred to as the "master plan".
3. A minimum horizontal separation of 100 feet shall be maintained between all water and sewer piping, the underground storage tanks, and all associated petroleum piping. Water lines and fire hydrants shall be relocated by the applicant at no cost to the James City Service Authority or the County as shown on the attached master plan prior to the issuance of a Certificate of Occupancy. The applicant shall dedicate new utility easements for the relocated lines to the James City Service Authority prior to the issuance of a Certificate of Occupancy. A Certificate to Construct Water and Sewer Facilities shall be obtained prior to construction of the relocated utilities once final site plan approval has been granted.
4. No more than two signs shall be allowed on the canopy unless otherwise mentioned herein. Gas pricing signs may be allowed on a monument type sign in the parking area or the columns of the canopy. Signage shall be consistent with current zoning and sign regulations.
5. An enhanced landscaping plan shall be provided for the landscaped area along Norge Lane. Unless reduced or waived by the Planning Director, the enhanced landscaping to be included with the site plan shall include a quantity of planting materials that is a minimum of 133 percent of the minimum ordinance requirements. A minimum of 50

percent of all trees and 50 percent of all shrubs shall be evergreen.

6. The lighting for the site, to include canopy lighting, shall be reviewed and approved by the Planning Director prior to final site plan approval. There shall be no glare outside the boundaries of the additional parking area and fueling facility. All lights, including any canopy lighting, shall have recessed fixtures with no bulb, lens, or globe extending below the casing or canopy ceiling.
7. No outside display, sale, or storage of merchandise shall be permitted at the fueling facility. As used for this condition, the term “merchandise” shall include but not be limited to ice, soda, candy, and/or snack machines.
8. Intercom and other speaker systems shall operate in such a manner that they shall not be audible from adjacent properties.
9. The area beneath the fuel area canopy shall not drain directly into the existing infiltration BMPs for the shopping center. An alternate BMP or a separation system to accept drainage from this project shall be shown on the site plan and shall be approved by the Environmental Division prior to final site plan approval.
10. If construction has not begun on the project within thirty-six months of the issuance of the special use permit, it shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
11. The applicant shall design access ways, drive aisles, curbing, pavement markings and landscape islands in such a way as to provide for the safe flow of traffic in and around the fueling facility as determined by the Planning Director.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-16-05. Treleaven Warehouse and Nursery

Mr. Trey Davis, Planner, stated that Stanley Treleaven of T&S Associates, Inc., applied for a special use permit (SUP) to allow for a contractors warehouse, in addition to a nursery, in an existing building located on 4.74 acres, zoned A-1, General Agriculture, at 4191 Rochambeau Drive, and further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4). The site is also designated as Rural Lands on the Comprehensive Plan Land Use Map.

Staff found the proposal, with conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application with the listed conditions in the resolution.

Mr. Brown opened the Public Hearing.

1. Mr. Stanley Treleaven, T&S Associates, Inc., provided an overview of the development of the site and application, and requested flexibility in the application to be able to store some materials outside which would be landscaped to block the materials from general view.

Mr. Brown inquired if the applicant wanted to defer action on the application to permit time to work out the details of the requested amendment.

Mr. Davis offered to make a recommended amendment to the language of the resolution permitting flexibility for storage of materials outside the facility upon approval from the Planning Director.

1. Mrs. Lisa Hardy, 4111 Rochambeau Drive, stated concern regarding how the site is be used; stated concern about the estimated 51 vehicle trips per day that would be generated; inquired as to what type of vehicles would be creating those trips and questioned the safety of pets and children while commercial vehicles are moving on an access road that is 30 feet from the entrance to their home; stated concern for vehicles exiting the site and westbound traffic on Rochameau Drive and requested a no left turn sign be placed at the exit of the site; inquired about the adequacy of entrance road to handle traffic, requested a watch for children sign be posted; and stated that trimming of the trees that block view of traffic on Rochambeau Drive needs to be done.

Ms. Hardy also stated concern about the potential decrease of property value to their home; stated that there would be an increase risk of crime to their home while unattended; requested a change in a provision to limit operating hours of warehouse to 6 a.m. to 5 p.m. and limit days of operation.

Mr. Brown requested feedback on concerns voiced by Mrs. Hardy.

Mr. Treleaven stated that he understands the Hardy's concern about the access road's proximity to their home and offered to put fence along road, stated that he is be happy to work out issues if they are reasonable; and stated that the business' hours of operation are reasonable as initially proposed and the issue of crime is not legitimate.

The Board and applicant discussed the traffic issues and the recommendation of the Virginia Department of Transportation to have a stop sign installed at the exit of the site.

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

The Board briefly discussed the proposal, concern that an amendment for outdoor storage is proposed so late in the process; merits of a children playing sign on the roadway, a no left turn sign, and amending the operation hours of the facility; and willingness to defer consideration on the application until the applicant, staff, and adjacent property owner can discuss the issues raised.

Mr. Brown concurred with the Boards suggestion of a deferral and deferred the item to July 12, 2005.

Mr. Treleaven stated concern that the deferral will only propagate more issues and deferrals.

4. Case No. ZO-3-05. Zoning Fee Change

Mr. Matthew D. Arcieri, Senior Planner, stated that the proposed Zoning Fee changes are estimated to generate the \$30,000 in additional revenue included in the FY06 budget adopted by the Board to support an additional staff position to support Planning Division operations.

Mr. Brown opened the Public Hearing.

1. Robert Duckett, representing the Peninsula Housing & Builders Association, stated opposition to the proposed ordinance with excessive fee increases; stated that the proposed fee changes do not identify associated administrative costs that justify such an increase; and urged the Board to deny the proposed fee changes.

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

The Board and staff discussed the proposed fee increase, personnel cost associated with rezoning processing, that costs for staff positions has not doubled in the past year yet current fees do not cover those costs associated with rezoning, and that the proposed fee would cover the additional staff time to help process the rezoning work load for the department.

Mr. McGlennon made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Bradshaw (2). NAY: Harrison, Brown (2). ABSENT: Goodson (1).

The motion failed on a tied vote.

5. Easement and Right-of-Way Dedication, Monticello Avenue/Ironbound Road Intersection

Mr. John T. P. Horne, Development Manager, stated that staff has been working with the Virginia Department of Transportation (VDOT), New Town Associates, the College of William & Mary, and the City of Williamsburg to design the improvement of the intersection of Monticello Avenue and Ironbound Road. The reconstructed intersection will include added turn lanes and medians on all approaches, and 1,000 feet of Ironbound Road north of Monticello Avenue will be reconstructed due to changes in the alignment of lanes at the intersection. All rights-of-way and easements are to be donated from the College of William & Mary, New Town Associates, the City of Williamsburg, and James City County. The two resolutions authorizes the transfer of an permanent utility easement to Dominion Virginia Power to allow the relocation of current underground power lines further south outside of the new roadway right-of-way, and transfer right-of-way to VDOT for the roadway construction.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

EASEMENT AND RIGHT-OF-WAY DEDICATION,

MONTICELLO AVENUE/IRONBOUND ROAD INTERSECTION

WHEREAS, James City County has requested the Virginia Department of Transportation (VDOT) to improve the intersection of Monticello Avenue and Ironbound Road; and

WHEREAS, in order to complete that improvement, approximately .764 acres of additional right-of-way is necessary from the site of the Williamsburg-James City County Courthouse, which is jointly owned by the City of Williamsburg and James City County.

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey right-of-way to VDOT.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a deed and such other documents necessary to transfer approximately .764 acres of right-of-way to VDOT as shown on Sheet Nos. 3 and 4 of the plans for Project 0321-047-103, R/W-201.

RESOLUTION

EASEMENT AND RIGHT-OF-WAY DEDICATION,

MONTICELLO AVENUE/IRONBOUND ROAD INTERSECTION

WHEREAS, James City County has requested the Virginia Department of Transportation to improve the intersection of Monticello Avenue and Ironbound Road; and

WHEREAS, Dominion Virginia Power has existing underground power lines within the area that will be affected by the roadway improvements; and

WHEREAS, it is necessary to move the existing power lines to a new easement area outside of the new road right-of-way onto the site of the Williamsburg-James City County Courthouse, which is jointly owned by the City of Williamsburg and James City County.

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey a utility easement to Dominion Virginia Powers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Right-of-Way Agreement and such other documents necessary to transfer approximately .152 acres of permanent utility easement to Dominion Virginia Power as shown on a Plat to Accompany Right-of-Way Agreement prepared by Dominion Virginia Power dated May 19, 2005.

G. BOARD CONSIDERATIONS

1. Award of Contract Change – Phase II – Design of Community Sports Facility

Mr. Bernard M. Farmer, Jr., Capital Projects Administrator, stated that the preliminary design phase for the Community Sports Facility is near completion and Clough Harbor and Associates has provided staff with its proposal for further design efforts through final construction.

Staff has reviewed the proposal and believes the work effort used for developing the fee proposal is consistent with the work required for a facility of the scope, and that the fees represented are appropriate.

Staff recommended adoption of the resolution authorizing the award of the contract change for full design of the Community Sports Facility to Clough Harbor and Associates.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF CONTRACT CHANGE - PHASE II -

DESIGN OF COMMUNITY SPORTS FACILITY

WHEREAS, the preliminary design services for the Community Sports Facility are nearing completion and staff has negotiated a satisfactory Phase II scope of services and fees that are appropriate to complete the final design work and final construction; and

WHEREAS, authorized Capital Improvements Program (CIP) budgeted funds are now available to fund this portion design contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract change documents for the full design of the James City County Community Sports Facility at the Warhill Sports Complex in the total amount of \$400,900.

2. Stonehouse Request for Private Streets

Mr. Matthew D. Arcieri, Senior Planner, stated that V. Marc Bennett of AES Consulting Engineers submitted a request for approval of private streets for two projects in the Stonehouse Master Planned Community, zoned PUD, Planned Unit Development. The two projects under review are the Fairways (Case NO. SP-6-05) and Clubhouse Point (Case No. SP-7-05). Although private street issues are typically handled at the rezoning level, the current Stonehouse master plan and proffers do not include provisions for private streets in multifamily portions of the development.

The primary public concern with private streets is ensuring that they are properly constructed so as to not create a long-term maintenance issue for the homeowners and that adequate maintenance provisions are established. Given the recent interest by residents of Stonehouse in these cases, staff notified adjacent property owners and the homeowners association in writing of the proposed request for private streets.

Staff recommended approval of the resolution permitting private streets in the two Stonehouse projects.

The Board and staff discussed the proposal, examples of other private streets and the maintenance of those streets in other subdivisions, and commented on the lack of communication by the developer with the surrounding community.

Mr. Bradshaw inquired why the developer is not responding to the surrounding community queries related to the proposal.

Mr. Bennett stated that there were two demonstrations of the project to the community; and due to the ongoing work that is underway with the architect, there has been a delay in communicating that aspect of the proposal to the community.

Mr. Bradshaw inquired why the private street issues have not been addressed to the community.

Mr. Bennett stated that he would not speculate on why the developer has not communicated with the community about their concerns.

The Board discussed concern about the *capability* of the developer who does not respond to the community's interest and inquires, and encouraged Mr. Bennett to get in touch with the developer and let him know the Board's concerns about the lack of open communication with the surrounding community on his proposal.

Mr. Wanner recommended a deferral date of July 26, 2005.

Mr. Brown deferred action on the time to July 26, 2005.

3. Acquisition of Property, Toano Convenience Center

Mr. William C. Porter, Jr., Assistant County Administrator, stated that with the expansion of the Emergency Communications Center and installation of the new County radio system, the Toano Convenience Center needed to be relocated. Staff has identified 185 Industrial Boulevard as the site for the relocated Toano Convenience Center and has completed negotiations for a 1.15-acre portion for the Center.

Staff recommended adoption of the resolution authorizing the County Administrator to execute all necessary documents for the purchase of the property.

Mr. Porter stated that staff hopes to have the Center open in mid October.

Mr. Bradshaw expressed his support for the project and made a motion to adopt the resolution.

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

RESOLUTION

ACQUISITION OF PROPERTY, TOANO CONVENIENCE CENTER

WHEREAS, Crown Castle GT Company LLC, a Delaware limited liability company, currently owns a certain parcel located at 185 Industrial Boulevard in James City County, designated as Tax Parcel No. 1240100013E (the "Site"); and

WHEREAS, there is a proposed real estate purchase agreement to convey to James City County a tract of land on the Site, shown as 1.15 acres (the "Property") on that certain plat entitled "James City County, Toano Convenience Center," dated September 17, 2004; and

WHEREAS, the Property was appraised at \$65,000 by Simerlein Appraisals, Ltd. on November 30, 2004, and the proposed purchase price of the Property is \$65,066; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Property for the purpose of establishing a Toano Convenience Center.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the Property located on the Site, Tax Parcel No. 1240100013E, and more commonly known as 185 Industrial Boulevard, for the purpose of establishing a Toano Convenience Center.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the proposed real estate purchase agreement and any other documents needed to acquire the Property shown as "Proposed Parcel 50,094 S.F. or 1.15 ACRES" on that certain plat entitled "James City County, Toano Convenience Center," dated September 17, 2004, located at 185 Industrial Boulevard.

H. PUBLIC COMMENT

1. Mr. John Colligan, 3064 Ridge Drive, requested additional information on the specification of a private road construction in comparison to a public road construction.

The Board invited Mr. Colligan to speak with staff regarding the details.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that in light of the recent news about the State investigation into the possible misuse of funds by the former Fire Chief, the County Treasurer, the Department of Financial and Management Services, and he instituted the following action plan to examine the County's cash management systems and recommend improvements. He then read the Action Plan:

Last Friday I sent a memo to the Board of Supervisors outlining the details of this plan and I would like to take a moment to share that information with our citizens. But first, let me reassure everyone that public safety was neither compromised nor shortchanged as a result of the Flower Fund under investigation. Donors can be assured that every effort will be made to recover any money that may have been improperly

spent. And citizens can be assured that the County will take every measure necessary to insure that the public trust is upheld. Our acting Fire Chief recently shared that donations to the Fire Department are steadily increasing. The continued support from our citizens for the fine men and women in the County's Fire Department is greatly appreciated.

The County's independent auditors, along with employees representing our Department of Financial and Management Services and the Treasurer are working to strengthen the County's Cash Handling Policy by examining the following practices:

(1) The acceptance and transmittal of donations, memorials, rebates, refunds, restitutions, and reimbursements.

(2) Our cash collection procedures with a focus on proper internal controls with the possible elimination or consolidation of cash collections and requiring credit cards or checks as the only payment options. Pot instructions at each cash collection point that checks must be made out to the "Treasurer of James City County." Judge Powell entered an order on June 13, 2005, at the Treasurer's request that payment at the Clerk of the Circuit Court must be made out to the "Treasurer of James City County."

(3) The documentation of all cash and/or non-personal bank accounts available to County employees and agencies using the County's Employer Identification Number and/or name. This includes all accounts where cash is held in trust for an individual or for a non-profit community group. We will evaluate internal controls, signature authority and the legislation creating these accounts and consolidate them as much as possible under the oversight of the County Treasurer. The Treasurer has contacted every staff supervisor and is confident that there are not other bank accounts not under the management of her office.

(4) The examination of administrative regulations and procedures that document the authorized approval signatures required for expenditures of public funds, payments made to or on behalf of County employees and/or outside agencies and community groups. We will amend and expand those procedures as needed to insure property oversight.

(5) The evaluation of the need for an internal auditor to examine cash receipts and disbursements, billings and collections to determine internal control weaknesses, compliance, enhancements and improvements.

Staff is also working to recover every possible dollar using the authority granted to the Treasurer, the Courts and the County's insurer. I have every confidence that our system will be strengthened and County staff will continue to maintain our nationally recognized financial management and accounting practices.

As this process continues, I will advise the Board and citizens on the status of each of these action items.

J. BOARD REQUESTS AND DIRECTIVES

The Board discussed the funding for the part-time position in the Planning Department that was to have been funded by the revenues generated by the Zoning Fee changes that were not approved, ways to fund the position, and guidance to staff to show clearly defined justification for proposed fee increases.

Mr. Wanner stated that the Board will be presented a resolution adjusting the adopted FY06 budget based upon the Boards actions earlier, and stated the position will be funded.

K. WORK SESSION

1. Open Burning Ordinance

Acting Fire Chief Tal Luton introduced Deputy Fire Marshall Joe Davis, Captain John Black, Assistant Fire Marshall, Mr. William Apperson, Department of Agricultural and Forestry, and Mr. David Slack, Manager of Department of Forestry for James City County and York County

Mr. Davis provided an overview of the proposed Open Burning Ordinance that is continued from the May 10, 2005, Work Session, including the general requirements, permits, common citizen concerns, and open burning options and examples.

The Board and staff discussed non-compliant and illegal open burnings, the benefits of hotter burning fires, the Fire Department's role in monitoring and responding to citizen concerns and complaints about open burn projects.

The Board, staff, and Mr. Apperson discussed the proposed 1,000-foot buffer, factors that contribute to the negative impact of open burn such as humidity and wind levels for smoke and ash deposit to surrounding property, residents, and citizens; and discussed the adequacy of a 1,000-foot buffer.

The Board and staff discussed the range of cost to the County to respond to a complaint about an open burn, how long open burn permits are valid, how long open burn projects may last, how most complaints have shifted to environmental and health concerns associated with the open burns.

The Board and staff discussed the open burn options and advantages and disadvantages of the options.

Mr. Robert Duckett, Peninsula Home Builders Association, commented on the adverse consequences of prohibiting open burning in the County such as elevated noise, construction vehicle traffic increases, and increased costs; and requested the Board not ban open burning in the County or the Primary Service Area (PSA).

The Board and staff discussed the benefits of the open burn options, consideration of the open burning in the transition areas outside the PSA.

Mr. Rogers presented an alternate ordinance based upon feedback provided at the May 10 Work Session and suggested specific language be added to the proposed ordinance that would require a special note and approval of surrounding property owners for open burning with the PSA or within 1,000 feet of the perimeter of the PSA.

Mr. Mark Rinaldi, 10022 Sycamore Landing Road, stated that he believes the proposed distance separation is not intended to eliminate the nuisance factor but rather to minimize the threat of fire to existing structures or adjacent property.

The Board requested clarification language be place in the ordinance to indicate the ordinance will take effect for all permits issued after June 14, 2005.

Mr. McGlennon made a motion to accept the amendments made during the discussions and approve the proposed ordinance.

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

Mr. Brown stated that Caroline Rhodes has agreed to serve if appointed as alternate to a Board member on the Community Action Agency (CAA) and made a motion to appoint Ms. Rhodes as his alternate to the CAA for the Powhatan District.

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

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 10:01 p.m. Mr. Brown adjourned the Board until 4 p.m. on June 28, 2005.

Sanford B. Wanner
Secretary to the Board

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Grace A. Boone, General Services
SUBJECT: Installation of "Watch for Children" Sign - Mill Creek Landing Subdivision

Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing them to take this action and allocating secondary road system maintenance funds for this purpose.

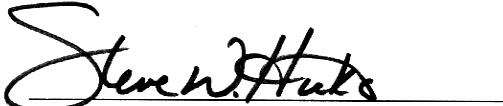
Residents of the Mill Creek Landing community have requested the Board of Supervisors seek approval for a "Watch for Children" sign to be installed on Bridgewater Drive at the location shown on the attached drawing. The attached resolution requests that VDOT install and maintain one "Watch for Children" sign on Bridgewater Drive.

Staff recommends adoption of the attached resolution.



Grace A. Boone

CONCUR:



Steven W. Hicks

GAB/gs
millcreeksign.mem

Attachments

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN -

OLD STAGE ROAD

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of Old Stage Road community have requested that "Watch for Children" signs be installed on Old Stage Road as illustrated on the attached drawing titled "Old Stage Road 'Watch for Children Signs.'"

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

Michael J. Brown
Chairman, Board of Supervisors

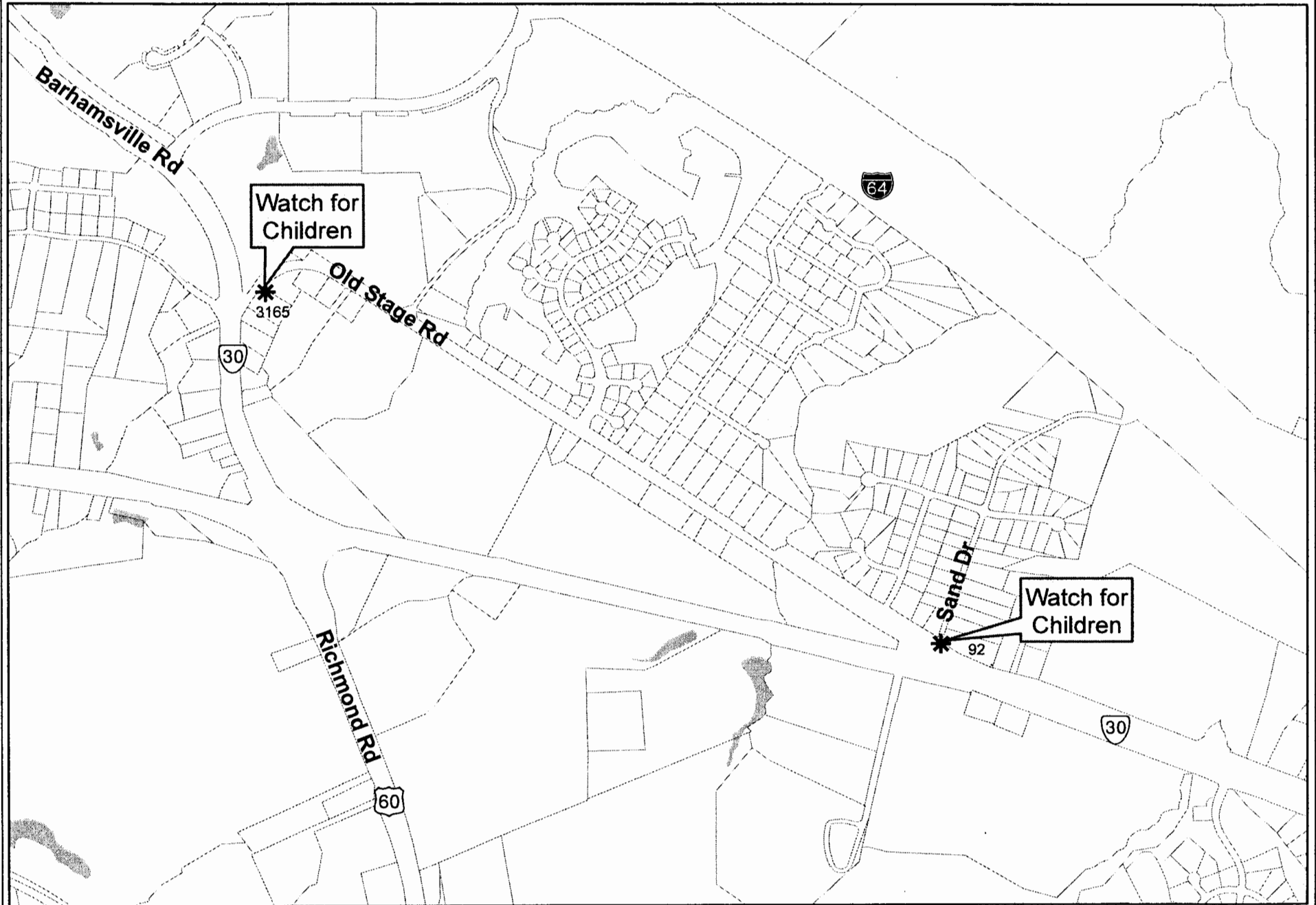
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June, 2005.

oldstagesign.res

OLD STAGE AREA - "WATCH FOR CHILDREN" SIGNS



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.

1 inch equals 1,000 feet

0 0.125 0.25 Miles



MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Grace A. Boone, General Services
SUBJECT: Installation of "Watch for Children" Sign - Mill Creek Landing Subdivision

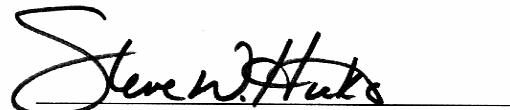
Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing them to take this action and allocating secondary road system maintenance funds for this purpose.

Residents of the Mill Creek Landing community have requested the Board of Supervisors seek approval for a "Watch for Children" sign to be installed on Bridgewater Drive at the location shown on the attached drawing. The attached resolution requests that VDOT install and maintain one "Watch for Children" sign on Bridgewater Drive.

Staff recommends adoption of the attached resolution.


Grace A. Boone

CONCUR:


Steven W. Hicks

GAB/gs
millcreeksign.mem

Attachments

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN -

MILL CREEK LANDING SUBDIVISION

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Mill Creek Landing community have requested that a "Watch for Children" sign be installed on Bridgewater Drive, as illustrated on the attached drawing titled "Mill Creek Landing Subdivision 'Watch for Children Sign.'"

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

Michael J. Brown
Chairman, Board of Supervisors

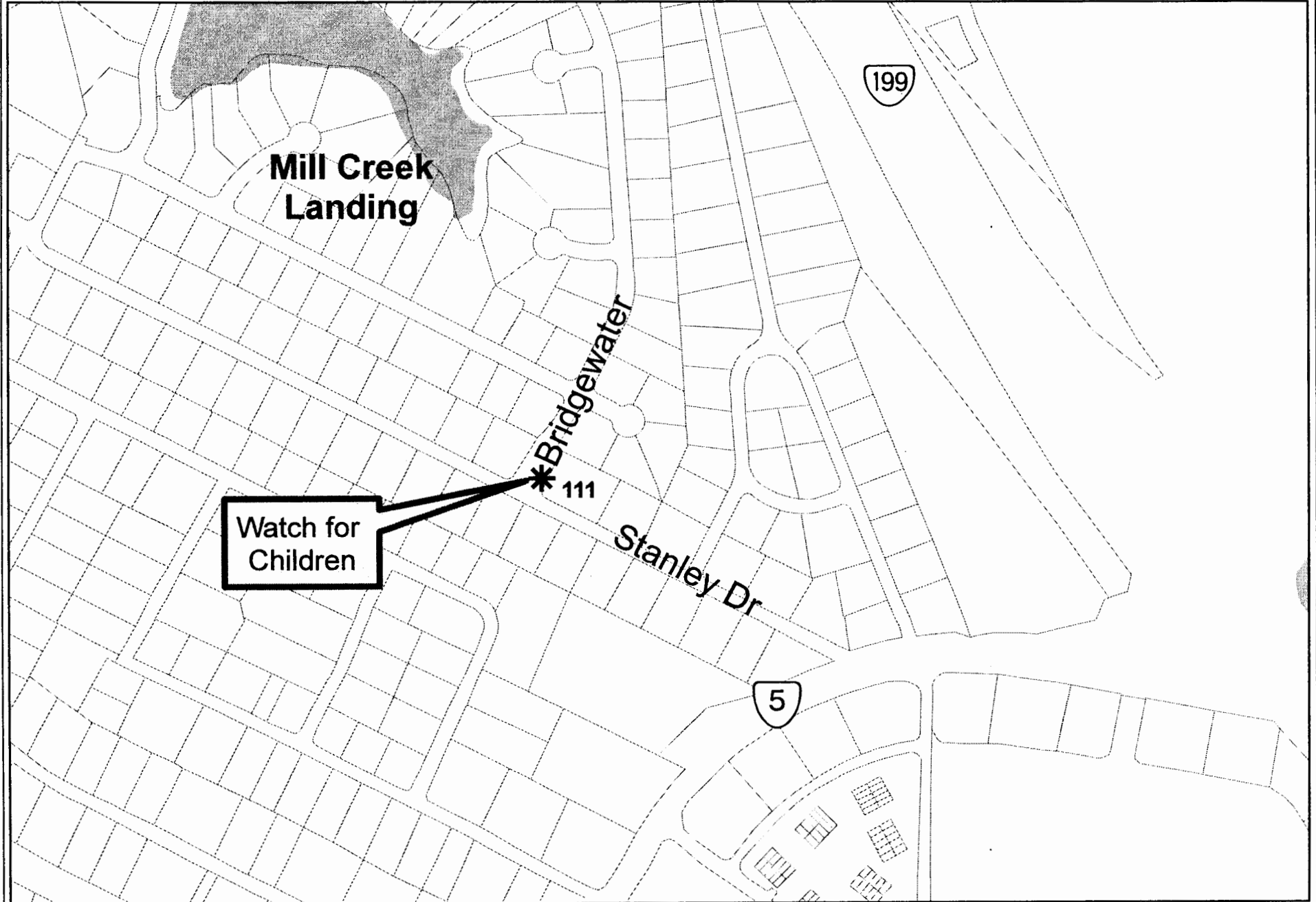
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June, 2005.

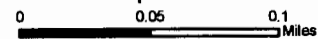
millcreeksign.res

MILL CREEK LANDING - "WATCH FOR CHILDREN" SIGNS



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1 inch equals 378 feet



MEMORANDUM

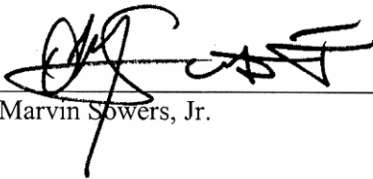
DATE: June 28, 2005
TO: The Board of Supervisors
FROM: O. Marvin Sowers, Jr., Planning Director
SUBJECT: Proposed Relocation of Route 60, Pocahontas Trail

The Virginia Department of Transportation (VDOT) held a public hearing in James City County to present the proposed route for the relocation of Route 60, Pocahontas Trail. The hearing was held at James River Elementary School on May 11, 2005, from 4:30 to 7:30 p.m.

The proposed route begins at existing Route 60 near Blow Flats Road. The route turns southeast, crossing the GreenMount Industrial Park between the Wal-Mart Distribution Center and Skiffe's Creek. The proposed route then crosses Skiffe's Creek into the City of Newport News, traversing through the Oakland Industrial Park before terminating at the existing Route 60/Route 105 (Fort Eustis Boulevard) interchange. Diagrams and illustrations of the proposed route were presented at the hearing and the public was invited to submit comments.

In order for this case to be heard by the Commonwealth Transportation Board at its July 2005 meeting, VDOT must obtain resolutions of concurrence from participating localities. Staff has reviewed the alignment proposed by VDOT and finds that it will effectively meet the transportation objectives of the roadway project.

Staff recommends approval the attached resolution.



O. Marvin Sowers, Jr.

OMS/gb
Relocation.mem

Attachments:

1. Resolution
2. Location Public Hearing Route 60

RESOLUTION

PROPOSED RELOCATION OF ROUTE 60, POCAHONTAS TRAIL

WHEREAS, a Location Public Hearing was conducted on May 11, 2005, in James City County by representatives of the Virginia Department of Transportation (VDOT) after due and proper notice for the purpose of considering the proposed location of Route 60, Pocahontas Trail, PPMS Numbers 13496 and 14598 in James City County, at which hearing aerial photographs, drawings, and other pertinent information were made available for public inspection in accordance with State and Federal requirements; and

WHEREAS, all persons and parties in attendance were afforded full opportunity to participate in said public hearing; and

WHEREAS, representatives of James City County were present and participated in said hearing; and

WHEREAS, the Board of Supervisors had previously requested VDOT to program this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the location of the proposed project as presented at the James River Elementary School Public Hearing.

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 28th day of
June, 2005.

Relocation.res

LOCATION PUBLIC HEARING ROUTE 60

James City County/City of Newport News

POCAHONTAS TRAIL/JAMES CITY COUNTY
STATE PROJECT NUMBER: 0060-047-V11, PE-101, 612
FEDERAL PROJECT NUMBER: STP-084-1 (109)

WARWICK BOULEVARD/CITY OF NEWPORT NEWS
STATE PROJECT NUMBER: 0060-121-V14, PE-101, 612
FEDERAL PROJECT NUMBER: STP-5403 (490)

Wednesday, May 11, 2005
James River Elementary School
8901 Pocahontas Trail
4:30 PM—7:30 PM

WELCOME

The purpose of this Location Public Hearing is to provide a public opportunity for any person, acting on his/her own behalf or representing a group or governing body, the opportunity to offer comments or submit written material or other displays concerning the proposed Route 60 study in James City County and the City of Newport News.

It is the responsibility of the Virginia Department of Transportation (VDOT) to ensure that all members of the community are afforded the opportunity to participate in public decisions on transportation systems and projects affecting them. The VDOT ensures non-discrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964. For further information, contact the VDOT's Hampton Roads Civil Rights Division Office, located at 1700 North Main Street, Suffolk, VA 23434 or telephone (888) 723-8427 or TDD 711.

In compliance with the National Historic Preservation Act, Section 106 and 36 CFR Part 800, information concerning the potential effects of the proposed improvements on properties listed in or eligible for listing in the National Register of Historic Places will be available at the hearing.

All comments received both oral and written, will be included in a transcript for review by VDOT personnel, citizens and all other interested parties. Questions and concerns raised as a result of this meeting will be addressed prior to consideration of the project by the Commonwealth Transportation Board.

PURPOSE OF THE STUDY

The purpose of this study is to develop alternative corridors to alleviate traffic congestion on existing Route 60 in James City County and the City of Newport News. The study begins in the vicinity of Green Mount Industrial Park in James City County, and extends to Route 105 (Fort Eustis Boulevard) in the City of Newport News.

This project is included in The Virginia Transportation Development Plan for Fiscal Year 2004-2010, and in the Hampton Roads 2026 Regional Transportation Plan.





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BACKGROUND

Considered a major arterial highway between Williamsburg and the City of Newport News, Route 60 has existing and planned industrial and commercial developments, as well as historic attractions along its corridor. These are the major factors of the growth and increase in traffic demands for this area.

The Peninsula Area Transportation Study of 1967 indicated the need for expanding Route 60 to a four-lane facility, and in the early 1970's, the study began for this improvement.

A Location Public Hearing was held on January 20, 1971 on corridors developed at that time. On March 18, 1971, the Commonwealth Transportation Board selected one of these corridors for the construction of a new four-lane, divided highway along the existing Route 60 corridor. The construction of the selected corridor never became a reality because of other higher priority roadway projects.

Due to development occurring within the selected corridor because of the delay of construction of the project, another study began in the late 1970's for an alternative to the previous corridor selected by the Commonwealth Transportation Board. An evaluation was made of the traffic analysis, access impacts, along with the environmental factors. The results of project analyses performed created additional options not previously studied. A Citizen Information Meeting was held on April 20, 1999 to provide the public review and comments of the three corridors developed at that time.

However, early in 2004, the project limits were reduced in the Hampton Roads Metropolitan Organization's Long Range Plan to include only that portion of the project from Route 60 near Green Mount Industrial Park to Route 105 (Ft. Eustis Blvd.). One of the three previously studied corridors has now been refined within the new constraints of the project, and is now being displayed at this Location Public Hearing.

WHAT'S BEING CONSIDERED

"BUILD ALTERNATIVE"

The following described alternative can be viewed on the enclosed map on page 3 of this brochure, as well as on the aerial mosaics on display at this Location Public Hearing.

CORRIDOR A

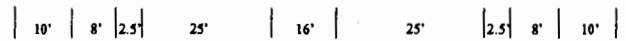
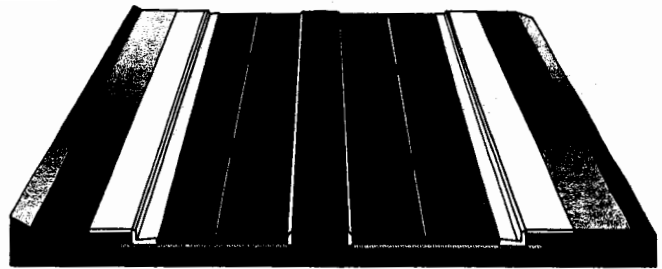
Corridor A begins at existing Route 60 near Blow Flats Road, in James City County, approximately 0.9 mile west of the West Corporate Limits of Newport News. Turning in a southeasterly direction and entirely on new location, the corridor traverses through Green Mount Industrial Park between the Wal-Mart Distribution Center and Skiffes Creek. Corridor A then turns in a more southerly direction to approximately midway between Wal-Mart and Skiffes Creek, where it then turns southeasterly and crosses Skiffes Creek into the City of Newport News. The corridor then traverses through Oakland Industrial Park before terminating at the Route 60/ Route 105 (Ft. Eustis Boulevard) interchange.

"NO-BUILD"

If no selection of an alternative is made, no other action will be taken other than maintenance on the existing street systems. This alternative will do nothing to relieve congestion faced today, or the increase of traffic expected in the future years.

PROPOSED TYPICAL SECTION

The proposed typical section for Corridor A provides for two (2) lanes of travel in each direction, separated by a raised median, with curb and gutter, and sidewalk on both sides.



107' PROPOSED R/W

ESTIMATED PROJECT COST (2005 cost in million dollars)

JAMES CITY COUNTY

Length (miles)	2.3
Construction	\$32.7
P.E.	\$ 7.2
Right-of-Way /Utilities	<u>\$ 5.1</u>
Total	\$45.0

CITY OF NEWPORT NEWS

Length (miles)	1.0
Construction	\$16.4
P.E.	\$ 2.2
Right-of-Way /Utilities	<u>\$ 2.5</u>
Total	\$21.1

TOTAL PROJECT COST

Length (miles)	3.3
Construction	\$49.1
P.E.	\$ 9.4
Right-of-Way/Utilities	<u>\$ 7.6</u>
Total	\$66.1

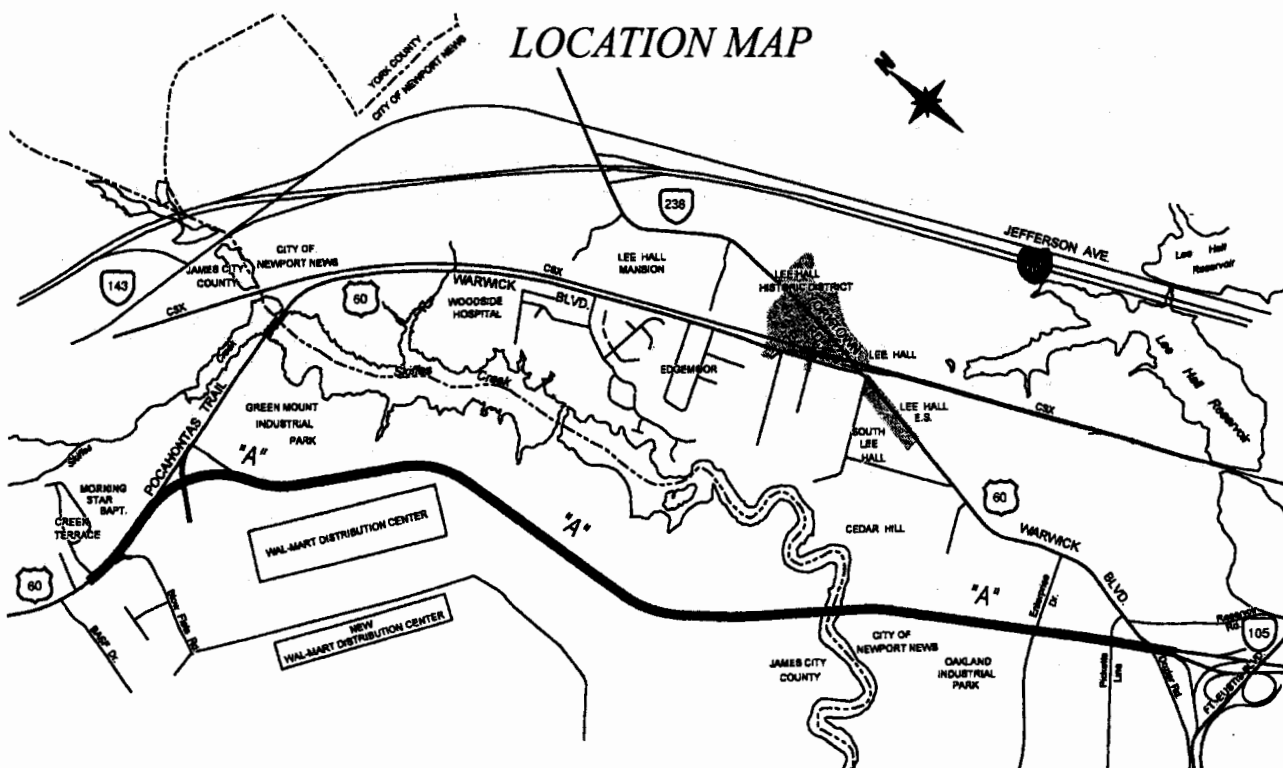
This project is currently funded for Preliminary Engineering only in the Six-Year Improvement Program for Fiscal Years 2005-2010.

TRAFFIC

Build Alternative- The anticipated Average Daily Traffic (ADT) for the Year 2026 is 16,000 to 32,000
No-Build- The anticipated Average Daily Traffic (ADT) on existing two-lane Route 60 for the Year 2026 is 16,000 to 20,000

RIGHT OF WAY

There are no relocations associated with Corridor A.



ENVIRONMENT

The Draft Environmental Assessment has been prepared, and was approved and signed by the Federal Highway Administration on February 10, 2005. The Assessment documents the purpose and need for the project, and addresses any environmental concerns that have been identified during the study's development. It also addresses such issues as threatened and endangered species, wetlands, air quality, noise, historic and cultural resources, and impacts to residences, businesses, and other organizations. The cost associated with the project and reported in the assessment has been updated since the document was signed. The correct cost is reported on page 3 of this handout.

The Assessment is available for public review at this Location Public Hearing. Maps, and the assessment are also available for review at:

- Hampton Roads District Office, 1700 North Main Street, Suffolk, VA 23434
- Williamsburg Residency, 4451 Ironbound Road, Williamsburg, VA 23188
- The Department of Engineering, in the Newport News City Hall, 2400 Washington Avenue, Newport News, VA 23607

Should the Commonwealth Transportation Board select the Build Alternative to go forward, any concerns relating to it would be addressed and resubmitted to the FHWA for review. If the FHWA is satisfied with the responses to these concerns, and it has been determined there are no significant impacts associated with the project, it will then issue a Finding Of No Significant Impact (FONSI). The project would then proceed to the Design Stage when funding becomes available.

REMAINING ACTIONS

- Review and evaluate the information received at this Location Public Hearing;
- Presentation of the Corridor to the Newport News City Council for its consideration and recommendation;
- Presentation of the Corridor to James City County for its consideration and recommendation;
- Presentation to the Commonwealth Transportation Board for its consideration and recommendation;
- FHWA review and issuance of a Finding Of No Significant Impact (FONSI)/Federal Register Notice;
- Proceed to the Design Phase of Project Development when funds are available. Currently, only funding for Preliminary Engineering has been authorized.

Written comments concerning this project should be mailed within **10 calendar days** (May 21, 2005) of this meeting to:

*Mr. Dennis W. Heuer, P.E.
Hampton Roads District Administrator
Virginia Department of Transportation
1700 North Main Street
Suffolk, VA 23434*

All comments, written and oral, will be included in the official Public Hearing transcript, and will be available at the above address for public review.

Comments or questions regarding Right of Way or Relocation Assistance should be submitted to:

*Mr. O. Warren Williams
Hampton Roads District
Right of Way and Utilities Manager
Virginia Department of Transportation
1700 North Main Street
Suffolk, VA 23434*

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Budget Amendment - Reduction in Planning Fee Estimate

An additional \$30,000 in planning and zoning fees was programmed in the adopted FY 2006 Budget from an increase in fees. The \$30,000 was used to fund the transition of a part-time planner position to a full-time planner position, attempting to respond to the needs in the Planning Division. I am recommending that the full-time position be retained.

To reduce spending by \$30,000, I am proposing to reduce Planning professional services from \$40,000 to \$20,000. The \$20,000 is closer to the actual spending in FY 2005 from this line item for tasks such as traffic counts, roadway analyses, and communication tower evaluations. If needs exceed the \$20,000 in FY 2006, operating contingency funds are available. I would also propose to reduce other operating costs in the Planning Division FY 2006 Budget by \$2,000.

The remaining \$8,000 needed to offset the revenue reduction will come from a correction in the budget of Neighborhood Connections. The amount of \$33,000 was set aside as the annual rental cost for space in FY 2006, but is unneeded. The office is moving from rental space to Ironbound Village. The remaining portion of the rental budget (\$25,000) will be added to the Operating Contingency budget.

Staff recommends approval of the attached resolution.

Sanford B. Wanner

SBW/gs
plngfees.mem

Attachment

RESOLUTION

BUDGET AMENDMENT - REDUCTION IN PLANNING FEE ESTIMATE

WHEREAS, the Board of Supervisors of James City County has previously adopted a budget for the 2006 fiscal year that included \$30,000 in revenue anticipated from an increase in Planning fees, which has not occurred; and

WHEREAS, FY 2005 year-end spending has been essentially completed, offering additional insight into possible reductions in proposed operating spending to offset the \$30,000 in fee revenue; and

WHEREAS, the FY 2006 Budget included \$33,000 for rental space for Neighborhood Connections that will not be necessary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to amend the previous adopted budget for FY 2006, as follows:

Revenue:

Licenses, Permits, and Fees	
Planning and Zoning Fees	<u>(\$30,000)</u>

Expenditures:

Development Management	
Planning Operating Budget	(\$22,000)
Community Services	
Neighborhood Connections	(\$33,000)
Nondepartmental	
Operating Contingency	<u>\$25,000</u>
Total	<u>(\$30,000)</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 28th day of June, 2005.

plngfees.res

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Appropriation of Funds - Chesapeake Bay Restoration Fund Grant - \$5,720

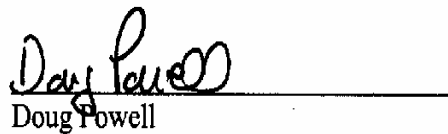
James City County's Division of Parks and Recreation has been awarded a \$5,720 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

The purpose of the matching grant is to assist with the cost of offering a special three-day environmental education program at every Total Recreation Camp site for children to study the Chesapeake Bay Watershed and its importance to the community. The three-day experience is modeled after the existing, weeklong Camp Marine Marshals that may be space and cost prohibitive for many area children. As part of the experience, children will visit Chippokes State Park, conduct water quality testing, and go to the Virginia Marine Science Museum.

Staff recommends approval of the attached resolution to accept the \$5,720 grant for the special marine camp, and to appropriate the funds as described in the attached resolution.


Needham S. Cheely, III

CONCUR:


Doug Powell

NSC/nb
chespk.memo

Attachment

RESOLUTION

APPROPRIATION OF FUNDS -

CHESAPEAKE BAY RESTORATION FUND GRANT - \$5,720

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching and SOL based environmental component to the Division's Total Recreation Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$5,720 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenues:

From the Commonwealth	<u>\$5,720</u>
-----------------------	----------------

Expenditures:

Chesapeake Bay Restoration Fund	<u>\$5,720</u>
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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 28th day of June, 2005.

chespk.res

MEMORANDUM

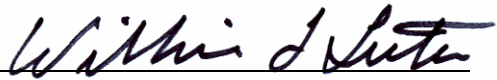
DATE: June 28, 2005
TO: The Board of Supervisors
FROM: William T. Luton, Deputy Fire Chief
SUBJECT: Appropriation of Funds - VDEM LCAR Update Funds Grant - \$2,000

James City County was awarded a \$2,000 pass thru grant from the Virginia Department of Emergency Management (VDEM) to reimburse expenses related to the annual update to James City County's Local Capability Assessment for Readiness (LCAR) survey.

Virginia Code requires all political subdivisions to provide an annually updated emergency management assessment to the State Coordinator of Emergency Management on or before July 1 of each year (§ 44-146.19.F Code of Virginia as amended). The assessment is based on nationally recognized standards of local emergency management programs (NFPA 1600). The reference for the 2005 assessment is the baseline LCAR conducted by each locality in 2003.

The receipt of the \$2,000 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/tlc
VDEM LCAR.mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDS - VDEM LCAR UPDATE FUNDS GRANT - \$2,000

WHEREAS, the Virginia Department of Emergency Management (VDEM) has approved monetary assistance to the James City County Division of Emergency Management, providing \$2,000 for Local Capabilities Assessment for Readiness Survey (LCAR).

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

Revenue:

VDEM	<u>\$2,000</u>
------	----------------

Expenditure:

LCAR	<u>\$2,000</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 28th day of June, 2005.

VDEMLCAR.res

MEMORANDUM

DATE: June 28, 2005

TO: The Board of Supervisors

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

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - David R. Tuftee

Attached is a resolution for consideration involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves the unauthorized encroachment of a building structure within a Resource Protection Area (RPA).

In accordance with provisions of the Ordinance, the planting of vegetation, installation of a Best Management Practice (BMP), and a civil charge are proposed to remedy the RPA violation. The property owners have entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved restoration plan to restore the impacted areas on their property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. In accordance with the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999, staff and Mr. Tuftee have agreed to a civil charge of \$1,500. This amount was also endorsed by the James City County Chesapeake Bay Board at its June 8, 2005, meeting. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact and the violation intent have been assessed as moderate by staff.

Staff recommends the Board adopt the attached resolution establishing a civil charge for the RPA violation presented.

Darryl E. Cook

Leo P. Rogers

DEC/gs
tufteviol.mem

Attachment

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - DAVID R. TUFTEE

WHEREAS, David R. Tuftee is the owner of a certain parcel of land, commonly know as 4047 South Riverside Drive, designated as Parcel No. (05-06) on James City Real Estate Tax Map No. (19-1), herein referred to as the (“Property”); and

WHEREAS, on or about May 16, 2005, it was determined that David R. Tuftee caused to be constructed 480 square feet of deck and building structure within the Resource Protection Area on the Property; and

WHEREAS, David R. Tuftee has agreed to pay \$1,500 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,500 civil charge from David R. Tuftee as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

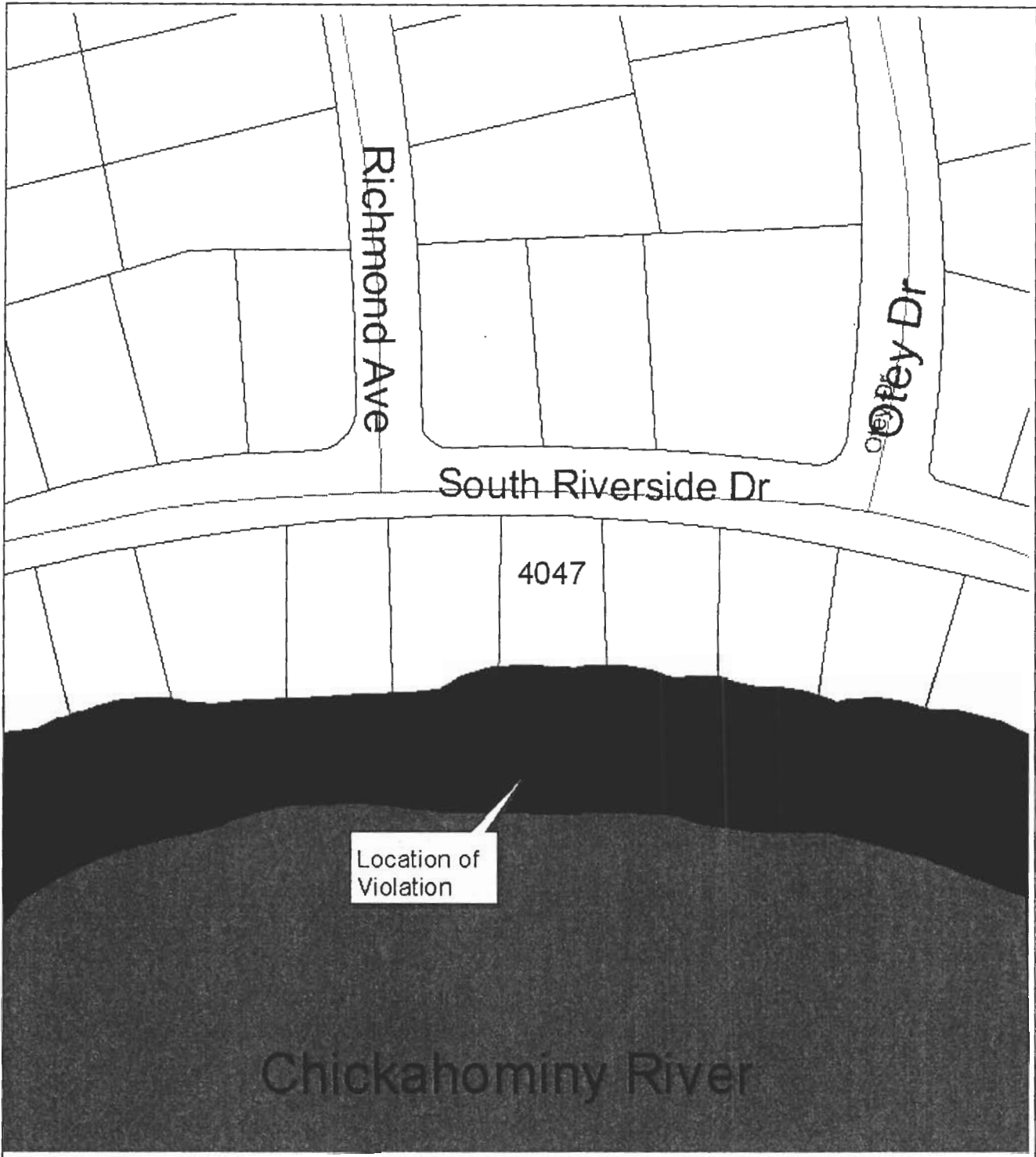
Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June, 2005.

tufteviol.res



CHESAPEAKE BAY ORDINANCE VIOLATION
4047 S RIVERSIDE DR - DAVID TUFTEE



MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Appointment - 2005 County Fair Committee

For insurance purposes, the Board of Supervisors annually appoints the James City County Fair Committee. The term of the appointments is the length of the County Fair. This year the Fair will be held on Friday, August 12, and Saturday, August 13. Attached is a resolution and a list of the volunteers that make up the 2005 James City County Fair Committee.

Staff recommends adoption of the attached resolution appointing the 2005 Fair Committee.

William C. Porter, Jr.

WCP/gs
faircmte05.mem

Attachments

RESOLUTION

APPOINTMENT - 2005 COUNTY FAIR COMMITTEE

WHEREAS, annually the Board of Supervisors appoints the James City County Fair Committee; and

WHEREAS, the 2005 County Fair will be held Friday, August 12, and Saturday, August 13.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2005 James City County Fair Committee for the term of August 12, 2005, through August 13, 2005.

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 28th day of June, 2005.

faircmte05.res

2005 James City County Fair Committee Volunteers

Beamon, Dwight
Bradshaw, Andy
Bradshaw, Nancy
Bradshaw, Richard
Bradsher, Jim
Danuser, Norman
Davis, Ann
Dubois Leanne
Garrett, Loretta
Hazelwood, Sylvia
Heath, Doris
Jacovelli, Ken
Johnson, Greg
Jones, Katie
Magnant, David
McMichael, William
Miller, Lynn
Mansfield, Sue

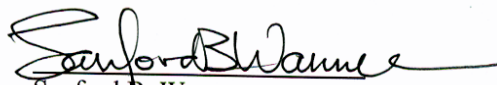
Overton, Ed
Perkins, Diana
Porter, Bill
Powell, Ellen
Ramirez, Tara
Rinehimer, Brad
Rupe, Charlie
Rupe, Mary
Sims, Angie
Steward, Edith
Townsend, J.D.
Webster, Shirley

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Appointment of Alternate to Virginia Peninsula Regional Jail Authority Board

The County Administrator is appointed as the County's representative on the Virginia Peninsula Regional Jail Authority (VPRJA) and it is permissible to have an alternate in the event the representative is unable to attend the VPRJA meetings.

I recommend the Board adopt the attached resolution appointing William C. Porter, Jr., as the alternate to the VPRJA Board.



Sanford B. Wanner

SBW/gb
VPRJA_alt.mem

Attachment

RESOLUTION

APPOINTMENT OF ALTERNATE TO

VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY BOARD

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsula Regional Jail Authority (VPRJA); and

WHEREAS, there are occasions that the representative is unable to attend VPRJA meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that William C. Porter, Jr., Assistant County Administrator, is appointed as the County's alternate to the VPRJA Board.

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 28th day of June, 2005.

VPRJA_alt.res

RESOLUTION REQUESTING THE CIRCUIT COURT TO ORDER AN
ELECTION ON ISSUANCE OF GENERAL OBLIGATION BONDS IN THE MAXIMUM
AMOUNT OF \$15,000,000 FOR PARKS AND RECREATION IMPROVEMENTS AND
\$20,000,000 FOR LAND AND VOLUNTARY LAND CONSERVATION AGREEMENTS

WHEREAS, the Board of Supervisors (the "Board") of James City County, Virginia, (the "County") believes that it is necessary and expedient to undertake (1) improvements to parks, greenways, trails and recreational facilities in the County, (2) the acquisition of land that will serve as green space for the County and (3) the acquisition of voluntary land conservation agreements rights in land that will enable the County to preserve agricultural, forestal, or environmentally sensitive lands in the County (collectively, the "Projects"); and

WHEREAS, the Board desires to determine the interest of the County's qualified voters in issuing debt in the form of general obligation bonds to finance a portion of the cost of such Projects; and

WHEREAS, Section 15.2-2640 of the Code of Virginia of 1950, as amended (the "Code"), requires that the purposes for which the bonds are to be issued and the maximum amount of bonds to be issued be set forth in a resolution; and

WHEREAS, Sections 15.2-2610 and 15.2-2638 of the Code require that voter approval be obtained at a referendum before such bonds can be issued, and Section 15.2-2640 requires that the Board by resolution must request the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Circuit Court") to order an election on the question of contracting the debt and issuing the proposed bonds

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

1. The Board hereby finds and determines that it is necessary and expedient to undertake the Projects, all of which will promote the public welfare of the County and its inhabitants.
2. The Board hereby determines that it is advisable to determine the interest of the qualified voters of the County on the incurrence of debt by the County in the form of the County's general obligation bonds to finance the cost of the Projects.
3. The Board hereby requests that the Circuit Court, pursuant to Sections 15.2-2610, 15.2-2611 and 24.2-684 of the Code, enter an Order requiring County election officials to conduct a special election for the qualified voters of the County on November 8, 2005, the day of the general election, and that referendum questions be placed on the ballot in substantially the following forms:

QUESTION: Shall James City County, Virginia, contract a debt and issue its general obligation bonds in a principal amount not to exceed \$15,000,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of improvements to parks, greenways, trails and recreational facilities?

- YES
- NO

QUESTION: Shall James City County, Virginia, contract a debt and issue its general obligation bonds in a principal amount not to exceed \$20,000,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of the acquisition of land and voluntary land conservation agreements that will serve as green space for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County?

- YES
- NO

4. The Clerk of the Board shall certify a copy of this Resolution to the Circuit Court.

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 28th day of June, 2005.

GOBondsP&R.res

The undersigned Clerk of the Board of Supervisors of James City County, Virginia hereby certifies that the foregoing constitutes a true, correct and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia at a meeting duly called and held on June 28, 2005, during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
Michael J. Brown		
Jay T. Harrison, Sr.		
Bruce C. Goodson		
M. Anderson Bradshaw		
John J. McGlennon		

WITNESS my signature as Clerk of the Board of Supervisors of James City County, Virginia, this ____ day of June, 2005.

Clerk
Board of Supervisors of James City County,
Virginia

**REZONING-15-04/MASTER PLAN-11-04/SPECIAL USE PERMIT-34-04. Villas at Jamestown
Staff Report for the June 28, 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

Building F Board Room; County Government Complex

Planning Commission: February 7, 2005, 7:00 p.m. (deferred)
March 7, 2005, 7:00 p.m. (deferred)
April 4, 2005, 7:00 p.m. (deferred)
May 2, 2005, 7:00 p.m.
Board of Supervisors: June 14, 2005, 7:00 p.m. (deferred)
June 28, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Gregory R. Davis and Mr. Timothy O. Trant, II, Kaufman and Canoles, P.C.
Land Owner: Mr. Cowles M. Spencer
Proposal: 92 single-family attached residential units
Location: 248, 238, 230, and 226 Ingram Road
Tax Map/Parcel Nos.: (46-2)(1-15), (46-2)(1-11), (46-2)(1-10), (47-1)(1-19)
Parcel Size: 30.36 acres
Proposed Zoning: R-2, General Residential District, Cluster, with Proffers
Existing Zoning: R-8, Rural Residential District
Comprehensive Plan: Low-Density Residential and Mixed Use
Primary Service Area: Inside

STAFF RECOMMENDATION

With the submitted proffers, staff finds that the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses, the Comprehensive Plan, and the Primary Principles for Five Forks Area of James City County. Staff recommends approval of the rezoning, special use permit, and master plan applications, and acceptance of the voluntary proffers.

Staff Contact: Ellen Cook Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval by a vote of 7-0. The Commission also recommended that the applicant revisit the following issues: a 15-foot building setback from the Resource Protection Area buffer; options other than curb and gutter streets; regional stormwater commitment; nutrient management plan provisions; and the impact of the proposed development on Fire and EMS services.

Applicant’s Response to Planning Commission Recommendations:

1. A nutrient management plan has been proffered by the applicant; however, staff finds that the proffer as written is unenforceable and could prove completely ineffective in achieving the proffer’s stated goal of limiting nutrient run-off into Powhatan Creek.
2. A 15-foot building setback from the Resource Protection Area buffer has been proffered.
3. A special use permit (SUP) condition has been added, which addresses curb and gutter streets in the event of an ordinance amendment or other waiver procedure.
4. The applicant has not provided staff with any additional information regarding EMS use at other Villas developments.

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

Cash Proffer Summary (See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$796 per lot
Recreation	\$74 per lot
CIP projects	\$130 per lot
Transportation Items	\$6,335 total (not per lot)
General Community Impacts	\$350 per unit
Total Amount (2005 dollars)	\$130,535
Total Per Lot	\$1,419 per lot

As a comparison, the total per lot cash contribution for Colonial Heritage (which is also a proffered age-restricted development) is \$2,082. If the public use site contribution were not counted, the total per lot amount would be \$1,332.

PROJECT DESCRIPTION

Mr. Greg Davis and Mr. Tim Trant have submitted an application to rezone 30.36 acres located on Ingram Road from R-8, Rural Residential, to R-2, General Residential, Cluster, with proffers. If approved, the developer would construct 23 quadriplexes for a total of 92 units; all units are proffered to be age-restricted.

This project proposes a gross density of three dwelling units per acre. In accordance with Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a special use permit (SUP) for residential cluster developments of more than two units per acre, but no more than three units per acre, if the developer provides the following:

1. Implementation of the County’s Streetscape Guidelines;
2. Implementation of the County’s Archaeological Policy;
3. Provision of sidewalks along one side of all internal streets;
4. Provision of recreation facilities in accordance with the County’s Parks and Recreation Guidelines;
5. Implementation of the County’s Natural Resources Policy;
6. Provision of pedestrian and/or bicycle trails; and
7. Construction of curb and gutter design on all streets within the development.

PUBLIC IMPACTS

Archaeology

The County's archaeological policy is proffered.

Environmental Impacts

- ◆ Watershed: Powhatan Creek
- ◆ Environmental Proffers/Conditions:
Low Impact Design. An SUP condition provides for the use of Low Impact Design (LID) practices on the site in accordance with the Master Plan. With this SUP condition, the applicant can use a range of different LID options, many of which are listed in the Special Stormwater Criteria document approved by the Board of Supervisors.
- ◆ Natural Resources: The County Natural Resource Policy is proffered.
- ◆ Nutrient Management Plan: A nutrient management plan is proffered; however, staff finds that the proffer as written is unenforceable and could prove completely ineffective in achieving the proffer's stated goal of limiting nutrient run-off into Powhatan Creek.
- ◆ Fifteen-foot setback from RPA buffer: The applicant has proffered a 15-foot building setback from the Resource Protection Area buffer with the exception of one specified location.
- ◆ Curb and Gutter Streets: An SUP condition has been added, which specifies that the development will be in accordance with the current ordinance but makes provisions for any future amendment of the curb and gutter requirement.
- ◆ Staff Comments: The Environmental Division finds that the proposal is consistent with and addresses recommendations outlined in the approved Five Forks Area Study (Environmental Section) and the Powhatan Creek Watershed Management Plan. In addition, the Environmental Division re-reviewed the Master Plan and Community Impact Statement since the Planning Commission meeting and staff feels comfortable with the applicant's commitment to exploring regional stormwater arrangements.

Public Utilities

- ◆ Primary Service Area (PSA): The site is inside the PSA and is served by public water and sewer.
- ◆ Public Utility Proffers:
Cash Contribution: For each unit, a cash contribution of \$796 is proffered.
Water Conservation: Water-conservation measures will be developed and submitted to the James City Service Authority (JCSA) for review and approval prior to any site plan approval.
- ◆ JCSA Comments: The JCSA has reviewed the proposal and concurs with the proffers and master plan as proposed.

Parks and Recreation/Greenway

The project proposes 23,783 square feet of community space; a minimum of 10,000 square feet of recreation area comprised of a pool, putting green, picnic area, gazebo, horseshoe pit, and clubhouse; and approximately 1,795 feet of soft-surface walking trail.

The James City County Greenway Master Plan calls for a multiuse corridor along the Powhatan Creek which would link with the Hiden (Settlement at Monticello) Trail to the north. The applicant has proffered a Greenway Trail easement through the western portion of the site.

Staff finds this proposal generally satisfies both the Parks and Recreation Master Plan and the Greenway Master Plan.

Fiscal Impact

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have an annual positive fiscal impact of approximately \$208,000 (based on the ten-year analysis period).

- ◆ Proffers:

- Cash Contribution: A cash contribution for Capital Improvement Program (CIP) projects (library and Fire/EMS facilities) of \$130 per lot is proffered.

- ◆ Staff Comments: The Department of Financial and Management Services generally concurs with the applicant's fiscal impact statement. The Department also concurs with the finding of a positive fiscal impact, although it projects a somewhat lower annual amount.

Schools

The applicant has proffered that occupancy of the proposed units shall be restricted to persons 55 years of age or older and that no unit shall be occupied by a person under the age of 18. As such, no school children are projected to be generated by this proposal.

Traffic

This proposal would be accessed from Ingram Road west of its intersection with Ironbound Road. According to the applicant's traffic study, this development will generate 320 trips per day with 7 a.m. peak hour trips and approximately 10 p.m. peak hour vehicle trips.

- ◆ 2003 Traffic Counts: Ironbound Road: 11,183 vehicles per day
- ◆ 2026 Volume Projected: Ironbound Road shows 13,000 vehicles per day on a two-lane road and is listed in the "watch" category in the 2003 Comprehensive Plan as the capacity for such roads is 13,000 vehicles.
- ◆ Road Improvements: The entrance will require a right-turn taper for the southbound Ironbound Road approach to Ingram Road.
- ◆ Traffic Proffers:
 - Road Improvements: The proffers provide for the road improvements listed above, as well as the following improvements to Ingram Road: a 24- to 28-foot-wide roadway, curb and gutter as measured from the face of curb; four-foot-wide sidewalk along one side; street trees along both sides except in specified locations.
 - Cash Contributions
 - A) Five Forks Intersection Improvements: The applicant has proffered his/her pro-rata share of the costs of the intersection improvements (\$1,835) recommended in the Primary Principles for the Five Forks Area adopted by the Board of Supervisors on September 28, 2004.
 - B) Five Forks Pedestrian Improvements: The applicant has proffered \$1,500 toward pedestrian improvements for the Five Forks Intersection.
 - C) Bike Lane. The applicant has proffered \$3,000 toward construction of a bike lane along the right-turn taper for the southbound Ironbound approach to Ingram Road.
- ◆ VDOT Comments: VDOT concurs with the recommendations of the applicant's traffic study including recommended entrance improvements.

COMPREHENSIVE PLAN

The James City County Comprehensive Plan Land Use Map designates this property for Low-Density Residential Development, with a smaller portion of this property designated for Mixed Use. Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the

degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential community with a gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. The Comprehensive Plan states that the Zoning Ordinance will specify the benefits which may be the basis for a permit to go beyond one unit per acre. The location criteria for low-density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

Mixed Use areas are centers within the PSA where higher-density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Specifically, the Five Forks Mixed Use area is the developed area in the immediate vicinity of the intersection of Route 5 and Ironbound Road which primarily serves nearby residential development. Moderate-density residential development is encouraged as a secondary use.

- ◆ Staff Comments: Section 24-549(a) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a density of approximately three dwelling units per acre. This proposal meets those specifications. In addition, the proposal provides an additional public benefit as it is in accordance with the Greenway Master Plan. The proposal is consistent with the Land Use policies of the Comprehensive Plan.

Primary Principles for Five Forks

On September 28, 2004, the Board of Supervisors adopted the Primary Principles for the Five Forks Area of James City County. The Principles set forth specific recommendations for the Five Forks Area. This proposal addresses the following principles as follows:

Pedestrian Improvements: The proposal provides sidewalk connections along upgraded Ingram Road in conformance with the Five Forks sidewalk inventory and provides a cash contribution for pedestrian improvements to the intersection. The proposal also proffers an easement through the western side of the property, in accordance with the Greenway Master Plan.

New Trip Thresholds: Trip generation thresholds presented in the Five Forks Area Study indicate the maximum number of vehicle trips that should be allowed within the Five Forks Area during either the AM or PM peak hours – with or without geometric improvements. The introduction of seven new trips during the AM peak results in the use of approximately 2 percent of the new trip threshold without geometric improvements and approximately 1.4 percent with geometric improvements. The introduction of 10 new trips during the PM peak results in the use of approximately 2 percent of the new trip threshold without geometric improvements and approximately 1.5 percent with geometric improvements.

Currently two other proposals have been reviewed or approved in the Five Forks Area (Oaktree Expansion, Ingram Road Office Building). When combined with the Villas proposal, 15.1 percent of the intersection capacity (cumulative weighted percent) has been used.

Environmental: An SUP condition provides for the use of LID practices on the site in accordance with the Master Plan.

Land Use: The proposal proffers that the architecture and exterior elevations of the units shall be generally consistent with those shown on the Architectural Sheet as determined by the Planning Director. With the Architecture Sheet and the fact that the proposal is located such that it would not be visible from Ironbound Road or John Tyler Highway, staff finds that the proposal would not adversely affect the character of the Five Forks area. The project's overall residential density is three dwelling units per acre in accordance with the recommended maximum density for areas designated low-density residential.

Staff finds that this proposal is consistent with the Primary Principles for Five Forks.

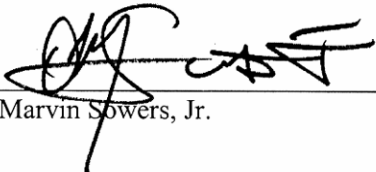
CONCLUSIONS & CONDITIONS

With the submitted proffers, staff finds that the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses, the Comprehensive Plan, and the Primary Principles for Five Forks Area of James City County. Staff recommends approval of the rezoning, special use permit and master plan applications and acceptance of the voluntary proffers. Staff recommends that the special use permit include the following conditions:

1. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining a land-disturbing permit.
2. The applicant shall implement LID practices on the site in accordance with the Master Plan and compatible with existing conditions, proposed grading, and drainage patterns. Such LID practices shall be shown on the site plan and shall be consistent with the County's Comprehensive Plan, the goals and strategies of the Powhatan Creek Watershed Management Plan adopted by the County Board of Supervisors, the Primary Principles for Five Forks Area, and applicable laws, ordinances, and regulations.
3. Any site or other development plan for the Property shall provide for curb and gutter design of all internal streets as required by Section 24-549(a)(3)(a) of the County Code; provided, however, that if the County Zoning Ordinance is amended in the future to eliminate the requirement for curb and gutter design of internal streets or if authority to waive the same is otherwise granted by the Board of Supervisors, then this condition may be waived in accordance with any such future amendment or waiver provision.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/gb

Z-15-04MP-11-04SUP-34-04_2

Attachments:

1. Planning Commission Minutes from May 2, 2005
2. Location Map
3. Master Plan
4. Fiscal Impact Statement
5. Proffers
6. Primary Principles for the Five Forks Area of James City County
7. Resolutions

**APPROVED MINUTES OF THE PLANNING COMMISSIONS May 2, 2005
MEETING**

Z-15-04/MP-11-04 Villas at Jamestown

Ms. Ellen Cook presented the staff report. Mr. Gregory R. Davis and Mr. Timothy O. Trant, II of Kaufman & Canoles have applied to rezone 30.36 acres of land from R-8, Rural Residential District to R-2, General Residential District, Cluster, with proffers. The applicant proposes 92 single family attached units. The property is located in the Five Forks area, and is more specifically at 248, 238, 230, and 226 Ingram Road and is further identified as Parcels (1-15), (1-11), and (1-10) on James City County Tax Map (46-2) and Parcel (1-19) on James City County Tax Maps (47-1). Staff recommended approval.

Mr. Billups asked for the cost and square footage of the units.

Ms. Cook answered that the units would be approximately 1,700 – 1,800 square feet. She deferred to the applicant for the cost.

Ms. Blanton asked for Staff's projections on fiscal impacts.

Ms. Cook said the Financial Management Services department estimated approximately \$92,000 per year in positive impacts.

Mr. Hunt opened the public hearing.

Mr. Greg Davis, Kaufman and Canoles, represented the applicant. Mr. Davis made a presentation outlining the proposed development.

Ms. Blanton asked for the location of the Low Impact Development (LID) aspects of the proposal.

Mr. Davis stated that the Storm Water Management Plan was a part of the Master Plan.

Ms. Blanton wanted to know what alternatives were being considered should the LID not be feasible.

Mr. Davis answered that the site design and storm water control principles in the County Ordinance would govern and that the applicant would be held to those standards.

Ms. Jones asked how much of the storm water run-off would be captured.

Mr. Davis said 100%.

Ms. Jones inquired about the four different price ranges.

Mr. Davis stated that there were four different models each with different square footage.

Mr. Kennedy wanted to know if data existed on the number of ambulance trips required for a similar project in York County. He stated his concern that the amount proffered for emergency services might not be adequate.

Mr. Davis did not have that data.

Mr. Hunt asked if the existing project in York County was age restricted.

Mr. Davis answered no. He stated that the concept was usually more appealing to older adults.

Mr. Kale stated his preference in funding emergency medical services rather than the costs associated with school age children. He also said he was glad the proposal followed the Five Fork Principles. Mr. Kale talked about the benefits of containing storm water run-off.

Mr. Fraley commended the applicant on the proposal. He also asked the applicant to consider removing the curb and gutters proposed in the application.

Mr. Davis stated that the curb and gutters were proffered based on the applicant's interpretation of the County's requirement. He also stated the applicant would be willing to remove them if possible.

Mr. Kale asked Mr. Sowers the procedure for removing the curb and gutter requirement.

Mr. Sowers said the Ordinance allows the DRC to make a special waiver at the development stage. Mr. Sowers also said the proffers could be amended before the Board meeting if the Commissioners wanted to act on the matter immediately.

Mr. Drewry suggested the Planning Commission make a comment concerning their recommendation on the removal of the curb and gutters and allow staff to research the procedure.

Mr. Kale agreed with Mr. Fraley concerning the curb and gutters. He stated that the Windsor Forest community benefited during recent heavy rainfall due to the absence of curb and gutters in that neighborhood.

Mr. Mark Kaisand of STAT Services, 2510 Manion Drive, discussed the possibility of a regional Best Management Pond (BMP) in this area instead of separate BMPs for his property and the subject parcel.

Mr. Hunt asked for the location of the BMP Mr. Kaisand was required to construct.

Mr. Kaisand indicated the location on the overhead map.

Mr. Kale asked Mr. Kaisand who he had talked to regarding the BMP.

Mr. Kaisand said Cornerstone Design, his Engineer, submitted plans to the County a few weeks ago and had been in contact with the developer for this proposal.

Mr. Gerald Johnson, 4513 Wimbledon Way, represented the Historic Route 5 Association. He stated that traffic continues to be a concern in the Five Forks area and expressed concerns about site access. He also stated his agreement for removal of the curb and gutters.

Mr. Ed Esposito, 4749 Bristol Circle, said that he was looking forward to the project. He recommended the Commission approve the project.

Mr. David Fuss, 3008 Chelsford Way, represented The Friends of the Powhatan Creek Watershed. He stated his preference that the parcel be developed according to its current by-right density. Mr. Fuss discussed different methods of minimizing impacts to the surrounding watershed which were not part of the proposal, including a setback from the buffer, stream stabilization and nutrient management.

Mr. Fraley informed Mr. Fuss of the provisions for public comment at the DRC meetings.

Ms. Jones asked Mr. Sowers if a process existed for coordinating the BMPs.

Mr. Sowers said Planning and Environmental Staff would work on the issue.

Ms. Jones wanted to know if the lower BMP encroached on the Resource Protection Area (RPA) buffer.

Mr. Davis said the drawing was only preliminary. He said that if the BMP needed to be in the buffer a permit and approval would be necessary.

Mr. Fraley asked Mr. Davis if the applicant would consider a buffer setback exception for building number 16 only.

Mr. Davis stated the applicant felt the Master Plan was adequate. He also stated that the applicant would be very cautious about proffering a comment for the buffer setback.

Mr. Fraley stated his frustration that the ordinances sometimes act mutually exclusive of one another and hinder innovative and creative plans.

Mr. Drewry said the applicant would be held to the Master Plan although it's not quite as strong as a proffer. He also stated that adequate legal phrasing could be added in a proffer statement.

Mr. Davis requested the Planning Commission approve the application with a comment concerning the setback allowing the applicant and Staff to provide appropriate legal language before the Board of Supervisors meeting.

Mr. Kale asked for clarification regarding the buffer setback issue.

Mr. Billups asked Mr. Davis if the applicant would be willing to work with Stat Services on Storm Water Management.

Mr. Davis stated that it was an Engineering issue that could be resolved.

Mr. Billups commented about the role of the Planning Commission in determining if a proposal is in compliance with the Comprehensive Plan and Ordinances and then forwarding a recommendation to the Board of Supervisors. He also stated his support of the project.

Hearing no other requests to speak, the public hearing was closed.

Ms. Blanton stated that her approval of the application would include an understanding that the LID aspects and the expanded buffer setbacks are integral to the Master Plan.

Ms. Jones stated her appreciation of the application. She also stated her preference for proposals that offered housing to individuals and families of all ages. Ms Jones said she supported the application.

Mr. Kale moved to approve the application along with the inclusion of comments regarding the elimination of curb and gutters and a clear statement concerning the buffer setback.

Mr. Fraley seconded the motion.

Mr. Kennedy said he liked many aspects of the proposal. He stated that although he had concerns about the proposal he would support it.

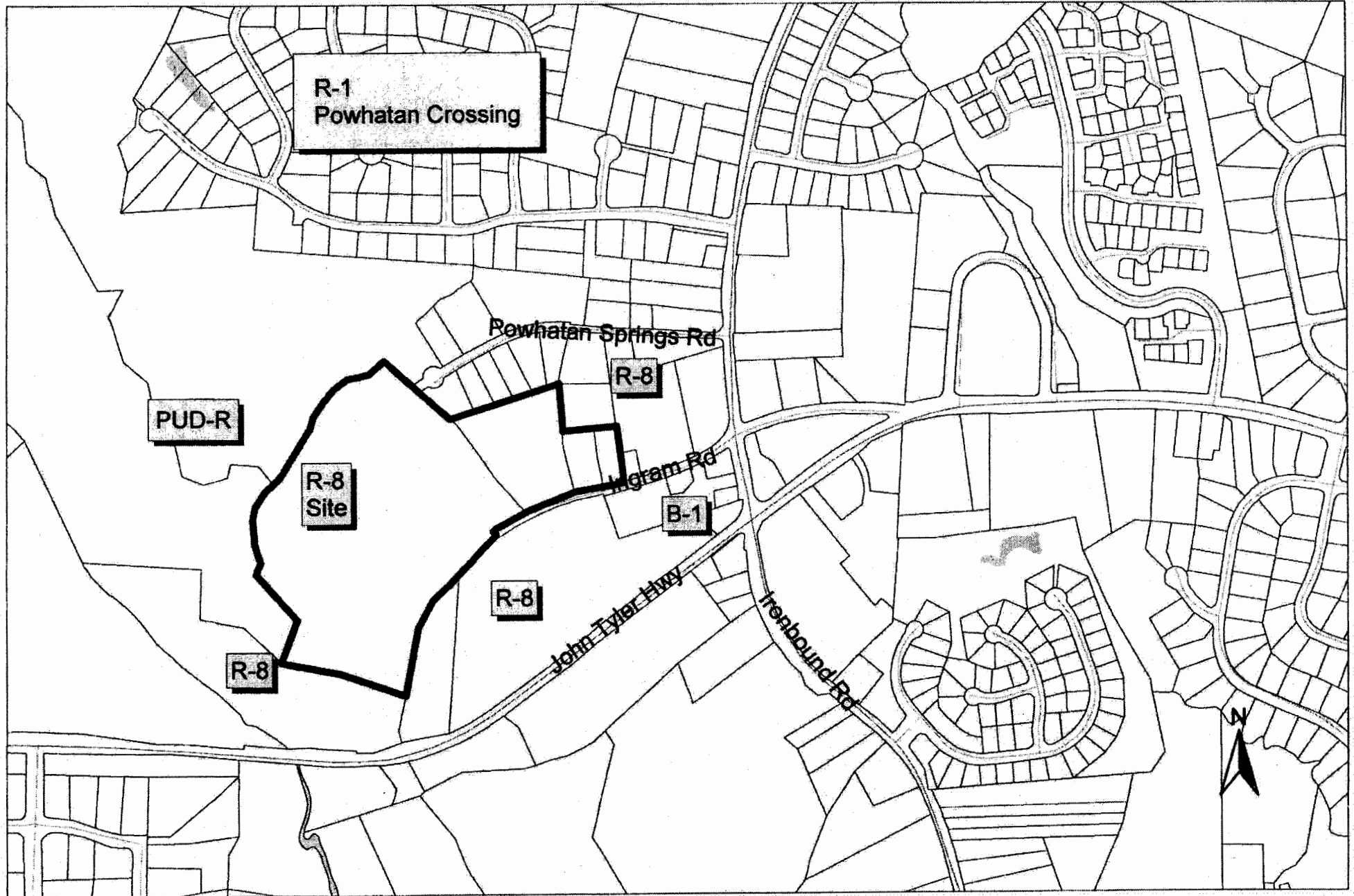
In a unanimous roll call vote the application was approved 7-0. AYE: Billups, Fraley, Kennedy, Blanton, Jones, Hunt, Kale (7); NAY (0).

Z-15-04/MP-11-04/SUP-34-04

Villas at Jamestown



Photo Copyright 2002 State of Virginia



Master Plan for Rezoning

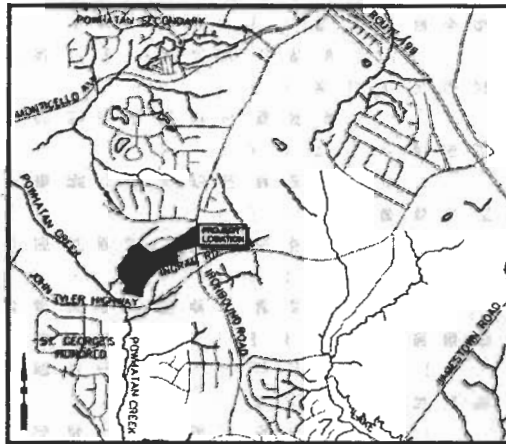
of



for

Villa Development, LLC

James City County, Virginia



VICINITY MAP
(APPROX. SCALE: 1" = 1500')

DATE: 12/17/04
REVISED: 04/18/05

AES PROJECT # 9444-00



AES
CONSULTING ENGINEERS
5348 Old Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-6040
Fax: (757) 250-8994

INDEX OF SHEETS

SHEET NUMBER	DESCRIPTION
1	COVER SHEET
2	ENVIRONMENTAL INVENTORY
3	MASTER PLAN

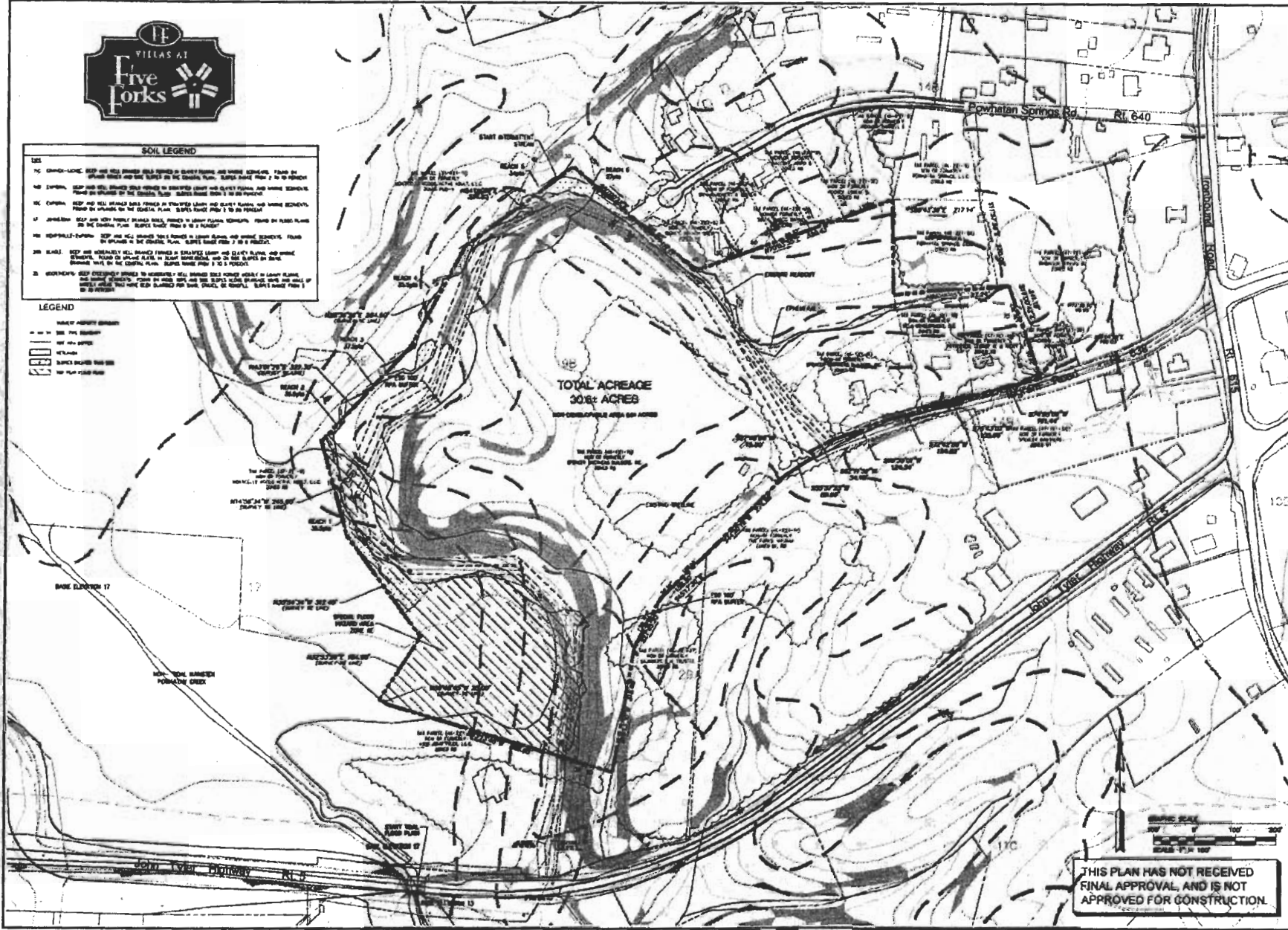
64

DATE	BY	REVISION / COMMENT / NOTE
12/17/04	ES/TK	REVISION PER COUNTY STAFF COMMENTS
12/17/04	ES/TK	REVISION PER COUNTY STAFF COMMENTS



- SOIL LEGEND**
- 101 C1 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 102 C2 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 103 C3 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 104 C4 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 105 C5 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 106 C6 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 107 C7 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 108 C8 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 109 C9 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)
 - 110 C10 - SANDY-LOAM, SLOP AND HILL SLOPES... FOUND IN... (text partially obscured)

- LEGEND**
- PROPERTY BOUNDARY
 - EASEMENT
 - UTILITY
 - EXISTING ROAD
 - PROPOSED ROAD
 - PROPOSED DRIVE



THIS PLAN HAS NOT RECEIVED FINAL APPROVAL, AND IS NOT APPROVED FOR CONSTRUCTION.

NO.	DATE	DESCRIPTION
1	10/1/00	PRELIMINARY PLAN
2	10/1/00	FINAL PLAN
3	10/1/00	AS BUILT

5248 Old Towne Place, Suite 1
 Mechanicsville, Virginia 23103
 (757) 253-5000
 Fax (757) 226-9994



**ENVIRONMENTAL INVENTORY
 VILLAS AT FIVE FORKS**

DATE: 10/1/00
 SCALE: 1" = 100'
 SHEET NO: 2 OF 3

GENERAL NOTES

- PROPERTY**
- | THE PARCEL ID | ADDRESS | OWNER | AREA |
|---------------|----------------|------------------------------------|-------|
| 00000001 | 300 HAYWARD RD | SPENCER BROOKER BALDWIN, INC. | 29.66 |
| 00000002 | 320 HAYWARD RD | SPENCER BROOKER BALDWIN, INC. | 4.36 |
| 00000003 | 330 HAYWARD RD | GEO. E. PATTERSON & SONS, A. TOTAL | 35.58 |
- BOUNDARY SHOWN HEREIN FROM A BOUNDARY SURVEY BY ACS
 - TOPOGRAPHY WITH 5' CONTOUR INTERVAL SHOWN HEREIN FROM JAMES CITY COUNTY MAPPING
 - TOTAL AREA: 30.00 ACRES
 - NO TITLE REPORT FURNISHED
 - EXISTING ZONING: R-10
 - ACCORDING TO FINAL MAP PANEL, SPENCER DOWNS DATED DECEMBER 14, 1989
 - BASED ON 100-YEAR FLOOD PLAIN ON THIS SITE
 - RETAINED AND PERMANENT STREAM ANALYSIS SHOWN HEREON DONE BY CEC AND COMPARED BY THE U.S. ARMY CORPS OF ENGINEERS
 - ACCORDING TO JAMES CITY COUNTY GIS MAPPING THERE IS SPA ON THIS SITE, HOWEVER THE CODE NOW EXTENDED SPA OR STREAM DETERMINED PERMANENT THROUGH FIELD INVESTIGATION

DEVELOPMENT NOTES

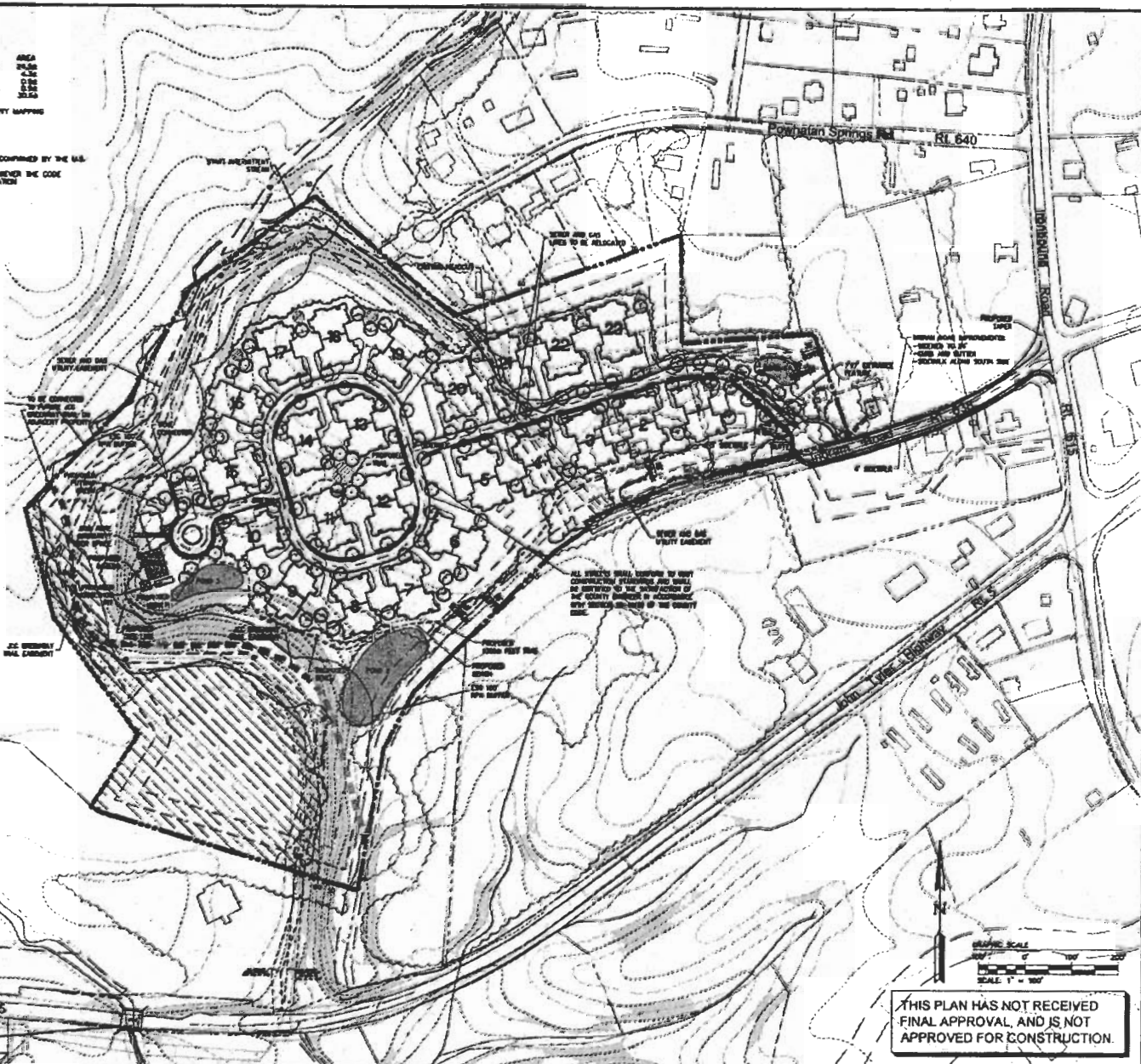
- PROPOSED ZONING: R-2 CLUSTER
- TOTAL ACREAGE: 30.00 AC
- TOTAL LOTS: 60
- OVERALL DENSITY: 5.0 DWELLING UNITS PER ACRE
- 20' BUFFER ALONG ADJACENT PROPERTIES
- 20' BUFFER ALONG RURAL ROAD RIGHT OF WAY (R2A-DE-SAC)
- 20' BUFFER BETWEEN FRONT BOUNDARY EDGE OF BUFFER
- NON-DEVELOPABLE AREA: 8.00 ACRES
- DEVELOPABLE AREA: 22 ACRES
- MINIMUM OPEN SPACE REQUIRED: 8.75 ACRES (41% PROVIDED)
- CONCEPTUAL PARKING FOR THE LAND USE CODE AND 10' ROAD HEAD SET IN BARRERS BARRER CORNER, ALONG NORTHEAST PROPERTY LINE
- CONCEPTUAL PARKING SHOWN HEREIN ARE PRELIMINARY AND MAY VARY IN SIZE, TYPE, AND LOCATION AT SITE PLAN

OPEN SPACE CALCULATION

TOTAL ACREAGE = 30.00 AC
 NON-DEVELOPABLE = 8.00 AC
 NET DEVELOPABLE = 22.00 AC
 REQUIRED OPEN SPACE = 8.75 AC (40% OF NET DEVELOPABLE AREA)
 PROVIDED OPEN SPACE (SEE BUFFER) = 7.25 AC
 BUFFER = 2.00 AC (9% OF REQUIRED OPEN SPACE)
 TOTAL OPEN SPACE = 9.25 AC (42% OF NET DEVELOPABLE AREA)

LEGEND

- (CONCEPTUAL) LOCATIONS
- 20' BUFFER FOR ZC TRAIL
- - - 20' BUFFER FOR ZC TRAIL
- SPACE TRAIL
- 10' BUFFER IMPACT DEVELOPMENT AREAS



THIS PLAN HAS NOT RECEIVED FINAL APPROVAL, AND IS NOT APPROVED FOR CONSTRUCTION.

NO.	DATE	DESCRIPTION	BY
1	12/17/04	ISSUED FOR PERMIT	CEC
2			
3			
4			
5			
6			
7			
8			
9			
10			

5048 Old Towne Road, Suite 1
 Williamsburg, Virginia 23108
 (757) 263-0040
 Fax: (757) 220-8864



MASTER PLAN
 VILLAGES AT FIVE FORKS
 GRIESENAUER PROPERTY
 JAMES CITY COUNTY, VIRGINIA

Project No.	0444-03
Issue No.	12/17/04
Scale	1" = 100'
Drawn by	CEC
Checked by	CEC

3 OF 3

Fiscal Impact Study

For

Five Forks Project: Villas At Jamestown

**To Be Developed by
Villa Development Corporation**

November 2004

Prepared By

Ted Figura,
Fiscal Consultant

FIVE FORKS PROJECT: VILLAS AT JAMESTOWN
To be Developed by Villa Development Corporation

FISCAL IMPACT STATEMENT

This fiscal impact statement is submitted in conjunction with and in support of a rezoning application made by Villa Development, L.L.C. for four parcels totaling 31.363 acres and located between and including 226 Ingram Road and 248 Ingram Road ("the Property"). The fiscal impact statement will analyze the projected revenues to be generated for James City County ("the County") and costs to be borne by the County for the proposed project and for hypothetical developments permitted by right under the existing zoning (zoning category R-8, Rural Residential District) and the most likely alternative rezoning (zoning category R-2, General Residential District). This statement will compute the additional net revenue to the County projected to be derived from the proposed project over a ten-year analysis period.

The results of the fiscal impact statement are highly positive, particularly when compared to the two alternative scenarios. Over a ten-year analysis period, this project returns revenue to the County that is more than three times the project's costs to the County. By contrast, both of the alternative development scenarios generate net costs to the County. This is largely because, in contrast to the alternative scenarios, the proposed development is likely to generate no demand on the County's school system and, also, because the proposed development's higher density will generate a greater revenue impact for the County.

Project Description

The Villas at Jamestown will consist of 92 units of age-targeted, upper-middle income housing to be constructed in 23 quadruplexes ("the Project"). The target minimum age of Project householders is 50 years of age. Thus, it is anticipated that households buying into the Project will contain few, if any, school-aged children. The Project will be developed in a condominium regime with all common areas being owned by a condominium association and assessed proportionally to the several units. Thus, the value of the aggregate units incorporates the value of all common areas contained within the Project. These common areas include, but are not limited to, streets, sidewalks, utilities, clubhouse, pool, park benches, horseshoe pits and walking trails (if allowed to be developed by the County). The clubhouse is proposed to be approximately 3,000 square feet and contain a community room, kitchenette, living room, pool table, fitness room and meeting rooms. The pool will be an outdoor, heated pool.

The Villas of Jamestown is a franchised development concept that has been well received in the local market. Four styles of housing will be available to condominium purchasers in the Project. Three other Villa developments have been or are being developed in neighboring jurisdictions on the Virginia Peninsula. One development—Rainbrook—has been already completed. That 164-unit project sold out in less than fourteen months. The developer is projecting a similar absorption for the Villas at Jamestown. This projection is bolstered by the fact that the developer already has a waiting list of prospective purchasers should the Project be approved by the County.

In conjunction with the development of the Project, the developer will also make certain improvements to Ingram Road. These improvements will not only benefit the Project, but also the office park located along Ingram Road and the existing residential properties, as well. Furthermore, these improvements will benefit any future development that may take place along Ingram Road. Although the County has no immediate plans to improve Ingram Road, it can be anticipated that citizen and business demands would eventually cause the County to have to place improving the street in its capital budget. Thus, the improvements to be undertaken by the developer represent a cost savings to the County.

Methodology and Assumptions

Project Assumptions

This fiscal impact statement first projects revenues and costs to the County that are associated with the Project. These revenues and costs are estimated over a ten-year analysis period. This period of time was chosen in recognition of the long-term nature of the Project revenue and cost impacts, while also recognizing that there is no compelling reason (such as the term of public bond financing) to extend the analysis period further.

Revenues

The analysis projects the following Project revenues to the County: real estate property tax, personal property tax, sales tax, meals tax, business license tax and the cost savings associated with the Ingram Road improvements. Certain minor taxes and fees (e.g. telephone, tobacco, etc.) were not included in this analysis.

Real Estate Property Tax

It is assumed that the original selling prices of the condominium units will form the basis of the County's real estate assessment. Since this can be determined directly from recordation, the original assessment is assumed to be 100% of the selling price. The selling price of the Project condominium units is anticipated to be as follows:

- 8 units @ \$175,000
- 8 units @ \$205,000
- 38 units @ \$225,000
- 38 units @ \$240,000

These prices (and assessments) include land and the units' pro-rata share of all common area within the Project. The existing real estate assessment of the Property (\$569,200) is subtracted from the projected Project assessment, leading to a net real estate Project assessment of \$20,140,800. Assessments are projected to increase by 3% annually. This is likely to be a conservative rate of assessment increase if current rates of appreciation persist for even a few years. The current property tax rate of \$0.825 per \$100 of assessed value is expected to remain unchanged during the analysis period.

Household-based Taxes

Personal property, sales, meals and business license taxes are considered to be derived from new household expenditures. Conservatively, 50% of the households occupying the Project are projected to be new to the County. This estimate is based upon unfulfilled demand for Villa franchise products developed in other Virginia Peninsula jurisdictions and the high rate of in-migration into the County from the target age group. Thus, all of the household-based tax estimates (as well as cost estimates) are based on expenditures by 46 Project households.

The 2002 U.S. Bureau of Labor Statistics Consumer Price Survey (CPS) was used to estimate average expenditures by Project households. The ratio of average income to average owner-occupied housing unit value within Census tract 803.02, as reported in the 2000 U.S. Census, multiplied by the average Project housing unit selling price times the inflation factor (1999-2004 as reported by the U.S. Bureau of Labor Statistics Inflation Calculator) was used to estimate average Project household income (\$113,400). This income estimate, combined with percentage-of-income expenditures for the \$70,000+ income class households, adjusted for spending patterns of persons 55 and older, formed the basis for estimating the spending patterns of Project households, upon which household-based taxes were estimated.

Personal Property Tax

Based upon the strong demand exhibited for this Project, housing units are expected to remain essentially 100% occupied. It is estimated that Project households will own an average of one vehicle per household (i.e., while some more elderly households may be without an automobile, at least an equal number of households is expected to own two automobiles). Based upon 2002 U.S. Bureau of Labor Statistics Consumer Price Survey (CPS) data, the original cost of vehicles owned by Project households is expected to average \$18,185.

It is assumed that the County's assessment of these vehicles is based upon a blue book value equal to 75% of the reported value. Thus, the average automobile value per Project household is estimated to be \$13,640. It is also assumed that the Commonwealth continues to reimburse the County for lost car tax revenue. The current personal property tax rate of 4% of assessed value is expected to remain unchanged during the analysis period. The aggregate assessed value is expected to remain unchanged during the analysis period as purchases of new automobiles compensate for the depreciation of automobiles held by their owners.

Sales Tax

Based upon the estimated Project household income \$113,400, the age-adjusted average expenditure per household on sales-taxed goods was estimated to be \$16,110 annually. This was based on expenditures for food, alcohol, laundry products, household products, clothing, furnishings, electronics, personal care products and reading. The County's receipt of the 1% local option sales tax is expected to remain unchanged during the analysis period. An average annual inflation rate of 3% is assumed for the purpose of this analysis.

Meals Tax

Based upon the estimated Project household income \$113,400, the age-adjusted average expenditure per household on meals subject to the County's 4% meals tax was estimated to be \$1,865 annually. This tax rate is expected to remain unchanged during the analysis period. As with general sales, an average annual inflation rate of 3% is assumed for the purpose of this analysis.

Business License Tax

The estimated annual aggregate expenditures on goods subject to the sales tax by Project households was used to calculate business license tax revenues to the County by applying the County's retail business license tax rate of 0.2% (\$0.20 per \$100) to these expenditures. This tax rate is expected to remain unchanged during the analysis period.

Incidental Fees and Taxes

The County will receive certain one-time taxes and fees associated with the development of the Project and the sale of condominium units. These include site plan or subdivision fees, building permit fees, utility hook-up fees, recordation taxes, etc. An exact estimation of these fees can be computed after the project has been fully designed and building plans submitted. However, a conservative estimate of this revenue source is \$50,000.

Capital Expenditures Cost Savings

The developer projects that improvements to be made to Ingram Road will cost \$98,850. For purposes of this analysis, it is assumed that the County would make similar improvements to Ingram Road during the last year of the analysis period. A 3% annual inflation rate is used to calculate the cost of such improvements in the year 2015 (\$132,850). The estimated future cost of the County undertaking this capital improvement is counted as revenue derived by the County from the Project.

Costs

The Project will generate no direct costs for the County. Indirect costs will be generated by the projected population increase associated with the Project. These indirect costs are estimated based upon the per capita cost of applicable local government services delivered to the target population. The projected population of the Project is estimated to be 1.7 persons per household (source: AARP) multiplied by the number of households (92), or 156. Consistent with the assumption made to calculate County revenues, only 50% of the Project residents (78) are projected to be new to the County. Thus, costs to the County are the product of the per capita service delivery costs times 78.

Per capita costs were estimated for the following service categories, where a population increase could be assumed to lead to an increase in County costs (i.e., variable as opposed to fixed costs). Variable cost designation was conservatively estimated. Per capita costs for variable cost services are shown below, based on a 2003 population of 53,100 and the approved FY 2004 County Budget.

Service Delivery Category	Per Capita Cost
Financial Administration	\$60.53
Public Works	\$71.80
Code Compliance	\$17.20
Mosquito Control	\$1.42
Judicial	\$45.04
Public Safety	\$263.94
Community Services	\$9.69
Parks and Recreation	\$86.03
Library and Arts Center	\$68.52
Health Services	\$20.85
Human Resources (pro-rata)	\$7.24

Absorption Rate

An absorption rate of 10 units per month and a construction lag time of 6 months were estimated for the Project. This is a conservative estimate and absorption could be higher than 12 units per month. At the estimated rate, buildout for the project will occur in fifteen (15) months from the Project start date. Real estate and other taxes are phased in accordingly during the Project's early years.

Assumptions for Project Alternatives

The fiscal impact statement then projects revenues and costs to the County associated with hypothetical developments permitted "by right" under the Property's current R-8 zoning and under the Property's most likely R-2 alternative rezoning (assuming no cluster overlay or other augmentation to the "by right" density).

Revenues

All revenue categories applicable to the Project were used, except the capital cost savings category. Except as stated below, the assumptions made for the Project remain the same for the two alternative development scenarios.

Real Estate Property Tax

The real estate property tax was calculated based upon an assumption that new housing will be priced at 1.5 times the average selling price for Census Tract 803.02, as reported by the 2000 U.S. Census, inflated at a rate of 3% annually. The projected housing prices are estimated to be \$241,800 in 2006. The total number of new housing units to be constructed is estimated to be the maximum allowable under the respective zoning categories: eleven (11) under R-8 zoning and thirty-three (33) under R-2 zoning.

Household-based Taxes

A somewhat higher percentage of alternative project housing is estimated to be purchased by in-migrants—67%, as opposed to 50% for the Project. This is based on an assumption of stronger demand for housing by in-migrants than among County residents in the general population (all age groups) as opposed to a significant demand by older County residents for a change of housing within the County. This assumption results in an addition of 8 new households under the current zoning and 22 new households under the most likely alternative rezoning.

The 2002 U.S. Bureau of Labor Statistics Consumer Price Survey (CPS) was used to estimate average expenditures by Project households. The ratio of average income to median owner-occupied housing unit value within Census tract 803.02, as reported in the 2000 U.S. Census, multiplied by the projected average unit selling price was used to estimate Project household income (\$121,800). This income estimate, combined with percentage-of-income expenditures for the \$70,000+ income class formed the basis for estimating the spending patterns of alternative project households, upon which household-based taxes were estimated.

Personal Property Tax

The number of automobiles per household is estimated at two (2). The average automobile value is calculated at \$26,830, based upon the percentage of income spent on vehicle purchase for households earning more than \$70,000, times the estimated income per household for the alternative projects.

Sales Tax/Meals Tax/Business License Tax

These taxes are computed based upon expenditure patterns as reported in the CPS for households earning more than \$70,000 annually and applied to the average household income for the alternative projects.

Incidental Taxes and Fees

Taxes and fees incidental to development are estimated as a proportion of the amount estimated for the Project, based upon the number of units developed.

Capital Expenditures Cost Savings

No improvements to Ingram Road are projected under the alternative development scenarios.

Costs

The average number of persons per household in Census Tract 803.02, as reported in the 2000 U.S. Census (2.59 persons) was used to determine the additional population added by each of the alternative projects. The per capita costs of County service delivery, as stated above, were then applied. Additionally, the 2000 U.S. Census showed an average of 0.5 school age children per household in Census Tract 803.22. This was multiplied by a per school age child expenditure of \$7,329 (as calculated from the Census and the approved FY 2004 County Budget), to calculate education costs for the alternative projects.

Absorption Rate

Based upon the high demand for housing currently experienced in the region and expected to continue, the absorption rate for the alternative projects was assumed to equal that for the Project. However, for mathematical convenience, this absorption rate was specified at eleven (11) units per month. This results in an R-8 zoning project being sold out in one month and an R-2 rezoning project being sold out in three months, with a six month construction lead time.

Since no potential alternative project is now being proposed, it was assumed that the earliest that units in an alternative development would be constructed would be January 2006, allowing 2005 for development planning, approvals and construction to take place. Obviously, the alternative development scenarios could easily be delayed beyond this timeframe, thus reducing the net revenues to the County and making the Project more attractive from a net fiscal impact perspective.

Present Value Calculation

The present value of projected revenue and cost streams for the Project and the alternative projects was calculated using a discount rate of 5%. This rate was chosen based upon a normal return on investment of 2% above the projected long-term inflation rate (3%). Present value is used to more accurately determine fiscal impacts occurring over an extended time period.

Fiscal Impact Analysis Results

Costs and revenues accruing to the County from the Project and the two alternative projects were calculated and compared. Current dollar results for the first year of full development and full taxation (2007 for all projects) and for the cumulative ten-year analysis period are shown in Table 1, attached. Discounted (present value) total costs and total revenues for the cumulative period are shown in Table 2, attached. As stated above, discounted costs and revenues most accurately reflect the true fiscal impact of the Project on the County over time.

The Project is estimated to have a significantly positive fiscal impact for the County. The ratio of cumulative discounted revenues to costs (the best measure of fiscal impact) is 3.5:1 for the Project. Alternative development scenarios, however, create a negative fiscal impact for the County. The ratios of cumulative discounted revenues to costs is 0.71:1 for a project undertaken under the current zoning and is 0.82:1 for a project undertaken with a change of zoning to R-2. Despite housing prices and household incomes estimated to be somewhat higher under the alternative development scenarios, the combination of greater density and, particularly, the absence of County education costs for the Project, as well as the expenditure on improvements to Ingram Road to be made by the Project developer, are primarily responsible for the significantly better fiscal performance of the Project.

The Project is projected to generate more than \$2,000,000 in revenues to the County during the ten-year analysis period (almost \$1,600,000 in discounted dollars), while generating costs of less than \$600,000 (about \$450,000 discounted dollars) during that period. Thus, the Project generates a significant revenue surplus for its size. Since both alternative development scenarios produce net revenue losses (more than \$110,000 in discounted dollars with R-8 zoning and more than \$175,000 in discounted dollars with R-2 zoning), a net revenue comparison (subtracting the alternative development net revenue from the Project) would only lead to an improvement in the fiscal impact of the Project. Nevertheless, a net revenue comparison is shown in Table 3, attached.

Besides the positive fiscal impact of the proposed Project, one intangible benefit of the Project should be considered. The properties to be developed have become an informal dumpsite and an eyesore in the Five Forks area. In the process of constructing the Villas of Jamestown, the developer will remove accumulated trash and significantly improve the aesthetic environment along Ingram Road. This cannot fail to have a positive long-term impact on property values, as well as on citizen welfare.

Table 1
Projected Revenues and Costs
Villas of Jamestown and Alternative Developments
(Current dollars)

	Project		Alternative R-8		Alternative R-2	
	2007	Total	2007	Total	2007	Total
Costs						
Financial Admin.	\$5,022	\$54,254	\$1,331	\$13,966	\$3,659	\$38,106
Public Works	\$5,957	\$64,356	\$1,578	\$16,567	\$4,340	\$45,200
Code Compliance	\$1,427	\$15,417	\$378	\$3,969	\$1,040	\$10,828
Mosquito Control	\$118	\$1,273	\$32	\$328	\$86	\$894
Judicial	\$3,737	\$40,370	\$1,020	\$10,392	\$2,723	\$28,354
Public Safety	\$21,897	\$236,575	\$5,976	\$60,900	\$15,955	\$166,159
Community Serv.	\$804	\$8,685	\$219	\$2,236	\$586	\$6,100
Parks and Rec.	\$7,137	\$77,111	\$1,948	\$19,850	\$5,201	\$54,159
Library & Arts Ctr.	\$5,685	\$61,416	\$1,551	\$15,810	\$4,142	\$43,135
Health Services	\$1,730	\$18,688	\$472	\$4,811	\$1,260	\$13,126
Human Resources	\$601	\$6,489	\$164	\$1,671	\$438	\$4,558
Schools	\$0	\$0	\$32,995	\$346,157	\$85,529	\$944,874
Total Costs	\$54,115	\$584,634	\$47,664	\$496,657	\$124,959	\$1,355,493
Revenues						
Real Estate Tax	\$144,970	\$1,508,165	\$17,765	\$197,723	\$62,968	\$695,638
Personal Prop. Tax	\$25,095	\$242,224	\$12,878	\$115,906	\$35,416	\$318,740
Sales Tax	\$7,747	\$87,437	\$1,779	\$19,225	\$4,750	\$52,477
Business License	\$1,549	\$17,487	\$356	\$3,845	\$950	\$10,495
Meals Tax	\$3,588	\$40,489	\$882	\$9,533	\$2,355	\$26,022
Incidental Development Taxes and Fees*	\$50,000	\$50,000	\$5,694	\$5,694	\$17,081	\$17,081
Capital Cost Saving	\$0	\$132,850	\$0	\$0	\$0	\$0
Total Revenues	\$232,949	\$2,078,652	\$39,354	\$351,926	\$123,520	\$1,120,453

*2005 for Villas of Jamestown; 2006 for Alternatives R-8 and R-2

Table 2
Discounted Costs and Revenues
Ten-year Analysis Period

	Project	Alternative R-8	Alternative R-2
Discounted Costs	\$455,163	\$380,332	\$1,036,091
Discounted Revenues	\$1,591,180	\$268,624	\$854,431
Net Discounted Revenues	\$1,136,017	(\$111,708)	(\$181,660)

Table 3
Net Cumulative Discounted Revenue Comparison

Project Net Cumulative Discounted Revenue	\$1,136,017
Project Net Cumulative Discounted Revenue over R-8 Alternative	\$1,247,725
Project Net Cumulative Discounted Revenue over R-2 Alternative	\$1,317,677

PROFFERS

VILLAS AT FIVE FORKS

May, 2005

PROFFERS

VILLAS AT FIVE FORKS

TABLE OF CONTENTS

	<u>Page</u>
<u>RECITALS</u>	1
1. Plan of Development.....	3
2. Condominium Owners Association	4
3. Parks and Recreation.....	5
4. Transportation Improvements.....	6
5. Contribution for Public Facilities.....	8
6. Archaeological Study.....	9
7. Age Restriction	10
8. Water Conservation	11
9. Streetscapes and Sidewalks.....	11
10. Limitation on Number of Residential Units.....	12
11. Building Setback.....	12
12. Architecture.....	12
13. Greenway Trail Easement.....	12
14. Natural Resource Inventory	12
15. Consumer Price Index Adjustment.....	13
16. Successors and Assigns.....	14
17. Severability	14
18. Headings	14
19. Conflicts.....	14
20. Void if Application not Approved	14

21. Incorporation of Recitals.....14

VILLAS AT FIVE FORKS PROFFERS

THESE PROFFERS are made as of this 18th day of April, 2005, by VILLA DEVELOPMENT, LLC, a Virginia limited liability company, SPENCER BROTHERS BUILDERS, INC., a Virginia corporation, GEORGE W. PATTERSON, and RICKY A. PATTERSON (collectively, together with their successors and assigns, "Owner") (index each as a "grantor"), and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property (the "Property") located in James City County, Virginia, being more particularly described on **EXHIBIT A** attached hereto and made a part hereof.

R-2. Owner has filed a rezoning application, a master plan application, and a special use permit application (collectively, the "Application") requesting a change of zoning for the Property. The Application has been designated by the County as Case Numbers Z-15-04, MP-11-04, and SUP-34-04.

R-3. In the Application, Owner has requested that the zoning of the Property be changed from R8-Rural Residential to R2-General Residential with Cluster Overlay with proffers as described by Section 24-251 *et seq.* and Section 24-538 *et seq.* of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance"), Section 24-1 *et seq.* of the County Code, in order to permit the construction of clustered "Residential Units" (hereinafter defined) at a density of three (3) "Residential Units" per "Gross Acre" (hereinafter defined). The term gross acre or gross acreage ("Gross Acre" or Gross Acreage") shall mean the total land area of a parcel, including but not limited to stream beds, areas subject to flooding, marsh and areas

with slopes exceeding twenty-five percent (25%) gradient, within the outermost boundary lines of the parcel as established by existing property lines or future subdivisions.

R-4. A conceptual plan of development ("Master Plan") entitled "Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC James City County, Virginia", dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Master Plan is on file in the office of the County Planning Director.

R-5. A community impact statement ("Community Impact Statement") entitled "Community Impact Study for the Master Plan Prepared for Villas at Five Forks", dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Community Impact Statement is on file in the office of the County Planning Director.

R-6. A traffic impact study ("Traffic Impact Study") entitled "The Villas at Jamestown Traffic Impact Study James City County, Virginia" dated November 10, 2004, prepared by URS Corporation, has been submitted to the County Planning Director and the Virginia Department of Transportation ("VDOT") for review in connection with the Application. The Traffic Study is on file in the office of the County Planning Director.

R-7. An Environmental Inventory ("Environmental Inventory") was conducted on the Property as detailed in that certain report entitled "Report of Findings Small Whorled Pogonia (Isotria Medeoloides (Pursh.) Raf.) James City County, Virginia", dated July 22, 2004, prepared by Alan J. Neumann, Ph.D. The Environmental Inventory identified no small whorled pogonias on the Property and did not identify any potential habitat for the same within the developable areas of the Property. The Environmental Inventory has been submitted to, reviewed and

approved by the County Planning Director, and is on file in the office of the County Planning Director.

R-8. Photographs and graphic examples of architectural elevations proposed for construction on the Property ("Architecture Sheet") entitled "Villas at Five Forks Sample Architecture Sheet" dated March 22, 2005, prepared by Villa Development, LLC has been submitted to the County Planning Director for review in connection with the Application. The Architecture Sheet is on file in the office of the County Planning Director.

R-9. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296, *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

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

NOW, THEREFORE, for and in consideration of the approval by the County of the Application, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code and Section 24-16 of the Zoning Ordinance, Owner agrees that it shall meet and comply with the following conditions and proffers as indicated in developing the Property.

PROFFERS:

1. Plan of Development. The Property shall be developed generally in accordance with the Master Plan with only minor changes thereto that the County Development Review Committee determines do not change the basic concept or character of the development. The

Master Plan is a conceptual plan for proposed development on the Property and provides only for the general location of buildings, proposed streets, parking, drainage facilities, areas of open space, buffer areas and recreation facilities. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

2. Condominium Owners Association. A condominium owners' association ("Owners Association") shall be established in accordance with the Virginia Property Owners' Association Act, § 55-508 *et seq.* of the Virginia Code, in which all owners of Residential Units within the portions of the Property currently lying inside the development area shall be members by virtue of their property ownership. The articles of incorporation or organization and bylaws of the Owners Association and declaration of restrictive covenants enforceable by the Owners Association (collectively, the "Governing Documents") shall be submitted to and reviewed by the County Attorney for consistency with this proffer. The Governing Documents shall require or provide for, *inter alia*, the following:

(a) The Owners Association shall adopt an annual maintenance budget and assess all of its members for the maintenance of the properties owned or maintained by the Owners Association.

(b) The Owners Association shall be granted the right to adopt and enforce rules and regulations with respect to the use of common areas and with respect to other areas of responsibility of the Owners Association.

(c) The Owners Association shall have the power to assess its members in order to provide for the budget described above, and shall further have the power to levy special assessments, and to have a lien upon property owned by its members for collection and

enforcement of such assessments, and for the cost of remedying violations of the rules and regulations established by the Owners Association.

(d) The Owners Association shall implement and enforce the water conservation standards proffered herein.

(e) Prior to the issuance of a Certificate of Occupancy for the ninety-second (92nd) Residential Unit constructed on the Property, the Owners Association shall develop and implement a nutrient management plan ("Nutrient Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into Powhatan Creek and its tributaries. The Nutrient Management Plan shall be prepared by a landscape architect licensed to practice in Virginia or submitted for review to the County Environmental Division for conformity with this proffer.

3. Parks and Recreation. In accordance with the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof, the following recreation facilities ("Recreation Facilities") shall be constructed/installed on the Property:

(a) A minimum of .546 acres of community space as shown generally on the Master Plan;

(b) A minimum of ten thousand (10,000) square feet of recreation area comprised of a pool, real or artificial turf putting green, picnic area, gazebo, horseshoe pit, and clubhouse with exercise equipment at locations to be shown on a site plan for development of the Property; and

(c) Eight (8) foot wide, pervious surface pedestrian/jogging trail(s) a minimum of .34 miles in length at locations to be shown on a site plan for development of the Property.

The design and location of the Recreation Facilities shall be subject to the review of the County Planning Director for consistency with these Proffers. The Recreation Facilities shall be open to all residents of the development, and maintained and regulated by the Owners Association. The Recreation Facilities shall be completed or guaranteed (“Guaranteed”) in accordance with Section 15.2-2299 of the Virginia Code (or any successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a “Guarantee” or “Guarantees”) prior to final site plan or subdivision plan approval for residential construction on the Property exceeding fifty (50) Residential Units.

4. Transportation Improvements.

(a) Owner shall construct/install the following entrance and road improvements (“Transportation Improvements”) to Virginia Department of Transportation (“VDOT”) standards and specifications for Ingram Road (as designated in the Traffic Study):

(1) A right turn taper for the southbound Ironbound Road approach to Ingram Road; and

(2) Improvement of Ingram Road from Ironbound Road to the entrance to the Property to provide (i) a twenty-four (24) to twenty-eight (28) feet wide roadway, curb and gutter as measured from the face of curb, (ii) sidewalk four (4) foot wide along one side of Ingram Road; and (iii) street trees along both sides of Ingram Road in accordance with the County’s Streetscape Guidelines Policy, a copy of which is attached hereto as **EXHIBIT B**, except that no street trees shall be required on the side of Ingram Road adjacent to the property located at 220 Ingram Road (County Tax Parcel I.D. # 47010100018) and 224 Ingram Road (County Tax Parcel I.D. # 47010100020).

(b) The Transportation Improvements shall be completed or Guaranteed prior to issuance of a building permit for the twenty-fifth (25th) Residential Unit on the Property.

(c) Prior to final site plan or subdivision plan approval for development of the Property:

(1) Owner shall make a contribution to the County in the amount of One Thousand Eight Hundred Thirty-Five Dollars (\$1,835.00), determined by the Owner utilizing the formula developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the "Primary Principles for the Five Forks Area of James City County" adopted by the County Board of Supervisors on September 28, 2004 (the "Primary Principles").

(2) Owner shall make a contribution to the County in the amount of One Thousand Five Hundred Dollars (\$1,500.00), determined by the Owner utilizing the cost estimates developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, representing its share of the cost of pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway recommended in the Primary Principles, and in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the Primary Principles.

(3) Owner shall make a contribution to the County in the amount of Three Thousand Dollars (\$3,000.00), determined by the Owner utilizing the cost estimates developed by AES Consulting Engineers, for the County's construction of a bike lane along the right turn taper proffered above. The County shall use these monies to construct a bike lane along the right turn taper for the southbound Ironbound Road approach to Ingram Road.

(d) All streets, internal to the Property, may be private, but shall conform to VDOT construction standards. The construction of all private streets shall be certified by the County Engineer for conformance with these Proffers prior to issuance of a final Certificate of Occupancy for the eightieth (80th) Residential Unit on the Property.

5. Contribution for Public Facilities.

(a) Water. A contribution shall be made to the James City Service Authority ("JCSA") in the amount of Seven Hundred Ninety-Six Dollars (\$796.00), for each individual residential dwelling unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Water Contribution"). JCSA shall make these monies available for development of water supply alternatives, the need for which is deemed by JCSA to be generated, in whole or in part, by the development of the Property.

(b) Recreation. A recreation contribution shall be made to the County in the amount of Seventy-Four Dollars (\$74.00), for each Residential Unit developed on the Property (the "Per Unit Recreation Contribution"). The County shall make these monies available for development of recreational facilities, the need for which is deemed by the County to be generated by the development of the Property.

(c) Library Facilities. A contribution shall be made to the County in the amount of Sixty Dollars (\$60.00) for each Residential Unit developed on the Property (the "Per Unit Library Contribution"). The County shall make these monies available for the development of library space, the need for which is deemed by the County to be generated by the development of the Property.

(d) Fire/EMS Facilities. A contribution shall be made to the County in the amount of Seventy Dollars (\$70.00) for each Residential Unit developed on the Property (the "Per Unit Fire/EMS Contribution"). The County shall make these monies available for the

acquisition of fire and rescue facilities and equipment, the need for which is deemed by the County to be generated by the development of the Property.

(e) General Community Impacts. A contribution shall be made to the County in the amount of Three Hundred Fifty Dollars (\$350.00) for each Residential Unit developed on the Property (the "Per Unit Community Contribution"). The County shall make these monies available for mitigation of impacts on the County resulting from the physical development and operation of the Property.

(f) The Per Unit Water Contribution, Per Unit Recreation Contribution, Per Unit Library Contribution, Per Unit Fire/EMS Contribution, and Per Unit Community Contribution (collectively, the "Per Unit Contributions") shall be payable for each of the Residential Units to be developed within the Property at the time of final site plan or subdivision plan approval for the particular Residential Unit or grouping of Residential Units then to be developed or at such other time as may be approved by the County Planning Director.

6. Archaeological Study. A Phase I Archaeological Study for the Property shall be submitted to the County Planning Director for his review and approval prior to issuance of a land disturbing permit for any soil disturbing activity on the Property. A treatment plan shall be submitted to, and approved by, the County Planning Director for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the County Planning Director and a treatment plan for said sites shall be submitted to, and approved by, the County Planning Director for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall

include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the County Planning Director prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's 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 site, and the clearing, grading or construction activities thereon.

7. Age Restriction. Occupancy of Residential Units developed upon the Property shall be age restricted to persons fifty-five (55) years of age or older in accordance with the following parameters:

(a) It is the intent of Owner that Residential Units shall be occupied by persons fifty-five (55) years of age or older and that no Residential Unit shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen (18) shall be entitled to occupy Residential Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph (b) below; and

(b) Each Residential Unit within the Property shall have a master bedroom and bath on the main floor of such unit and shall be developed in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. §3601 *et seq.* and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C.

§3601 *et seq.*; the Virginia Fair Housing Law Va. Code §36-96.1 *et seq.*; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in the Governing Documents of the Owners Association.

8. Water Conservation. The Owners Association shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority (“JCSA”). The standards shall address such water conservation measures as limitations on 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. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by JCSA for general consistency with this proffer prior to final approval of the first site plan or subdivision plan for development of the Property or any portion thereof.

9. Streetscapes and Sidewalks. All site plans and/or subdivision plans for development within the Property shall:

(a) Comply with the County’s Streetscape Guidelines Policy, a copy of which is attached hereto as **EXHIBIT B**; and

(b) Provide for a sidewalk at least five (5) feet in width on at least one (1) side of all internal streets.

Sidewalks along internal streets shall be constructed concurrently with the construction of adjacent Residential Units.

10. Limitation on Number of Residential Units. There shall be no more than 92 Residential Units constructed on the Property.

11. Building Setback. The Master Plan identifies an "ESG 100' RPA Buffer" (the "Buffer") on the Property. Except for that building shown on the Master Plan as "16", no building shall be constructed on the Property within fifteen (15) feet of the Buffer.

12. Architecture. The architecture and exterior elevations of the Residential Units constructed on the Property shall be generally consistent with that shown on the Architecture Sheet, and shall be subject to the review of the County Planning Director for consistency with these Proffers.

13. Greenway Trail Easement. Prior to final site plan or subdivision plan approval for development of Residential Units on the Property, Owner shall grant the County an easement for a trail through the Property in the general location shown on the Master Plan as "James City County Greenway Trail" subject to any existing easements and related easement rights of third parties. The easement shall provide, *inter alia*, that County shall be entitled to construct a pervious surface trail with a minimum ten (10) foot wide travel path (which will be open to the general public during daylight hours only), any necessary bridges, and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The easement shall be located inside the resource protection area on the Property.

14. Natural Resource Inventory. Owner shall cause a survey to be conducted of the Property for Virginia least trillium. Such survey shall be submitted to the County Planning Director for review and approval prior to land disturbance activities on the Property. If the survey confirms that Virginia least trillium either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the County Planning

Director for the affected area. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the County Planning Director, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.

15. Consumer Price Index Adjustment. All cash contributions contained in these Proffers (collectively, the "Proffered Amounts"), to include but not be limited to Per Unit Contributions, 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 Proffered Amounts be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the Proffered Amounts for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Proffered Amounts shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the 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 Proffered Amounts to approximate the rate of annual inflation in the County.

16. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

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

18. Headings. All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.

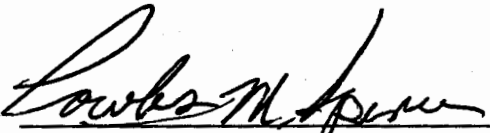
19. Conflicts. In the event that there is any conflict between these proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of supervisors and the Courts as otherwise provided by law.

20. Void if Application not Approved. In the event that the Application is not approved by the County, these Proffers and the Master Plan shall be null and void.

21. Incorporation of Recitals. The Recitals set forth above shall be included and read as a part of these Proffers and are incorporated herein by reference.

WITNESS the following signatures, thereunto duly authorized:

VILLA DEVELOPMENT, LLC

By: 
Cowles M. Spencer, Member

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF York, to wit:

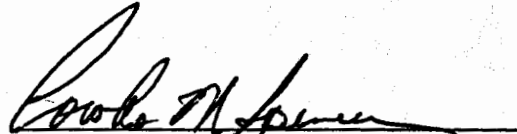
The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Cowles M. Spencer as Member of Villa Development, LLC, a Virginia limited liability company, on its behalf.


NOTARY PUBLIC

My commission expires: 6-30-05

SPENCER BROTHERS BUILDERS, INC.

By:


Cowles M. Spencer, President

COMMONWEALTH OF VIRGINIA

~~CITY~~/COUNTY OF YORK, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Cowles M. Spencer as President of Spencer Brothers Builders, Inc., a Virginia corporation, on its behalf.


NOTARY PUBLIC

My commission expires: 6-30-05


GEORGE W. PATTERSON

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by George W. Patterson.



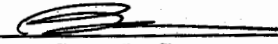
NOTARY PUBLIC

My commission expires: 10-30-05


RICKY A. PATTERSON

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF YORK, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Ricky A. Patterson.


NOTARY PUBLIC

My commission expires: 6-30-05

#6061638 v7 - Villa Development/Jamestown Villas/Proffers

Exhibit A

Parcel 1

Address: 248 Ingram Road

Parcel ID: 4620100015

All that certain tract or parcel of land situate in James City County, Virginia, containing 24.30 acres as shown on that certain plat entitle, "Map showing property containing 24.30 - Acres situated north of Route No. 5 and being the extreme Eastern portion of the Green Spring Plantation James City County, VA, standing in the name of the Pine Dell Land Co., Inc." dated May 20, 1942, and made by J. Temple Waddill, Certified Civil Engineer, duly recorded in the Clerk's Office of the City of Williamsburg and County of James City, Virginia, in Plat Book 14 at Page 99, to which reference is here made.

Being the same property conveyed to Grantors hereunder by deed of gift dated May 23, 1989, from Gertrude M. Griesenauer (formerly Gertrude M. Thompson) widow, which deed was recorded in the aforesaid Clerk's Office in Deed Book 436, page 324.

Parcel 2

Address: 238 Ingram Road

Parcel ID: 4620100011

I

All that certain piece, parcel or lot of land, situate, lying and being in Jamestown District, James City County, Virginia, more Particularly bounded and described as follows: Beginning at a chopped white oak on the north side of the road leading from Williamsburg to Greenspring, said chopped white oak being on the line dividing the property hereby conveyed from that property now or formerly known as the estate of Charlie Wynne; thence running northerly along the dividing line between the property hereby conveyed and the property now or formerly known as the estate of Charlie Wynne 70 yards to a point marked by an iron rod driven in the ground; thence in an easterly direction in a straight line 70 yards to another point marked by an iron rod driven in the ground; thence in a southerly direction in a straight line 70 yards to a point marked by another iron rod driven in the ground on the northern line of the Williamsburg-Greenspring road; thence westerly along the northern line of the Williamsburg-Greenspring road 70 yards to the point of the beginning.

II

All that certain piece or parcel of land situate in Jamestown District, James City County, Virginia, on the north side of the road leading from Five Forks to Barretts Ferry and described as follows: Beginning on the North side of said road, where the eastern boundary line of C. V. Mahone's property intersects the same, thence along said road in an easterly direction the distance of 10 yards to an iron stake, thence in a northerly direction the distance of 70 yards, more or less, to an iron stake, thence in a westerly direction the distance of 45 yards to an iron stake, the corner of C. V. Mahone, thence in a southeasterly direction along the aforesaid boundary line of C. V. Mahone the distance of 70 yards to an iron stake, the point of beginning.

III

All that certain piece or parcel of land containing three acres, more or less, situate in Jamestown District, James City County, Virginia, near Five Forks and bounded and described as follows: Beginning at an iron stake at the northwest corner of a one acre parcel owned by C. V. Mahone, on the eastern boundary of the land of Pine Dell Land Corporation, at a point seventy (70) yards north of the old Green Spring Road, a

portion of which road had been abandoned, thence in a northwesterly direction along the Pine Dell boundary line the distance of 108 yards to an iron stake, thence in an easterly direction of the distance of 169 yards to an iron stake, thence in a southerly direction the distance of 108 yards to an iron stake at the corner between the and hereby conveyed and that of Elsie E. Mahone; thence in a westerly direction along the northern boundary line of the land of Elsie E. Mahone and C. V. Mahone the distance of 115 yards to an iron stake, being the point of beginning.

Being the same property as that conveyed unto Andrew F. Rumpfelt and Mary Ethel Rumpfelt, husband and wife, by deed dated October 16, 1962 from Katie Lou Mahone, single, and recorded in the aforesaid Clerk's Office in Deed Book 87, page 493. The said Mary Ethel Rumpfelt having departed this life on June 8, 1994.

Parcel 3
Address: 230 Ingram Road
Parcel ID: 4620100010

All that lot of land, .936 acres, located in Berkley District, James City County, Virginia, being a portion of that property conveyed to George R. Patterson and Mildred J. Patterson from Dallas Onley, widower, by Deed dated June 30, 1958, recorded in James City County Clerk's Office in Deed Book 65, page 281, and being more specifically described by the survey plat thereof, entitled "Plat of That Part of Property of George R. and Mildred J. Patterson to be conveyed to George W. and Lanora A. Patterson" dated August 1968, made by Stephen Stephens, C.L.S., a copy of which is duly of record in Deed Book 117, at page 613.

Being the same real estate conveyed to Villa Development, LLC, by Deed from George W. Patterson dated May 7, 2004, recorded May 14, 2004 in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 040012780.

Parcel 4
Address: 226 Ingram Road
Parcel ID: 4710100019

All the unsold portion of a tract or parcel of land, with the building and improvements thereon, situate near Five Forks, in Jamestown District, James City County, Virginia, on the westerly side of the highway leading from Five Forks to Casey's Corner, estimated to contain two (2) acres, but sold in gross and not by the acre.

Less and except a parcel consisting of .936 acres conveyed to George W. Patterson and Lanora A. Patterson, husband and wife, recorded September 5, 1968 in Deed Book 117, at page 612.

Being a portion of the same real estate conveyed to George R. Patterson and Mildred J. Patterson, as tenants by the entirety with the right of survivorship as at common law, by deed from Dallas Onley, widower, dated June 30, 1958, recorded in the Clerk's Office, Circuit Court, James City County, Virginia in Deed Book 65, page 281. The said Mildred J. Patterson died December 14, 1977, thereby vesting fee simple title in George R. Patterson by operation of law. The said George R. Patterson died testate on April 20, 1988 and by his last will and testament probated April 26, 1988 in Will Book 30, page 270, he devised said real estate to George W. Patterson and Ricky Allan Patterson.

Exhibit B

RESOLUTION

STREETSCAPE GUIDELINES POLICY REVISION

WHEREAS, the Streetscape Guidelines Policy was originally created to preserve or establish street trees in new residential areas of James City County during the special use permit and rezoning process; and

WHEREAS, the 2003 Comprehensive Plan identified the need for a revision of the Streetscape Guidelines Policy to allow flexibility with the choice of plant material and location of street trees due to site constraints such as utilities; and

WHEREAS, the Policy Committee recommended endorsement of the Streetscape Guidelines Policy revision to the Planning Commission on February 17, 2004; and

WHEREAS, the James City County Planning Commission endorsed the revisions to the Streetscape Guidelines Policy on March 1, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

STREETSCAPE GUIDELINES POLICY

Goal

To preserve and/or establish tree canopies along residential streets, subdivision entrances, and common areas. Plant new trees appropriate to the climate and soils of James City County, enhancing existing healthy, durable, and mature trees in these areas.

Tree preservation/planting shall be accomplished such that, within 20 years growing time, the minimum tree canopy over residential streets shall be 20%. The environmental and aesthetic benefits from tree planting enhance the quality, character, and health of the community.

Guidelines for Street Trees

In all residential subdivisions, deciduous shade trees and/or shrubs shall be planted along all rights-of-way within and abutting the subdivision. Street tree plans shall be prepared by a Virginia Landscape Architect and shall be reviewed and approved by the Director of Planning. The street tree plans shall adhere to the following guidelines:

- Trees and/or shrubs shall be located within a minimum five-foot landscape preservation easement contiguous to such right-of-way. Every effort should be made to avoid conflict between the landscape preservation easement and the utilities during the design phase of the subdivision. If a conflict cannot be avoided, the landscape preservation easement shall be placed as close to the right-of-way as the design allows.

- The easement shall contain, at a minimum, one tree per an average 40 linear feet of street on each side of the street or one shrub per an average 20 linear feet of street on each side of the street. The mix of trees and shrubs shall be approved by the Planning Director.
- Trees and/or shrubs shall be spaced no greater than 75 feet apart along 60% of the street frontage.
- All trees that are planted shall be native species or street trees commonly planted in the James City County area that are adapted to the soils and climate. At the time of planting, trees shall have a minimum caliper of 1 ½". Shrubs are to be a minimum of 22" in height at the time of planting. Please refer to the Table 1 for street tree suggestions. Although plant material is not restricted to the list provided, any trees or shrubs that are invasive or require extensive maintenance for disease or pest control will not be approved.
- Existing trees which are within 20 feet of the edge of the right-of-way, and which are protected and preserved in accordance with the requirements of the Zoning Ordinance, may be used to satisfy this planting requirement if approved by the Planning Director. Canopies that are a mixture of existing and planted trees or shrubs shall have similar or complementary branch characteristics.
- Plantings are to occur between November 1 and March 31 while the plant material is dormant to reduce the stress of transplanting. Prior to final site plan approval, the plantings and installation are to be bonded.

Upon completion of installation, a Virginia Landscape Architect shall verify, in writing, that the specified trees or shrubs were installed in the locations shown on the plans. A signed letter from the Landscape Architect shall be submitted to the Planning Division at the time of verification.

Guidelines for Entrances and Common Areas

Entrances shall be landscaped with native and/or climate and soil appropriate trees, shrubs, grasses, and ground covers except where the existing mature trees have been preserved or protected in such areas. Plant material to be used in these areas shall be specified from Table 2 or, if not on the list, meet the above criteria. Unless the Director of Planning or his designee determines that such landscape treatment is unnecessary, impractical, or in conflict with drainage, utilities, sight distance, or other required features of the subdivision, the cleared portions of the entrances and associated common areas in a residential subdivision shall be landscaped with a minimum of 1 tree and 3 shrubs per 400 square feet exclusive of roadways, sidewalks, recreation facilities or other impervious areas.

In wooded areas, entrance features including walls, fences and signs shall be minimized to reduce the amount of clearing to accommodate entrance roads. In no case shall clearing for entrance roads and abutting utility easements exceed 60 feet in width.

Table 1. Suggested Street Trees

Acer campestre, Hedge Maple
Acer rubrum, Red Maple
Fraxinus pennsylvanica, Green Ash (seedless cultivars)
Gingko biloba, Maidenhair Tree (male cultivars)
Nyssa sylvatica, Black Tupelo
Ostrya virginiana, American Hophornbeam
Quercus phellos, Willow Oak
Quercus shumardii, Shumard Oak
Ulmus parvifolia, Lacebark Elm
Zelkova serrata, Japanese Zelkova

This list is suggested. Trees used are not required to be from this list.

Table 2. Suggested Plant Material for Entrances and Common Areas

Trees

Betula nigra, River Birch
Carya ovata, Shagbark Hickory
Cercis Canadensis, Eastern Redbud
Cornus kousa, Kousa Dogwood
Juniverus virginiana, Eastern Redcedar
Pinus taeda, Loblolly Pine

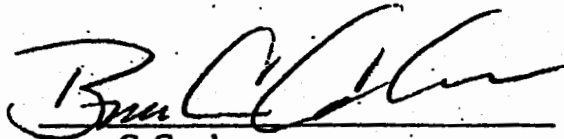
Shrubs

Hamamelis virginiana, Witch Hazel
Ilex opaca, Inkberry
Ilex vomitoria, Yaupon Holly
Myrica cerifera, Wax Myrtle
Viburnum dentatum, Arrowwood Viburnum

Groundcovers and other Herbaceous Plants

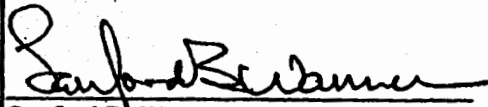
Calamagrostis acutiflora, Feather Reed Grass
Ceratostigma plumbaginoides, Plumbago
Coreopsis verticillata, Threadleaf Coreopsis
Deschampsia caespitosa, Tufted Hair Grass
Festuca cinerea, Blue Fescue
Helichtotrichon sempervirens, Blue Oat Grass
Hemerocalis, Daylily
Hypericum calycinum, St. Johnswort
Liriope muscari, Blue Lily-turf
Miscanthus sinensis, Japanese Silver Grass
Panicum virgatum, Switch Grass
Potentilla fruticosa, Bush Cinquefoil

This list is suggested. Plants used are not required to be from this list.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Warner
Clerk to the Board

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

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

streetscape.res

RESOLUTION

PRIMARY PRINCIPLES FOR FIVE FORKS AREA OF JAMES CITY COUNTY

WHEREAS, Economic Development Action 12G of the 2003 Comprehensive Plan recommends that James City County evaluate redevelopment and land use issues in the Five Forks area; and

WHEREAS, on June 8, 2004, the Board of Supervisors created the Five Forks Area Study Committee to conduct a comprehensive study of the area and develop a set of guiding principles for future development; and

WHEREAS, these principles will be used by citizens, staff, Planning Commission, and the Board of Supervisors to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area; and

WHEREAS, after four public meetings the Five Forks Area Study Committee unanimously adopted primary principles for the Five Forks area of James City County; and

WHEREAS, on September 13, 2004, the James City County Planning Commission recommended the adoption of the primary principles by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following Vision and Principles to be used alongside the 2003 Comprehensive Plan when reviewing Rezoning, Special Use Permits, and other development activities in the Five Forks area:

Primary Principles for the Five Forks Area of James City County

Five Forks is an area with a unique village character. Bounded to the east by Mill Creek and to the west by the Powhatan Creek, Five Forks is within a significant natural area. Five Forks also supports a thriving commercial center and boasts a quality elementary school at its southern edge. Five Forks is generally understood to encompass the area that lies within three quarters of a mile of the intersection of John Tyler Highway and Ironbound Road.

Five Forks has grown and changed. With new growth, however, come questions about traffic levels, housing capacity, and preservation of the village qualities that make the area unique.

The Five Forks Area Study Committee was created by the Board of Supervisors to listen to the views of County citizens, particularly those who live and work in Five Forks. The Committee's purpose was to recommend principles that preserve and build upon the many positive qualities of Five Forks. These principles seek to protect the watersheds and safeguard the village character of the area. The principles will address residential growth, commercial development, traffic concerns, and alternative transportation. The principles will be incorporated into the next regularly scheduled update of the County's Comprehensive Plan. Until that time, these principles, when approved, serve as an addendum to the 2003 Comprehensive Plan.

Vision Statement

Five Forks has a rich heritage and a community character unique to James City County. By cooperating with citizens and with local government we will preserve these qualities for future generations. Through these principles, the Committee envisions that Five Forks will be a place where future redevelopment or development:

- Improves or maintains water quality and other environmental features;
- Preserves Five Forks' unique village character;
- Does not overburden the road network beyond capacity;
- Provides adequate facilities for pedestrians and cyclists;
- Provides goods and services needed by citizens; and
- Ensures housing opportunities for all citizens.

L. Transportation Principles

1. Capitalize on and Enhance Existing Roadway Network (see the Environmental Principles for relevant information related to these recommended actions):
 - Inventory/validate existing pavement and right-of-way width.
 - Reconfigure pavement markings/lane delineations to accommodate a 150-foot full-width exclusive right-turn lane for southbound Ironbound Road (i.e., north leg).
 - Construct a 150-foot full-width right-turn lane along the northbound approach of Ironbound Road (i.e. south leg).
 - Reduce the speed limit to 35 mph approximately a half mile from the intersection of Ironbound Road and John Tyler Highway.
 - Implement AM, Noon, PM, and Off-Peak signal timing modifications to best process traffic, maximize available and enhanced capacity, and to sustain acceptable level of operations for the isolated signalized intersection of Ironbound Road and John Tyler Highway.
2. In conjunction with any development proposals using Ingram Road West for access, encourage developers to make road improvements (reopening access from Ingram Road East from John Tyler Highway was considered but was not recommended. Such reopening might prove to be unsafe and possible benefits appear to be minimal. The initiative might prove to be beneficial at some time in the future depending on future development on Ingram Road East):
 - Developers using Ingram Road West for access should rebuild this road as a two-lane roadway in accordance with current VDOT street requirements. Improvements could include:
 - 12 - 14-foot lanes to include roadway as well as curb and gutter;
 - 4-foot buffer between curb and sidewalk on one side of roadway;
 - Street trees and other aesthetic improvements; and
 - 25 mph posted speed limit.

3. Promote pedestrian and bicycle facility interconnectivity within Five Forks area (see the Land Use and Environmental Principles for relevant information related to these recommended actions):

- Utilize available funds in the Sidewalk Capital Improvement Program budget as well as alternate sources of funding including grants or private contributions to construct sidewalks and pedestrian crosswalks in accordance with the phasing plan listed below.
- Ensure that new development either provides sidewalks along public road frontages in accordance with the recommendations of the sidewalk inventory, or contributes funds to the Sidewalk Capital Improvement Program.
- Coordinate the design and construction of roadway improvement projects with bicycle and pedestrian facilities. Bicycle and pedestrian facilities should be designed with an emphasis on safety, adequate lighting, signage, and Americans with Disabilities Act (ADA) compliant features.

Phase I

- Using the Five Forks area sidewalk inventory, and considering existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to extend sidewalks to serve pedestrian activity within the businesses at the Ironbound Road/John Tyler Highway intersection.
- Stripe crosswalks and provide crossing ramps and pedestrian signals for each approach to the Ironbound Road/John Tyler Highway intersection.
- Provide paved shoulders on John Tyler Highway west of the Ironbound Road intersection during the next VDOT repaving to decrease road maintenance and provide more travel space for bicycles and pedestrians.

Phase II

- Using the Five Forks area sidewalk inventory, existing and potential development, and existing sidewalk connections as a guide, develop an implementation plan to construct sidewalk segments that provide greater connectivity between the central business area and Clara Byrd Baker Elementary School, neighborhoods, and recreational areas.
- In accordance with the Greenway Master Plan, construct a multi-use path along John Tyler Highway that can connect to Jamestown High School and the Greensprings Trail.
- Construct shoulder bikeways along Ironbound Road using Federal grants. In accordance with the Greenway Master Plan, construct a multi-use path along Ironbound Road that can connect to Mid-County Park/Monticello Marketplace Shopping Center.
- Utilize Greenway Funds in the Capital Improvement Program budget and other sources of funding such as grants to support the construction of the above multi-use paths.

4. Promote opportunities for bus service in Five Forks:
 - Work with Williamsburg Area Transport (WAT) to investigate areas and routes with the highest ridership and potential for enhanced service (e.g., to serve activity/employment centers).
 - Work with WAT and Traffix to promote public transportation incentives and the use of alternative commuting modes (park-and-ride, ride sharing, express routes, etc.) to both employers and employees.
 - Investigate opportunities to increase ridership to/from centers of activity, businesses, residential areas and special event attractions.
5. Maintain a "C" level of service for traffic conditions in Five Forks by adhering to new trip generation thresholds established in the Five Forks Area Study Traffic Impacts Alternative Analysis prepared by Kimley Horn and Associates when approving new development through the rezoning and special use permit process (trip levels above the threshold result in the Level of Service decreasing from C to D. These new trip generation threshold numbers are on top of projected 2008 background trips.):
 - Without Geometric Improvements
 - AM peak should not exceed 350 new trips
 - PM peak should not exceed 500 new trips
 - With Geometric Improvements recommended by Principle I.1
 - AM peak should not exceed 500 new trips
 - PM peak should not exceed 650 new trips
 - New development should be phased so that new trips do not exceed the lower thresholds until the improvements listed in Principle I.1 are either constructed or fully funded in the VDOT Six-Year Road Plan.
 - New development should provide a pro-rata share of the costs associated with implementing the geometric and signal improvements.

II. Environmental Principles

1. Maintain and improve water quality and reduce flooding risk in the Mill Creek and Powhatan Creek Watersheds by minimizing the amount of additional impervious cover and treating existing and additional stormwater runoff:

Develop a coordinated stormwater master plan for Five Forks. The stormwater master plan should address possibilities for regional treatment or other treatment approaches for new and existing development as well as opportunities to reduce and/or treat runoff from the existing roadway into Powhatan Creek and Mill Creek.

- Minimize drainage of new sidewalks, multiuse paths, or other transportation improvements. Encourage drainage of these improvements into a treatment facility such as a grassy swale, regional and structural Best Management Practices (BMP), or other appropriate options.

- For new or modified residential or commercial development in the Powhatan Creek and Mill Creek watershed, encourage the use of Low Impact Design (LID) and Better Site Design (BSD) techniques such as, but not limited to, those listed in the 2003 Comprehensive Plan; the Builders for the Bay James City County Local Site Planning Roundtable consensus document (expected to be completed in Fall 2004); and the booklet entitled *"Better Site Design: An Assessment of the Better Site Design Principles for Communities Implementing Virginia's Chesapeake Bay Preservation Act."*
 - Work with the Village Square Homeowners Association to ensure maintenance of the Village Square BMP and encourage the community to improve the existing BMP by pursuing a grant through the County PRIDE mini-grant program. Explore options for retrofitting and/or maintaining other Five Forks area BMPs.
 - Investigate options for and encourage the undertaking of stream restoration projects in the Powhatan Creek and Mill Creek Watersheds.
2. Ensure that any new development in the Powhatan Creek Watershed implements the recommendations of the Powhatan Creek Watershed Management Plan adopted by the Board of Supervisors on February 26, 2002:

Watershed Management Plan Recommendations:

- Non-tidal mainstem in the Five Forks area (west of Ironbound and north of Ingram Road):
By encouraging the use of expanded buffers along the Powhatan Creek mainstem.
 - Tidal mainstem in the Five Forks area (west of Ironbound Road and south of Ingram Road):
By encouraging the use of expanded buffers along the Powhatan Creek mainstem stormwater management with an added focus on fecal coliform removal.
 - Stormwater Recommendations: Use of Special Stormwater Criteria; specialized on-site BMP design with emphasis on removal of nutrients and bacteria; minimize stormwater outfalls on steep slopes.
3. Explore options for land conservation in Five Forks:
- Through the rezoning and special use permit process; encourage developers to set aside land as permanent open space.
 - Continue to target County Green Space Acquisition Funds to acquire properties that are environmentally sensitive or preserve the John Tyler Highway Community Character Corridor.

III. Land Use Principles

1. Promote mixed-use, pedestrian-friendly land-use patterns (see Principles III.6 for Land Use recommendations, including recommendations on moderate- and low-income housing):
- Pursue regulatory and investment strategies that promote a safe and healthy mix of uses (e.g., retail, residential, office, and public facilities).

- Continue to promote Five Forks as a center of community activity with complementary mixed uses.
 - Promote development patterns that support compact development, interconnected streets (connections to existing neighborhoods should be permitted only where practical and desired by those residents), sidewalks, etc., in an effort to encourage walkable neighborhoods within the Five Forks area.
2. Identify and re-utilize vacant buildings and properties that are no longer utilized:
- Encourage master planning of available land for redevelopment or new uses in order to promote shared parking, fewer entrances onto arterial roads, better utilization of land and increased open space.
 - Promote reuse and redevelopment of blighted and no longer utilized properties.
 - Target capital investments by James City County (e.g., infrastructure, underground utility lines, streetscape improvements, etc.) to support private reinvestment and redevelopment.
 - Through the Office of Housing and Community Development, investigate ways to renovate and rehabilitate the existing housing stock in the Five Forks area where appropriate. Work with private nonprofit groups such as Habitat for Humanity, the Community Action Agency and Housing Partnerships, Inc., to improve the condition and availability of the existing housing stock and assist residents that may be displaced by new development.
3. Reduce conflicts between incompatible land uses:
- Promote transitional uses between different land uses.
 - Through the rezoning/special use permit process and standards in the subdivision and zoning ordinance, reduce the impacts of higher intensity on lower intensity uses (requirements for landscaping, buffering, signage, screening, noise, odor, light, traffic, etc.).
4. Connect the land use pattern to a supportive, multi-modal transportation system:
- Establish compact, mixed-use development patterns that create a walkable environment and reduce the need to use the automobile by local residents.
 - Provide convenient pedestrian access from outlying residential areas to the Five Forks community activity center in accordance with Principle I.4.
5. Establish guidelines to define and maintain the historic, cultural, and aesthetic character of the Five Forks area:
- As part of the 2008 Comprehensive Plan update, designate Five Forks as a Community Character Area and incorporate the following guidelines as part of the Community Character element:
 - Building architecture, scale, materials, spacing, height, and color should respect the architectural context of existing structures such as the historic schoolhouse and veterinary

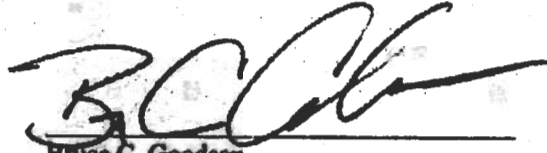
clinic and maintain the village character of Five Forks. New buildings should attempt to emulate distinguishing architectural elements of existing structures such as windows, roof lines, and cornices.

- Buildings that are traditional in character, massing, and detailing are preferred. Contemporary interpretations of traditional architecture are acceptable, if based on the scale and proportions of traditional architecture, and compatible with the context of the Five Forks village character.
 - Building facade materials and architectural treatment should be consistent on all sides of buildings, including side and rear elevations.
 - Where possible, parking should be located to the rear of buildings and should be well landscaped with shrubs and street trees. Shared access and parking should be pursued before constructing new access breaks and parking facilities.
 - Existing specimen trees and shrubs should be preserved to the extent possible. New landscaping should be of a type, size, and scale to complement and enhance the building and site design. Native plant and tree species are encouraged.
 - Signage should be of a scale, size, color, and materials to complement the village character of the area. Monument style signs, rather than pole signs, are the preferred type.
 - All mechanical equipment should be screened from view with architectural elements, fencing, or landscaping.
 - In addition to the above standards, residential buildings should have varied roof lines, wall articulations, window placements, and other features to reduce building mass and unbroken building lines. Arrangement and siting of buildings should preserve the buffers along the Community Character Corridor and complement existing structures such as the historic schoolhouse and maintain the village character of Five Forks.
 - Develop and maintain defining traits that can be reflected through landscaping or streetscape design.
 - Protect and enhance the visual character of John Tyler Highway and Ironbound Road. Transportation improvements and new development should be carefully sited to minimize loss to the existing tree canopy over the roads.
6. Ensure that future residential and non residential development/redevelopment is compatible with the vision and principles for the Five Forks area:
- Ensure new trip generating developments do not exceed new trip thresholds in accordance with Principle 1.5 through the rezoning/special use permit process.
 - Ensure proposed land uses are in compliance with the land use section of the 2003 Comprehensive Plan. The following descriptions provide additional guidance on acceptable land use proposals:

- **Low Density Residential:** Recommended gross densities are 1 to 3 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low- and moderate-cost housing developments; low- and moderate-income (Low income housing is defined as housing for persons earning less than 50 percent of area median income. Moderate income housing is defined as housing for persons earning 50 percent to 80 percent of the area median income.) housing; mixed-cost housing; or extraordinary environmental protection, including low impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan.
- **Moderate Density Residential:** Recommended gross densities are 4 to 10 dwelling units per acre. Higher densities should provide public benefits such as setting aside property for low- and moderate-cost housing developments; low-income housing (including persons earning less than 30 percent of area median income); moderate income housing; mixed cost housing; or extraordinary environmental protection, including low-impact design, better site design, open space preservation and implementation of the Powhatan Creek Watershed Management Plan. Recommended housing types include townhouses, apartments, or attached cluster housing.
- **Mixed Use:** The recommended mix of uses includes offices and community commercial uses serving residents of the Five Forks area. Moderate-density housing may be a secondary use provided it is designed in accordance with these principles.
- As part of the 2008 Comprehensive Plan update, incorporate the above guidance into the Land-Use element.

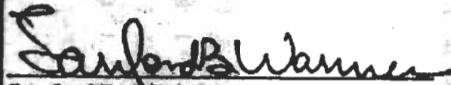
IV. Economic Development Principle

1. Promote and facilitate economic growth through development/redevelopment:
 - Facilitate the location of a new anchor tenant in Governor's Green Shopping Center should Winn-Dixie close.
 - Support the development of remaining undeveloped commercial land and vacant buildings in Five Forks to provide goods and services desired by residents of the Five Forks area.
 - Advise the Economic Development Authority on the outcomes of the Five Forks Study so that they may capitalize on future economic opportunities.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
BRADSHAW	AYE
HARRISON	AYE
BROWN	NAY
MCGLENNON	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2004.

fiveforkredev.res

RESOLUTION

CASE NO. Z-15-04/MP-11-04. VILLAS AT JAMESTOWN

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-15-04/MP-11-04 for rezoning 30.36 acres from R-8, Rural Residential, to R-2, General Residential, Cluster with proffers; and
- WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. Z-15-04/MP-11-04, by a vote of 7 to 0; and
- WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled “Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC;” and
- WHEREAS, the properties are located at 248, 238, 230, and 226 Ingram Road and further identified as Parcel Nos. (1-15), (1-11), and (1-10) on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-15-04/MP-11-04 and accepts 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 28th day of June, 2005.

Z-15-04MP-11-04.res

RESOLUTION

CASE NO. SUP-34-04. VILLAS AT JAMESTOWN

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

WHEREAS, Mr. Greg Davis and Mr. Tim Trant have applied for an SUP to allow for a density of up to three units per acre in a residential cluster; and

WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled "Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC"; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. SUP-34-04 by a 7-0 vote to permit the construction of a 92-unit development with a gross density not to exceed three units per acre at 248, 238, 230, 226 Ingram Road and further identified as Parcel Nos. (1-15), (1-11), and (1-10) on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).

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. 34-04 as described herein with the following conditions:

1. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining a land-disturbing permit.
2. The applicant shall implement LID practices on the site in accordance with the Master Plan and compatible with existing conditions, proposed grading, and drainage patterns. Such LID practices shall be shown on the site plan and shall be consistent with the County's Comprehensive Plan, the goals and strategies of the Powhatan Creek Watershed Management Plan adopted by the County Board of Supervisors, the Primary Principles for Five Forks Area, and applicable laws, ordinances, and regulations.
3. Any site or other development plan for the Property shall provide for curb and gutter design of all internal streets as required by Section 24-549(a)(3)(a) of the County Code; provided, however, that if the County Zoning Ordinance is amended in the future to eliminate the requirement for curb and gutter design of internal streets or if authority to waive the same is otherwise granted by the Board of Supervisors, then this condition may be waived in accordance with any such future amendment or waiver provision.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

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 28th day of
June, 2005.

SUP34-04.res

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc.; to Increase Fees

Section 8-5. Permits, fees, bonding, etc., of the James City County Erosion and Sediment Control Ordinance is proposed to be amended. The amendment proposes increasing the fee schedule for residential subdivision projects from \$50 per lot to \$70 per lot. Fees for residential site plans would increase from the current level of \$600 per acre for the first 15 acres plus \$400 per acre for each additional acre over 15 to \$840 per acre for the first 15 acres and \$560 per acre for each additional acre over 15. The fee for each single-family lot would increase from the current level of \$75 to \$100.

The increase in fees will more fully recover administrative costs associated with the program. The amount of this specific increase will fund the additional staff costs approved in the FY 06 budget. During budget work sessions with the Board, staff proposed fee increases that applied to all projects, both residential and non-residential. However, based on guidance from the work session where the Board expressed concern over economic development impacts resulting from the increases, staff now proposes fee increases that rely on residential development.

Staff recommends adoption of the attached ordinance.

Darryl E. Cook

CONCUR:

John T. P. Horne

DEC/gb
Sec-8-5amend.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 8-5, PERMITS, FEES, BONDING, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Section 8-5, Permits, fees, bonding, etc.

Chapter 8. Erosion and Sediment Control

Sec. 8-5. Permits, fees, bonding, etc.

(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.

(c) Fees. The following administrative fee shall be paid to the county:

- (1) Residential subdivisions shall pay ~~\$50.00~~ \$70.00 per lot at the time of submission of the erosion and sediment control plan;
- (2) ~~Site~~ *Nonresidential* site plans and other land-disturbing activities shall pay \$600.00 per acre of disturbance for the first 15 acres plus \$400.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;
- (3) *Residential site plans shall pay \$840.00 per acre of disturbance for the first 15 acres plus \$560.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;*
- (~~3~~ 4) A ~~\$75.00~~ \$100.00 fee shall be required for each single-family residential structure at the time of submission of the building permit application.

This ordinance shall become effective July 1, 2005.

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 28th day of June, 2005.

sec8-5permitfee05.ord

MEMORANDUM

DATE: June 28, 2005

TO: The Board of Supervisors

FROM: Jennifer C. Lyttle, County Paralegal

SUBJECT: Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law Generally

The attached Ordinance incorporates by reference into the James City County Code the 2005 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County Police Officers are charging traffic offenders under the County Code, which must be amended to reflect the State's changes to the applicable D.U.I. and traffic laws. The State's changes shall become effective July 1, 2005. It is necessary that the Ordinance be amended in order to be in compliance with the State's changes.

Staff recommends adoption of the attached ordinance.

Jennifer C. Lyttle

CONCUR:

Leo P. Rogers

JCL/gs
05mtrveh.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

Sec. 13-7. Adoption of state law.

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2004~~2005, except those provisions and requirements the violation of which constitutes a felony and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this

chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without formal amendment of this article by the board of supervisors.

State law reference -Authority to adopt state law on the subject, Code of Va., § 46.2-1313 and § 1-13.39.2.

Article II. Driving Automobiles, Etc., While Intoxicated
or Under the Influence of any Drug*

Sec. 13-28. Adoption of state law, generally.

Article 9 (section 16.1-278 et seq.) of Chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, 2004~~2005~~, are hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for

any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

***State law reference** - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2005.

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 28th day of June,
2005.

05mtrveh.ord

MEMORANDUM

DATE: June 28, 2005
TO: The Board of Supervisors
FROM: Michael E. McGinty, Commonwealth Attorney
SUBJECT: Advance Hiring of Administrative Assistant – Commonwealth Attorney’s Office

Our current Administrative Assistant will be leaving employment effective July 22, 2005, after 15 years of service with the Commonwealth Attorney’s Office. This position is responsible for the overall administration of the Office as well as preparing indictments and scheduling all Circuit Court matters including the Grand Jury. It is necessary that we have an overlap of the current and new Administrative Assistants for training purposes to ensure a smooth transition and to offer continued quality services to the citizens we serve.

The State Compensation Board has authorized the transfer of sufficient funds from another line item within the Commonwealth Attorney’s FY 2006 Budget to pay the salary and fringe benefits of the newly hired Administrative Assistant during the overlap period.

I request that the Board approve the attached resolution to provide for the advance hiring of the Administrative Assistant effective July 1, 2005.

Michael E. McGinty

CONCUR:

Carol M. Luckam

MEM/gb
Hiring.mem

Attachment

RESOLUTION

ADVANCE HIRING OF ADMINISTRATIVE ASSISTANT –

COMMONWEALTH ATTORNEY’S OFFICE

WHEREAS, the Administrative Assistant will be leaving employment effective July 22, 2005, after 15 years of service with the Commonwealth Attorney’s Office; and

WHEREAS, this position is responsible for the overall administration of the Office as well as preparing indictments and scheduling all Circuit Court matters including the Grand Jury; and

WHEREAS, it is necessary to have an overlap of the current and new Administrative Assistants for training purposes to ensure a smooth transition and continued quality services; and

WHEREAS, the State Compensation Board has authorized the transfer of sufficient funds from another line item within the Commonwealth Attorney’s FY 2006 Budget to pay the salary and fringe benefits of the newly hired Administrative Assistant during the overlap period.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of the Administrative Assistant effective July 1, 2005.

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 28th day of June, 2005.

Hiring.res

MEMORANDUM

DATE: June 28, 2005

TO: The Board of Supervisors

FROM: Suzanne R. Mellen, Director of Budget and Accounting

SUBJECT: Resolution Requesting the Circuit Court to Order an Election on Issuance of General Obligation Bonds in the Maximum Amount of \$15,000,000 for Parks and Recreation Improvements and \$20,000,000 for Land and Voluntary Land Conservation Agreements

The attached resolution requests the Circuit Court to order an election on two questions of issuing general obligation bonds. The first question is for issuing general obligation bonds to finance a portion of the costs of improvements to parks, greenways, trails, and recreational facilities not to exceed \$15,000,000.

The second question is for issuing general obligation bonds to finance a portion of the cost of acquiring land or voluntary land conservation agreements that would serve as green space for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County not to exceed \$20,000,000.

The attached resolution has been prepared with the assistance of Stephen Johnson of Troutman Sanders, LLP, of Richmond, the County's bond counsel.

The Board of Supervisors is being asked to certify (1) that the project for which general obligation bonds are contemplated is necessary and will promote the public welfare of the residents of James City County and (2) that it is advisable to determine the interest of the voters of the County to incur debt in an amount not to exceed \$15,000,000 and \$20,000,000 to finance the projects.

Staff recommends approval of the attached resolution.

Suzanne R. Mellen

CONCUR:

Sanford B. Wanner

SRM/tlc
GOBondsP&R.mem

Attachment

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

GENERAL OBLIGATION SCHOOL BONDS, SERIES 2005,

OF THE COUNTY OF JAMES CITY, VIRGINIA,

AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$39,820,000 was approved by the qualified voters of the County in a referendum at a special election held on November 2, 2004, to finance a new high school (the "Project"); and

WHEREAS, the County's Board of Supervisors (the "Board") determines that it may now be in the best interests of the County to issue and sell general obligation school bonds to finance the Project. The Board determines that it would be advantageous to the County to sell such bonds in a competitive sale.

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

Section 1. **Authorization, Issuance and Sale.** There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation school bonds of the County in the principal amount not to exceed \$39,820,000 to finance the costs of the Project and to pay the costs incurred in connection with issuing such bonds. The Board hereby elects to issue such bonds under the provisions of the Act.

Section 2. **Bond Details.** Such bonds shall be designated "General Obligation School Bonds, Series 2005" (the "Bonds"), shall be dated the date of their issuance, shall be in registered form, in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4 and Section 9, the Bonds shall mature in installments, or have mandatory sinking fund installments, on each December 15 ending no later than the year 2036. Subject to Section 9, interest on the Bonds shall be payable on December 15, 2005, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"), and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 5.50% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% nor more than 108% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty-five (25) years; (d) shall be issued in an aggregate amount not to exceed \$39,820,000; and (e) shall be subject to optional redemption, so long as the Bonds may be

optionally redeemed after eleven years (or such shorter period as deemed advisable in the sale of the Bonds in accordance with Section 4(e)), with a redemption premium no greater than two percent (2.00%) of the principal amount of the Bonds to be optionally redeemed.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month in which each Interest Payment Date occurs. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before December 15, 2005, in which case it will bear interest from its dated date, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

Section 3. **Book-Entry System.** Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein, the term "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to

serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository's participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository's participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the County shall not be responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

Section 4. Redemption Provisions.

- (a) Optional Redemption. Subject to the provisions of Section 2 above and subsection (e) below, the Bonds may be subject to optional redemption prior to their respective stated dates of maturity as determined by the County Administrator or the Chairman of the Board.

- (b) Mandatory Sinking Fund Redemption. Any term bonds may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County's mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been optionally redeemed or purchased and canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption obligation for such Bonds. Each such Bond so purchased, delivered or previously redeemed shall be credited at 100% of the principal amount thereof against the principal amount of

the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased, delivered or previously redeemed in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator or the Chairman of the Board.

- (c) Bonds Selected for Redemption. If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator or the Chairman of the Board in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of any maturity are called for redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.
- (d) Notice of Redemption. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the Securities Depository as the registered owner of the Bonds or, if the book-entry system is discontinued, by registered or certified mail to the registered owners of the Bonds to be redeemed.
- (e) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), (1) to determine the dates on which and redemption prices at which the Bonds may be optionally redeemed, and (2) to determine whether the issuance of any term bonds would be beneficial to the County.

Section 5. Execution and Authentication. The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile

thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

Section 6. **Bond Form.** The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions or omissions to reflect the final terms of the Bonds.

Section 7. **Pledge of Full Faith and Credit.** The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

Section 8. **Registration, Transfer and Owners of Bonds.** SunTrust Bank, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month in which each Interest Payment Date occurs.

Section 9. **Sale of Bonds.** The Board approves the following terms of the sale of the Bonds. The Bonds will be sold by competitive bid. The County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, shall receive bids for the Bonds and award the Bonds to the bidder providing the lowest true or "Canadian" interest

cost, all subject to the limitations set forth in Section 2. The Board further authorizes the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, to (a) determine the principal amount of the Bonds, subject to the limitations set forth in Section 2, (b) determine the maturity schedule of the Bonds, subject to the weighted average maturity limitations and other limitations set forth in Section 2, and (c) establish the redemption provisions for the Bonds, subject to the limitations set forth in Section 2 and Section 4(e). In connection with the sale of the Bonds, the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, may change the dated date of the Bonds and the payment dates provided therein (so long as the interest payment dates for any series are semi-annual) to facilitate the sale and delivery of the Bonds. The actions of the County Administrator or the Chairman of the Board in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the Board.

Section 10.

Official Statement. The form of the Preliminary Official Statement of the County, to be dated the date of its mailing (the "Preliminary Official Statement"), has been made available to the Board prior to the adoption of this Resolution. The use and distribution of the Preliminary Official Statement, in substantially the form made available to the Board, including the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and "deemed final" by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), except for the omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the "Official Statement"). The use and distribution of the Official Statement are hereby authorized and approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the successful bidder of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the successful bidder initially sells Bonds.

The County Administrator or the Chairman of the Board is authorized,

on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

Section 11. **Continuing Disclosure.** A substantially final form of the Continuing Disclosure Agreement to be given by the County (the “Continuing Disclosure Agreement”), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Continuing Disclosure Agreement to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Agreement on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Agreement shall not be considered a default under this Resolution or the Bonds; *provided*, that any holder of the Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Agreement.

Section 12. **Sale Documents.** The use and distribution of the Notice of Bond Sale, the Summary Notice of Bond Sale, and the Official Bid Form, pursuant to which the Bonds will be offered for sale, are hereby authorized and approved.

Section 13. **Arbitrage Covenants.**

- (a) **No Composite Issue.** The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”).
- (b) **No Arbitrage Bonds.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the

meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 14. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

Section 15. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

- Section 16.** **Discharge upon Payment of Bonds.** The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 13 and 15 until the date the Bonds are paid in full.
- Section 17.** **Other Actions.** All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and a Blanket Issuer Letter of Representations to the Securities Depository, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.
- Section 18.** **Limitation of Liability of Officials of the County.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.
- Section 19.** **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bonds.
- Section 20.** **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.
- Section 21.** **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

Michael J. Brown
Chairman, Board of Supervisors

ATTEST:

William C. Porter, Jr.
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
May, 2005.

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