

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

July 25, 2006

7:00 P.M.

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B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE Quayshawn Walker, a rising tenth-grade student at Lafayette High School	
D. PRESENTATION - Resolution of Appreciation – Messrs. Cole Joyner and Brandon Lapetina	
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I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of personnel matters, the appointment of individuals to County boards and/or commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Social Services Advisory Committee

M. ADJOURNMENT

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF JULY 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Sean Lawson, a rising 10th grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. July - Recreation and Parks Month

Mr. Goodson presented a resolution of appreciation to young people who participate in the County's parks and recreation programs.

E. PUBLIC COMMENT

1. Mr. Bob Graves, Administrator, Sentara-Williamsburg Community Hospital, 105 George Perry, commented on the consent calendar item, Riverside Health System Reapplication for a Certificate of Public Need. Mr. Graves stated his disapproval and opposition of the consent item in light of the action by the Eastern Virginia Health Systems Agency not to issue a Certificate of Public Need to Riverside Health Systems.

2. Mr. Steve Montgomery, 517 Thomas Bransby, representing Riverside Health System, stated his support of the Riverside Health System Reapplication for a Certificate of Public Need for the Doctors Hospital of Williamsburg. Mr. Montgomery stated the Hospital's aim was to focus on the aging population in the County and offering a choice to those in the community.

3. Dr. James Sammons, 104 Pebble Beach, spoke as a physician of Sentara, and stated his opposition to the resolution supporting the Certificate of Public Need for Riverside Health System due to economic inefficiency in serving patients and increased medical cost.

4. Ms. Tracy Dowling, 10113 Squire's Way, Senior Director of Strategic Planning at Sentara Williamsburg Community Hospital, stated her opposition to the Certificate of Public Need for Riverside Health System due to the State Health Commissioner's disapproval of the Certificate of Public Need.

5. Mr. Andrew Roehrle, 3012 Cedar Run, Director of Finance at Williamsburg Community Hospital, spoke to the Certificate of Public Need for Riverside Health System, stating that a second hospital was not necessary due to duplication of underutilized facilities and the addition of Riverside facilities would not improve the community economically.

6. Ms. Dorothy Brickmore, 326 Archer's Mead, a volunteer at the Sentara Hospital for 12 years, stated her opposition to the Certificate of Public Need for Riverside Health System due to lack of a family maternity center.

7. Mr. Ed Oyer, 139 Indian Circle, spoke in favor of the resolution; stated that the time to travel to the hospital on Mooretown Road is excessive for people in the Roberts District; spoke on homes that are not being maintained in the Roberts District; and commented on the need to move a sign welcoming citizens to Williamsburg that was posted behind trees.

F. CONSENT CALENDAR

Mr. Goodson asked that Item No. 2 be pulled for separate consideration.

Mr. Harrison made a motion to adopt the remaining items on the consent calendar.

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

1. July – Recreation and Parks Month

RESOLUTION

JULY – RECREATION AND PARKS MONTH

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

WHEREAS, parks, playgrounds, ball fields, nature trails, open spaces, community and cultural centers, and historic sites make a community an attractive and desirable place to live, work, play, and visit; and

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

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

3. Dedication of Streets in Wellington, Section 4

RESOLUTION

DEDICATION OF STREETS IN WELLINGTON, SECTION 4

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

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

4. Dedication of Streets in Stonehouse, Phase 1, Section 7A, Sections 1 and 2

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE, PHASE 1, SECTION 7A, SECTIONS 1 & 2

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

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

5. Creation of Full-Time Permanent Fire Rescue Technician I Over Hire Position

RESOLUTION

CREATION OF FULL-TIME PERMANENT FIRE RESCUE TECHNICIAN I

OVER HIRE POSITION

WHEREAS, the Fire Department is requesting the establishment of a full-time permanent Fire Rescue Technician I over hire position to address a staffing shortfall caused by the military activation of a current employee; and

WHEREAS, a current Fire Rescue Technician I is an Army Reservist who has been activated for duty for up to 18 months; and

WHEREAS, staffing will be returned to its original authorized level through attrition after the reservist returns to duty; and

WHEREAS, the Fire Department has determined that no additional funding for the over hire position will be necessary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the establishment of one full-time permanent Fire Rescue Technician I over hire position.

6. Department of Criminal Justice Services – Crime Analyst Grant Award

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES - CRIME ANALYST GRANT AWARD

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant within the James City County Police Department for the amount of \$68,949, with a State share of \$51,712 for the continuation of the Crime Analyst position and the purchase of related equipment; and

WHEREAS, the grant requires a cash local match of \$17,237, which is available in the County's General Fund; and

WHEREAS, the Grant will be administered by DCJS with a grant period beginning October 1, 2006, through June 30, 2007.

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:

Revenues:

DCJS - Crime Analyst	\$51,712
General Fund	<u>17,237</u>
Total	<u>\$68,949</u>

Expenditure:

DCJS - Crime Analyst	<u>\$68,949</u>
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7. Department of Criminal Justice Services (DCJS) – Police Department Grant Award

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (DCJS) – GRANT AWARD

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved the Justice Assistance Grant (JAG) within the Police Department for the amount of \$43,720, with a State share of \$32,790 for the purchase of a Gang Module for the existing Records Management System, gang-related brochures, digital cameras, and towards gang-related training for officers; and

WHEREAS, the grant requires a cash local match of \$10,930, which is available in the County's General Fund; and

WHEREAS, the grant will be administered by DCJS with a grant period of July 1, 2006, through June 30, 2007.

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:

Revenues:

DCJS – JAG	\$32,790
County General Fund	<u>10,930</u>
	<u>\$43,720</u>

Expenditure:

DCJS – JAG	<u>\$43,720</u>
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8. Award of Contract – Two Triple Combination Pumpers Purchase

RESOLUTION

AWARD OF CONTRACT- TWO TRIPLE COMBINATION PUMPERS PURCHASE

WHEREAS, funds are available in the FY 2007 Capital Improvement Program Budget for the purchase of two triple combination pumpers; 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. The City of Suffolk issued a cooperative purchasing contract to Singer Associates as a result of a competitive sealed Invitation for Bids; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for triple combination pumpers and negotiated a price of \$943,773 with Singer Associates for two Pierce Dash Triple Combination Pumpers.

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 Singer Associates in the amount of \$943,773 for the purchase of two Pierce Dash Triple Combination Pumpers.

9. Amendment to the County's Statement of Fiscal Goals Regarding Debt

RESOLUTION

AMENDMENT TO THE COUNTY'S STATEMENT OF FISCAL GOALS REGARDING DEBT

WHEREAS, the Board of Supervisors of James City County has previously adopted a Statement of Fiscal Goals; and

WHEREAS, certain provisions relating to debt should be amended and updated to better reflect lender expectations and the County's current long-range capital financing needs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby replaces the previously adopted fiscal policy on indebtedness by adopting the following in its place:

“Outstanding debt of the County whether general obligation, lease revenue or subject to annual appropriation, shall not exceed 3% of the assessed valuation of real property. Outstanding debt of the County should target 7.5% or less and shall not exceed 9% of the County's total personal income in any year. Annual debt service spending should target 10% or less and shall not exceed 12% of total operating revenues, including revenues allocated to James City County for public education. The ten-year payout ratio for all County debt shall target a minimum of 55% of total principal outstanding and shall be no lower than 50% in any one year.”

10. Jamestown High School Envirothon Team

RESOLUTION

JAMESTOWN HIGH SCHOOL ENVIROTHON TEAM

WHEREAS, Jamestown High School has shown a long-term commitment to the Envirothon Program and the advancement of environmental sciences and education for the last 10 years; and

WHEREAS, the Jamestown High School Envirothon Team represented the Colonial Soil and Water Conservation District, the City of Williamsburg, and James City County as the 2006 Envirothon Team in Area III in State competitions; and

WHEREAS, the Jamestown High School Envirothon Team was faithful in attendance to training and preparation for academic competition; and

WHEREAS, the James City County Board of Supervisors and the Colonial Soil and Water Conservation District desire to recognize Jamestown High School Envirothon Team for academic excellence.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and commends the Jamestown High School Envirothon Team for their exemplary representation of the citizens of James City County and City of Williamsburg as members of the 2006 Envirothon Team.

2. Riverside Health System Reapplication for a Certificate of Public Need

Mr. Wanner stated that in 2005 the Board supported the application for a Certificate of Public Need (COPN), which was denied, and that Riverside had elected to reapply. Mr. Wanner stated that as the Board endorsed the COPN previously, it was staff's recommendation to maintain support for diversified healthcare in the County.

Mr. Bradshaw stated that the resolution of the Board would not determine the economic impacts of the hospital. He stated the local Board looked at the issues of convenience, competition, and choice; the State would evaluate the economics and necessity of the Riverside facilities.

Mr. Harrison stated his agreement with Mr. Bradshaw and stated that the previous support was based on competition in healthcare and that the State would need to decide the ultimate end of this application.

Mr. McGlennon stated he had inquired if a deferral could be utilized on this matter, but as there was a deadline and there was no interest expressed in deferring this item.

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Icenhour stated his constituents would like to have choice in healthcare.

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

RESOLUTION

RIVERSIDE HEALTH SYSTEM REAPPLICATION FOR A

CERTIFICATE OF PUBLIC NEED

WHEREAS, Riverside Health System has reapplied to rezone property in the City of Williamsburg, and part of this rezoning request is to allow health care facilities to be located on the property; and

WHEREAS, the James City County Board of Supervisors desires to continue to improve accessibility to health care services for its residents, and to make them available and affordable to all citizens of the County; and

WHEREAS, with rapid population growth, it is desirable that our citizens have a distinct choice in the scope and quality of care they receive, staff that provides that care, and the facilities where that care is available; and

WHEREAS, the Board of Supervisors believes that this goal can be achieved by competition among health care providers through the establishment of an alternative to the present sole provider of hospital services; and

WHEREAS, Riverside Health System has historically made significant investments in health care facilities in the Greater Williamsburg area, including dialysis, diagnostic services, primary and specialty medical care, retirement services, assisted living, and convalescent care; and

WHEREAS, Riverside Health System has already received a Certificate of Public Need (COPN) from the State Health Commissioner to locate a long-term care facility on the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby continues to support the plans of Riverside Health System to establish an acute care hospital within the City premises rezoned on April 14, 2005, and further, establish this hospital granting access to all citizens of the area without regard to ability to pay.

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby continues to endorse the proposed Certificate of Public Need for the Doctors' Hospital of Williamsburg to be submitted by Riverside Health System on June 30, 2006, to establish a acute care hospital on the site know as "Quarterpath" in the City of Williamsburg, Virginia.

G. PUBLIC HEARINGS

Mr. Goodson recognized Ms. Shereen Hughes of the Planning Commission in the audience.

1. Reconsideration of Case No. SUP-04-06/MP-01-06: Prime Outlets Master Plan Amendment

Ms. Kate Sipes, Planner, stated at its June 27 meeting, the Board of Supervisors approved the proposed Master Plan amendment and special use permit for Prime Retail, SUP-4-06/MP-1-06 with conditions as presented by staff. The Board also voted to reconsider one of the special use permit conditions, Condition No. 11, at its next regular meeting.

As reflected in the new resolution, staff has amended Condition No. 11 to allow Prime Retail to construct and occupy the largest of three approved new structures before the existing stormwater management facilities are improved to enhance performance and provide additional parking, as shown on the Master Plan. This largest structure, shown as Building A on the Master Plan, is proposed to be 52,635 square feet. The revised condition requires the parking ratio on the Ewell Station parcel to be one space per 177 square feet of retail area which is consistent with the overall parking ratio of the approved Master Plan, prior to any Certificate of Occupancy being issued for Building A. Additionally, the site plan submitted for Building A must reflect all associated parking to meet this ratio. The revised condition language also includes the following triggers relative to the timing of the improvements to stormwater facilities to include surface parking: (a) the proposed stormwater management facilities improvements must be completed or guaranteed by surety prior to the issuance of any Certificate of Occupancy for Building A; (b) the proposed stormwater management facilities improvements must be complete within 12 months of any Certificate of Occupancy issued for Building A or prior to issuance of any Certificate of Occupancy being issued for either Buildings B or C, as shown on the Master Plan; and (c) improvements to a third stormwater facility, as described in Condition No. 10, shall be completed concurrent with the proposed stormwater management facilities improvements. Furthermore, the revised condition language requires the interconnectivity between the existing Ewell Station and Prime Retail properties, and associated demolition and parking lot improvements, be completed within six months of the first Certificate of Occupancy being issued for Building A. A provision is included to allow up to a six-month extension, due to weather or other delays, at the discretion of the Planning Director. These modifications allow the property owner to proceed with the construction and leasing of the largest proposed building on the approved Master Plan prior to engineering or constructing stormwater improvements or additional parking on existing stormwater facilities. This change necessitated revisions to Condition Nos. 10 and 14, modifying the triggers on related improvements to coincide with this new language.

Staff found this to be an acceptable alternative to approved Condition Nos. 10, 11, and 14.

Staff recommended approval of the resolution.

Mr. Icenhour asked if this would maintain the same ratio of parking at Ewell Station as would be present when the development is complete.

Ms. Sipes stated this was correct.

Mr. Icenhour asked what recourse the County would have if the parking did not come to fruition.

Ms. Sipes stated the new condition would not allow construction of the additional building without the additional parking. She stated in the event the two additional buildings were not built, the parking would be a slight improvement but not to the extent of the entire master plan.

Mr. Goodson opened the Public Hearing.

1. Mr. Greg Davis, Kaufman & Canoles, stated that Prime Retail, Inc., was in agreement with the new Condition No. 11 in the reconsideration. He stated that the condition has assured flexibility in construction while still assuring the parking would be built.

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

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

Mr. McGlennon stated he hoped Prime Retail would take into account peak shopping times and offer shuttle services and off-site parking.

Mr. Harrison spoke to the concerns of a citizen in the area who was concerned with the lack of green space in the area, but commented this would not be taking up any additional green space.

Mr. Icenhour stated the concern of his constituents and stated this additional development would not be sensitive to the needs of the citizens.

Mr. Goodson stated that due to the purchase of the shopping center by Prime Retail Inc., the Board could not change what would happen other than to improve it.

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

RESOLUTION

CASE NO. SUP-4-06/MP-1-06. PRIME RETAIL MASTER PLAN AMENDMENT

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

WHEREAS, Mr. Greg Davis has applied on behalf of Prime Retail, L.P., for an SUP to allow an expansion of approximately 81,000 square feet on existing and adjacent sites; and

WHEREAS, Mr. Greg Davis has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-25-05 and MP-10-05; and

WHEREAS, the conditions listed below replace and supersede the conditions of approval of James City County Case No. SUP-25-05; and

WHEREAS, the proposed expansion is shown on the Master Plan prepared by LandMark Design Group, dated May 26, 2006, and entitled "Master Plan Prime Retail Phases I-VIII" and the "Master Plan" and references to phases below refer to phases shown on the Master Plan;

WHEREAS, the property is located on land zoned B-1, General Business, with proffers that can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D), and (1-33E) on James City County Real Estate Tax Map No. (33-3) and on land zoned B-1, General Business, that can be further identified as Parcel No. (1-2) on James City County Real Estate Tax Map. No. (33-3); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of this application by a vote of 5-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 4-06 as described herein with the following conditions:

Conditions Specific to the Phase 5A Expansion

1. Landscaping planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion as shown on the Master Plan, shall be approved by the Planning Director or his designee prior to final site plan approval for any future expansion. The planters shall be installed prior to issuance of any final Certificate of Occupancy for any future expansion.
2. Applicant has installed a 35-foot-wide transitional buffer planted along the northern most property line adjacent the 5A expansion. This area has been planted and shall be maintained at 133 percent of the numerical standards found in Section 24-94 of the James City County landscape ordinance, and with an emphasis on evergreen shade and understory trees as determined by the Planning Director. The fence already installed in this area shall be a maximum of eight feet high and shall be maintained with a vinyl coating and shall be either black or green in color. Furthermore, the fence shall be maintained with a setback from the property line of at least three feet.

Conditions Specific to the Phase 6 Expansion

1. Prior to final site plan approval for the Phase 6 expansion, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 6 expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase 6 expansion, submitted with this SUP application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
2. Prior to the issuance of any final Certificate of Occupancy for the Phase 6 expansion, lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan behind Phase 6 which will be re-stripped from existing parking for buses to parking for cars. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
3. A landscaping plan for the Phase 6 expansion, including foundation landscaping in accordance with James City County Code Section 24, shall be approved by the Planning Director or his designee prior to final site plan approval.
4. Prior to submission of any development plan for the Phase 6 expansion, the applicant shall submit a water and sanitary sewer Master Plan and hydraulic analyses for the

expansion space for review and approval by the James City Service Authority.
Conditions Specific to the Phases 7 and 8 Expansions

1. Prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a mass transit plan in accordance with Section 25-59(f) of the James City County Code shall be approved by the Planning Director for Prime Retail. The plan, at a minimum, shall include a replacement bus transfer stop for Williamsburg Area Transit, or its successor, currently located in the Ewell Station shopping center. Installation of all bus stops, shelters and other items approved as part of the mass transit plan shall be completed prior to issuance of any temporary or final Certificate of Occupancy for the Phase 7 and 8 expansions.
2. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 7 and 8 expansions, including exterior architectural modifications to the existing Ewell Station Shopping Center. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, "Prime Outlets Phase 7 and 8 Expansion," submitted with this SUP application dated, February 20, 2006, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
3. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a landscape plan including foundation landscaping in accordance with James City County Code Chapter 24, shall be approved by the Planning Director or his designee.
4. Landscape waivers are necessary for the approval of parking and stormwater facilities in the Community Character Corridor landscape area along Richmond Road, as shown on the Master Plan. Such waivers shall be subject to the approval of the Development Review Committee.
5. Landscaping shall be installed or bonded, prior to issuance of any temporary or final Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the entire Richmond Road frontage of the existing and expanded Prime property that exceeds plant material size requirements in Section 24-90 of the James City County Code by 125%. Such landscaping shall be included on the site plan for the final building to be constructed (Building A, B, or C as shown on the Master Plan), and subject to approval by the Planning Director.
6. Landscaping shall be installed or bonded prior to any Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the Olde Towne Road frontage that meets current ordinance requirements. Such landscaping shall be included on the site plan for the final building to be constructed, and subject to approval by the Planning Director.
7. Prior to the issuance of any final Certificate of Occupancy for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan) lighting shall be installed for the existing entrances from the property onto Olde Towne Road as shown on the Master Plan. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
8. The owner shall be responsible for developing and enforcing water conservation

standards to be submitted to and approved by the James City Service Authority prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan). The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote the intent of this condition which is to conserve water and minimize the use of public water resources to the greatest extent possible.

9. Approved site plans for the Phase 7 and 8 expansions shall reflect the following stormwater management facility improvements:
 - a. PC-186 (located along Olde Towne Road): Infiltration capacity shall be added in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - b. PC-124 (located along Olde Towne Road): Shall be retrofitted to improve water quality in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - c. PC-036 (behind the existing Food Lion): Shall be retrofitted to incorporate water quality treatment as approved by the Environmental Director; and
 - d. Pre-treatment measures shall be incorporated into development plans as approved by the Environmental Director.

The sequence of construction shall be approved by the Environmental Director, but under no circumstances shall the aforementioned stormwater facilities be completed later than the first Certificate of Occupancy being issued for the final building to be constructed as part of the Phases 7 and 8 expansions (Building A, B, or C as shown on the Master Plan).

10. Stormwater facility PC-055 (along Richmond Road) shall be modified to incorporate water quality and increased water quantity control as approved by the Environmental Director as part of the site plan reflecting improvements to PC-066 and PC-036 as outlined above.
11. The existing stormwater management facilities PC-066 and PC-036 serving the property, subject to the limitations hereinafter provided, shall be reconstructed to permit ground level parking of approximately 237 spaces co-located in, atop and around such facility, as generally depicted on the Master Plan. Building A, as shown on the Master Plan, is permitted to be constructed and occupied, provided a parking ratio of at least 1 space per 177 square feet of retail space, consistent with the approved Master Plan, is available to customers on the Ewell Station parcel (not counting construction staging areas) prior to the issuance of any Certificate of Occupancy for Building A, as shown on the Master Plan, and provided the site plan for Building A, as shown on the Master Plan, also reflects all associated parking intended to achieve the aforementioned required parking ratio.

Prior to issuance of any Certificate of Occupancy for Building A, the above referenced stormwater facilities/parking reconstruction shall be completed or surety shall be provided in an amount acceptable to the Environmental Director and County Attorney. Said amount shall include any related engineering costs necessary to produce final approval of plans and to complete construction of said project.

Said stormwater facilities/parking reconstruction shall be completed prior to the issuance of any Certificate of Occupancy for Buildings B or C, as shown on the Master Plan or within twelve months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan, whichever is earlier.

Stormwater facilities/parking reconstruction of PC-066 and PC-036 shall be reflected on a single site plan. Said site plan shall also reflect improvements to PC-055 as described in Condition #10.

Furthermore, the proposed interconnectivity and demolition of a portion of existing Phase I of Prime Retail, and related parking areas, as shown on the Master Plan, shall be complete within six months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan. The Planning Director may, in writing and in his sole discretion, agree to extend this deadline for no more than six months for good cause shown including, but not limited to, weather delays, unavailability of subcontract labor, or force majeure.

Reconstruction shall be in accordance with all applicable stormwater management ordinances and regulations, and subject to approval by the Environmental Director. Specifically, PC-066 shall be modified to meet the current County requirements for both water quality and channel protection, and PC-036 shall be modified to incorporate water quality protection. The parking reconstruction shall be implemented unless the Environmental Director determines that it cannot be achieved (a) due to engineering constraints, (b) due to environmental, stormwater management or other regulations, ordinances or laws, or (c) that the reconstruction cannot be achieved using soil-covered RainTank (R) devices and Eco-Stone Pavers or equivalent underground stormwater storage units and pervious cover approved by the Environmental Director.

In the event the parking reconstruction is not implemented as described above, the Applicant shall perform and submit a Parking Study, the methodology and parameters of which are subject to approval of the Planning Director. Said study shall be approved by the Board of Supervisors, upon recommendation of the Planning Commission, prior to any Certificate of Occupancy for the last two buildings to be constructed (Building A, B, or C as shown on the Master Plan). Specific elements of the study shall include: the identification of the existing parking inventory for Prime Outlets at the time of analysis, the occupancy rate of parking inventory for Prime Outlets for identified periods of analysis, an employee parking analysis, and improvement recommendations. Said site plans shall incorporate approved improvement recommendations.

12. The following road improvements were identified in the "Prime Outlets Phases 7 & 8 Traffic Impact Study" prepared by LandMark Design Group and submitted in February 2006 and revised in June 2006. These improvements are submitted to approval by VDOT and the Planning Director, and shall be made prior to the issuance of any Certificate of Occupancy for any of the proposed additional buildings in the Phase 7 & 8 expansions (Building A, B, or C as shown on the Master Plan):
 - a. Install dual exclusive left-turn lanes with 250 feet of storage and 200-foot tapers on westbound Richmond Road at Olde Towne Road.

- b. Widen southbound section of Olde Towne Road from Richmond Road to first shopping center entrance (“Bowling Alley entrance”) to two full-width lanes, creating two receiving lanes for the dual left-turn lanes referenced in condition (a) above. The outside lane will be a right-turn “drop” lane and the inside lane will serve as a through travel lane.
 - c. Install an exclusive left-turn lane with 200 feet of storage and 200-foot-taper on eastbound Richmond Road at Olde Towne Road to accommodate U-turn movement from eastbound Richmond Road to westbound Richmond Road. Install necessary traffic signal equipment to accommodate the U-turn movement with a protected left-turn phase at the intersection, and install appropriate signage, subject to VDOT approval.
 - d. Modify traffic signal timings and necessary traffic signal equipment at the Richmond Road/Olde Towne Road intersection to accommodate proposed lane configurations and identified new traffic movements.
 - e. Modify traffic signal timings along the Richmond Road corridor to optimize the coordinated system from Airport Road to the western signalized entrance to the property.
 - f. Remove sections of asphalt or otherwise modify the existing continuous right-turn lane on eastbound Richmond Road, subject to approval by VDOT and the Planning Director.
13. A Signal Warrant Analysis for the Olde Towne Road/shopping center entrances must be submitted for approval by VDOT and the Planning Director within 18 months of issuance of the demolition permit for the vehicular access through the existing Phase I building, and prior to final site plan approval for the last two buildings to be constructed (Buildings A, B, or C as shown on the Master Plan). A second Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). In the event a single site plan is submitted and approved for the entire expansion, one Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). The analyses shall satisfy VDOT Standard Signal Warrant Analysis requirements, subject to approval by VDOT and the Planning Director. Should traffic signal warrants be met, Applicant shall provide traffic signal(s), and necessary traffic signal equipment (including that associated with cross-coordination of traffic signals) at the Olde Towne Road shopping center entrance(s) in a manner acceptable to VDOT and the Planning Director. Furthermore, Applicant shall provide signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) such that the potential traffic signal(s) shall be coordinated with the Richmond Road/Olde Towne Road traffic signal, subject to the approval of VDOT and the Planning Director. Applicant shall also provide traffic signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) for the identified Richmond Road study area traffic signals to best optimize traffic progression, subject to approval of VDOT and the Planning Director. Such signal(s) and coordination improvements shall be guaranteed by surety prior to issuance of the building permit for the final phase of expansion (either Building B or Building C, as shown on the Master Plan).

14. Upon completion of the first building to be constructed (Building A, B, or C as shown on the Master Plan), and the vehicular access through the existing Phase I, and the parking area behind the adjacent hotel, as shown on the Master Plan, Applicant shall provide an evaluation of potential access driveway closures or implementable access management strategies along Richmond Road and Olde Towne Road. Said evaluation shall be subject to the approval of VDOT, the Planning Director, and the Development Review Committee prior to any Certificate of Occupancy for the final phase of expansion (Buildings B and C as shown on the Master Plan). Such improvements shall be guaranteed by surety prior to issuance of a building permit for the final phase, as described above.
15. Approval of this SUP shall not invalidate the Ewell Station shopping center Phase 2 site plan titled "SP-110-02." SP-110-02 shall be invalidated when construction is commenced pursuant to any site plan associated with this SUP. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

Conditions Applicable to all Phases of Prime Retail

1. This SUP shall be valid for the approximately 81,000-square-foot expansion of Prime Retail Phases 7 and 8. The total gross building area shall not exceed 518,264 sq. ft. as shown on Master Plan Titled "Prime Retail Phases I-VIII" dated June 21, 2006, and prepared by LandMark Design Group (The "Master Plan").
2. Development of the site shall be generally in accordance with the above-referenced Master Plan and any questions as to compliance shall be determined by the Development Review Committee (DRC). Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This SUP and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-25-05 and prior SUP conditions affecting the Prime Retail development.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines (with the exception of entrance lighting required herein). The use of temporary flood lighting shall be prohibited unless written approval is obtained by the Planning Director for use during a special event.
4. Prior to any final site plan approval for future expansion, all new and existing dumpsters shall be (a) in locations approved by the Planning Director, and (b) screened by landscaping or fencing as approved by the Planning Director.
5. Prior to issuance of any Certificate of Occupancy for any expansion, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, where applicable; (2) fire lane shall be properly marked in accordance with the Virginia Fire Code; and (3) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall

prepare and submit a comprehensive signage plan for review and approval by the Planning Director.

6. If construction has not commenced on this project within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

2. Case No. SUP-17-06. Richmond Road Veterinary Hospital and Kennel Facility

Mr. Bradshaw disclosed that the owners were previous clients of his but he no longer represented them and could fairly vote on this application.

Mr. Matt Smolnik, Planner, stated Mr. Matthew Burton has applied for an SUP to allow for the construction of a veterinary hospital and kennel facility at 8391 Richmond Road. The parcel consists of 34.26 acres and can be further identified on James City County Real Estate Tax Map No. (12-4) as Parcel No. (1-1). A veterinary hospital and kennel are specially permitted uses in the A-1, General Agriculture zoning district. The applicant is proposing to remove the existing residential structure, accessory buildings, and the current driveway on the property, and redevelop the north end of the parcel with a single-story 6,000-square-foot veterinary hospital with indoor kennel facilities, a fenced exercise rear yard, and 35 parking spaces. The applicant has indicated that there will be a maximum of four doctors at the hospital with a maximum of 16 employees on the largest shift. The applicant has proposed a 50-foot building setback and Community Character Corridor (CCC) landscaped buffer. The property fronts on Route 60 and is located across from the approved Villages of Whitehall development. Hickory Neck Church is located across Route 60 and approximately 900 feet east from the proposed veterinary hospital and kennel. Hickory Neck Church, an eighteenth century structure, is on the National Register of Historic Places. Residential properties border by the site to the north, east, and south, while the main line of the CSX railroad borders the property to the west. All of the bordering residential properties are designated General Industry by the Comprehensive Plan and are all zoned A-1, General Agriculture. The proposed development area is approximately 3.0 acres of the 34.26 acre parcel. Staff requested building elevations, however, they were not submitted by the applicant; therefore, the architecture of the proposed structure is unknown at this time.

Staff found the proposal generally consistent with the Comprehensive Plan.

At its meeting on June 5, 2006, the Planning Commission voted 6-0 to approve this application.

Staff recommended approval of the resolution.

Mr. Icenhour asked if the applicant would place the remainder of the land in a conservation district.

Mr. Smolnik stated he did not receive information from the applicant whether or not this property would be placed into a conservation easement.

Mr. Icenhour stated that this property could be parceled off and sold.

Mr. Smolnik confirmed this.

1. Mr. Rob Murphy, 113 Nashburg, spoke on behalf of the applicant, and stated that there was no interest in building on this portion of the parcel in question.

Mr. McGlennon asked if there was any consideration of putting that property into a conservation easement.

Mr. Murphy stated that at this point there was none.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw stated as large as the property is and as small as the use would be, he would urge caution in encouraging a conservation easement as this would be inconsistent with the Comprehensive Plan in this case.

Mr. Harrison stated he would urge caution in regard to dealing with large parcels of property and requesting conservation districts.

Mr. McGlennon stated the question was an attempt to ascertain the answer to a question that had been raised in the Planning Commission.

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

RESOLUTION

CASE NO. SUP-17-06. 8391 RICHMOND ROAD

VETERINARY HOSPITAL AND KENNEL FACILITY

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

WHEREAS, the applicant has proposed to construct a 6,000-square-foot veterinary hospital and kennel facility; and

WHEREAS, the property is currently zoned A-1, General Agriculture, and is designated General Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 8391 Richmond Road on property more specifically identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, on June 5, 2006, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-17-06 as described herein with the following conditions:

1. This SUP shall be valid for a 6,200-square-foot veterinary hospital and kennel facility. Development of the site shall be generally in accordance with the submitted master plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC as long as they do not change the basic concept or character of the development.
2. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be

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

3. Prior to final site plan approval, architectural elevations, building materials and colors shall be submitted to the Director of Planning for review and approval for compatibility with Hickory Neck Church and the Village of Toano in terms of design, scale, materials, and colors.
4. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures, and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle, or higher shall extend outside the property lines.
5. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. 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 permits for building construction and footings and/or foundation has passed required inspections.
7. A landscaping plan shall be approved by the Director of Planning prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor buffer along Richmond Road so that the required size of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4, of the James City County Code. A minimum of 50 percent of the plantings within the CCC buffer shall be evergreen.

8. Only one entrance shall be allowed onto Route 60.
9. All parking shall be located either behind the proposed building or to the side, behind the front building face line with a 42 inch non-chain-link vinyl or wood fence.
10. The BMP shall be designed to enhance the removal of coliform bacteria in addition to the standard water quality provisions in accordance with the Powhatan Creek Stormwater Master Plan, pages 69 to 71.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-16-06. Hogan Homestead Children's Nursery

Mr. Jose Ribeiro, Planner, stated Ms. Catherine Hogan has applied on behalf of Mr. John Hogan and herself for a special use permit to operate a child day care center for 12 children, with operating hours from 8 a.m. to 2 p.m., Monday through Friday. The property on which the day care center will be operated is located at 9219 Richmond Road, which can be further identified on James City County Real Estate Tax Map No. (10-1) as Parcel No. (4-3). The property consists of 3.50 acres and is zoned A-1, General Agricultural, and is identified as Rural Lands on the Comprehensive Plan.

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

At its meeting on June 5, 2006, the Planning Commission voted 6-0 to approve this application.

Staff recommended the James City County Board of Supervisors approve this SUP with the conditions listed in the attached resolution. Staff believed the conditions sufficiently addressed impacts to the site.

Mr. Ribeiro stated the language of the resolution had been changed to clarify that only changes or additions to the home that would be used in support of the day care center would be subject to approval by the Planning Director.

Mr. Goodson opened the Public Hearing.

1. Mr. John Hogan, 223 Nina Lane, stated he was available for any questions.

Mr. Bradshaw asked the applicant to confirm that the hours of operation would not need to be expanded and cause additional special use permits.

Mr. Hogan stated that at this point in time the service would be maintained within the stated hours until the operation could move to a commercial location.

Mr. McGlennon commented that the applicants were to be commended due to accommodating the community's interests by presenting the original application on a trial basis and through limited operation hours at the present location in the interior of a community. Mr. McGlennon stated his appreciation for the applicant's attention to the Board's questions and aspirations to move on to a commercial location.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-16-06: HOGAN HOMESTEAD CHILDREN'S NURSERY

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

WHEREAS, Mrs. Catherine Hogan has applied for an SUP to allow a child day care center for 12 children within her home located at 9219 Richmond Road; and

WHEREAS, the property is currently zoned A-1, General Agriculture, and is designated Rural Lands on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 9219 Richmond Road on property more specifically identified as Parcel No. (4-3) on James City County Real Estate Tax Map No. (10-1); and

WHEREAS, on June 5, 2006, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-16-06 as described herein with the following conditions:

1. The owner of the child day care center shall reside on the property.
2. No more than 12 children other than the owner's children shall be cared for on the property.
3. A site plan shall be submitted to the James City County Planning Division and shall be approved by the Planning Director.
4. Prior to final site plan approval, the applicant shall receive full approval from the Virginia Department of Health for water supply and septic tank and drain field capacity in an amount sufficient to handle the child day care center operation.
5. If a Certificate of Occupancy has not been obtained for the project within 36 months from the issuance of the SUP, the permit shall become void.
6. Hours of operation for the child day care center shall be limited from 8 a.m. to 2 p.m., Monday through Friday.
7. One sign related to the child day care center shall be permitted on the property. The sign shall not exceed four square feet; it must be attached to the dwelling and it shall not be illuminated.
8. No additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

9. No food preparation or laundry services shall be provided as part of the operation of the child day care center unless approved by the Health Department.
10. Any playground equipment shall be landscaped or fenced so as to screen the playground equipment from adjacent property owners. The landscaping plan and/or fencing material shall be reviewed and approved by the Planning Director prior to final site plan approval.
11. Any exterior modification to the building or any new structure added to the property in support of the child day care center shall be approved by the Planning Director.
12. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

H. PUBLIC COMMENT - None

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated a new map had been issued called “Discover the Arts of Williamsburg” by the Greater Williamsburg Chamber and Tourism Alliance which outlines various art museums, galleries, and studios. Mr. Wanner highlighted the map’s utility and commended those who worked to produce the map.

Mr. Wanner stated the reenactment of the Battle of Green Spring would take place at the Williamsburg Winery the next weekend and the proceeds would go toward the purchase of the Jamestown Campground property.

Mr. Wanner recommended the Board go into Closed Session when the Board completed its business, and to adjourn at 4 p.m. on July 25, 2006, for work sessions to include a New Town Update, a King William Reservoir Update, and the County Administrator’s annual evaluation.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour requested staff research the on-site parking requirements for malls in reference to the resolution passed on June 27, 2006, for Prime Retail, Inc., in order to apply the ordinance easily without need for interpretation. Mr. Icenhour requested the history of the parking ordinance for commercial development and its application to other malls in the County.

Mr. McGlennon stated he understood the Planning Commission was reviewing the parking ordinance and asked Ms. Hughes to address Mr. Icenhour’s concerns.

Ms. Hughes stated that the Better Site Design Committee is reviewing how the County uses the different types of parking space as opposed to square footage of the buildings. Ms. Hughes stated that staff was already working on this issue and once staff completes its work, then it would go to the Policy Committee of the Planning Commission for review.

Mr. Harrison asked Ms. Hughes if parking garages were being considered.

Ms. Hughes stated that the Better Site Design Committee could not reach a consensus on parking

garages. Ms. Hughes also stated pervious pavers should only be used for overflow parking not to be utilized on a day-to-day basis. Ms. Hughes stated the information was being assembled and the next step for the Committee was to establish action items and recommendations.

Mr. Harrison stated that the environmental effects of impervious cover should be considered.

Ms. Hughes stated that her affiliations with the Planning Commission's Policy Committee and the Better Site Design Committee allowed her to address with the Policy Committee issues that have come up in the Site Design Committee. Ms. Hughes stated the Policy Committee began reviewing some of the residential zoning ordinances to bring them more in compliance with the Comprehensive Plan.

Mr. McGlennon asked if Mr. Horne could speak on the Ironbound Road and Monticello Avenue intersection in reference to pedestrian and bicycle crossing.

Mr. Horne stated staff had spoken with VDOT in regard to two projects, Route 321 Project and a later project to widen Ironbound Road. Mr. Horne also stated that County staff and VDOT staff met recently to discuss pedestrian and vehicular travel, and VDOT stated the information would be developed evaluating the impacts of a pedestrian crossing signal on vehicular traffic delays at the intersection. He further stated that staff hoped to have that information on the pedestrian crossing impacts soon and would bring it forward to the Board and at that time to be voted on in a resolution. Mr. Horne stated that the intersection does have pedestrian ramps, refuges, and median crossings, and the debate was whether or not painted crosswalks and pedestrian signals would be included in the intersection.

Mr. McGlennon stated the issue would be whether there would be pedestrian crosswalk signals at all.

Mr. Horne stated that the intersection is currently designed to allow pedestrian crossings, but without pedestrian crossing signals.

Mr. McGlennon stated his concern that there would be pedestrian crosswalk but no signals in a potentially busy intersection.

Mr. Harrison inquired about recent citizen concern about bike paths in the intersection.

Mr. Horne stated there were adequate lanes in the intersection for bikers, but the issue was adequate stoplight timing to allow for the bicyclists to cross.

Mr. Bradshaw stated that he attended the GED graduation at the Virginia Peninsula Regional Jail and commended those involved in the program.

K. CLOSED SESSION

Mr. Harrison made a motion that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

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

Mr. Goodson recessed the Board to Closed Session at 8:14 p.m.

Mr. Goodson reconvened the Board into Open Session at 8:43 p.m.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3), to consider the acquisition of a parcel(s) of property for public use.

Mr. McGlennon made a motion to reappoint John McDonald and to appoint Patricia Kline to the Colonial Services Board, terms to expire June 30, 2009.

Regretfully, Mr. McGlennon made a motion to adopt the resolution for the removal of Alvin J. Bush from the Economic Development Authority.

RESOLUTION

REMOVAL OF ALVIN J. BUSH AS A DIRECTOR OF THE

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY

WHEREAS, Alvin J. Bush has missed more than three consecutive meetings of the Economic Development Authority of James City County ("EDA"), and has missed more than four meetings within a 12-month period; and

WHEREAS, Alvin J. Bush's absences have impacted the EDA's ability to conduct business; and

WHEREAS, Alvin J. Bush's absences are in violation of the EDA attendance policy; and

WHEREAS, on May 18, 2006, the EDA recommended that the Board of Supervisors remove Alvin J. Bush as a director; and

WHEREAS, pursuant to Virginia Code Section 15.2-4204, the Board of Supervisors has the authority to remove an EDA director.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Alvin J. Bush is removed as a director of the Economic Development Authority of James City County, Virginia.

Mr. McGlennon made a motion to appoint Mr. Marshall Warner to serve on the Economic Development Authority, effective July 22, 2006, term to expire June 30, 2010; Mr. Brien Craft to serve a vacated position on the Economic Development Authority, effective July 11, 2006, term to expire June 30, 2010; and Mr. Vincent "Skip" Campana to serve an unexpired term on the Economic Development Authority, term to expire on July 8, 2007.

Mr. McGlennon made a motion to reappoint Mr. John McDonald to serve on the Middle Peninsula Juvenile Detention Commission, term to expire June 30, 2010.

Mr. McGlennon made a motion to appoint Ms. Linda Wallace to serve a vacated position on the Parks and Recreation Advisory Commission, term to expire on April 12, 2010.

Mr. McGlennon made a motion to appoint Ms. Polly Bartlett to serve on the Williamsburg Area Arts Commission, effective July 11, 2006, term to expire on June 30, 2009.

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

The Board and staff discussed potential use of various properties located in the County.

L. ADJOURNMENT

Mr. McGlennon made a motion to adjourn until 4 p.m. on July 25, 2006.

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

At 8:53 p.m., Mr. Goodson adjourned the Board until 4 p.m. on July 25, 2006.

Sanford B. Wanner
Clerk to the Board

M E M O R A N D U M

DATE: July 25, 2006

TO: The Board of Supervisors

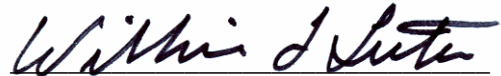
FROM: William T. Luton, Fire Chief

SUBJECT: Resolution of Appreciation - Cole Joyner and Brandon Lapetina

On occasion, members of our community exhibit great compassion and bravery in saving the lives of others. I am pleased to offer this recognition of two local young adults who are 2004 graduates of Lafayette High School. One, Cole Joyner, is a rising junior at Radford University and the other, Brandon Lapetina, is a rising junior at James Madison University.

At approximately 3:15 p.m. on June 18, 2006, Mr. Joyner and Mr. Lapetina were enjoying the beach at College Creek on the Colonial Parkway when they spotted someone having difficulties in the water. All they initially saw was the hand of the victim, Miguel Avilla. Without regard for his safety, Mr. Joyner immediately entered the water and rescued Mr. Avilla. Mr. Lapetina assisted in bringing Mr. Avilla to shore and immediately started rescue breathing. Other bystanders called "911" for assistance. Rescue units from both the City of Williamsburg and James City County responded. Upon their arrival, Mr. Avilla was breathing on his own and sitting up. He was transported to Williamsburg Community Hospital where he was later released.

It has been noted by several bystanders, emergency responders, and the emergency room physicians that the quick response and treatment given by Messrs. Joyner and Lapetina were directly responsible for Mr. Avilla's survival. They are to be commended for their rapid and heroic response to this situation.


William T. Luton

WTL/gb
appreciation.mem

Attachment

RESOLUTION OF APPRECIATION

COLE JOYNER AND BRANDON LAPETINA

WHEREAS, Cole Joyner and Brandon Lapetina, local residents and 2004 graduates of Lafayette High School; and

WHEREAS, Messrs. Joyner and Lapetina were present at the beach at College Creek in James City County on June 18, 2006; and

WHEREAS, Messrs. Joyner and Lapetina came to the aid of Miguel Avilla who was having difficulties in the water; and

WHEREAS, Messrs. Joyner and Lapetina rendered life-saving aid to Mr. Avilla; and

WHEREAS, this quick response and treatment directly resulted in the survival of Mr. Avilla.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its deep gratitude and honors Cole Joyner and Brandon Lapetina for their life-saving efforts.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

appreciation.res

MEMORANDUM

DATE: July 25, 2006

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Dedication of Streets in Powhatan of Williamsburg Secondary, Phases 6A-C

Attached is a resolution requesting acceptance of certain streets in Powhatan of Williamsburg, Phases 6A-C into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.


Darryl E. Cook

DEC/gb
PowhatanSts.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN POWHATAN OF

WILLIAMSBURG SECONDARY, PHASES 6A-C

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

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

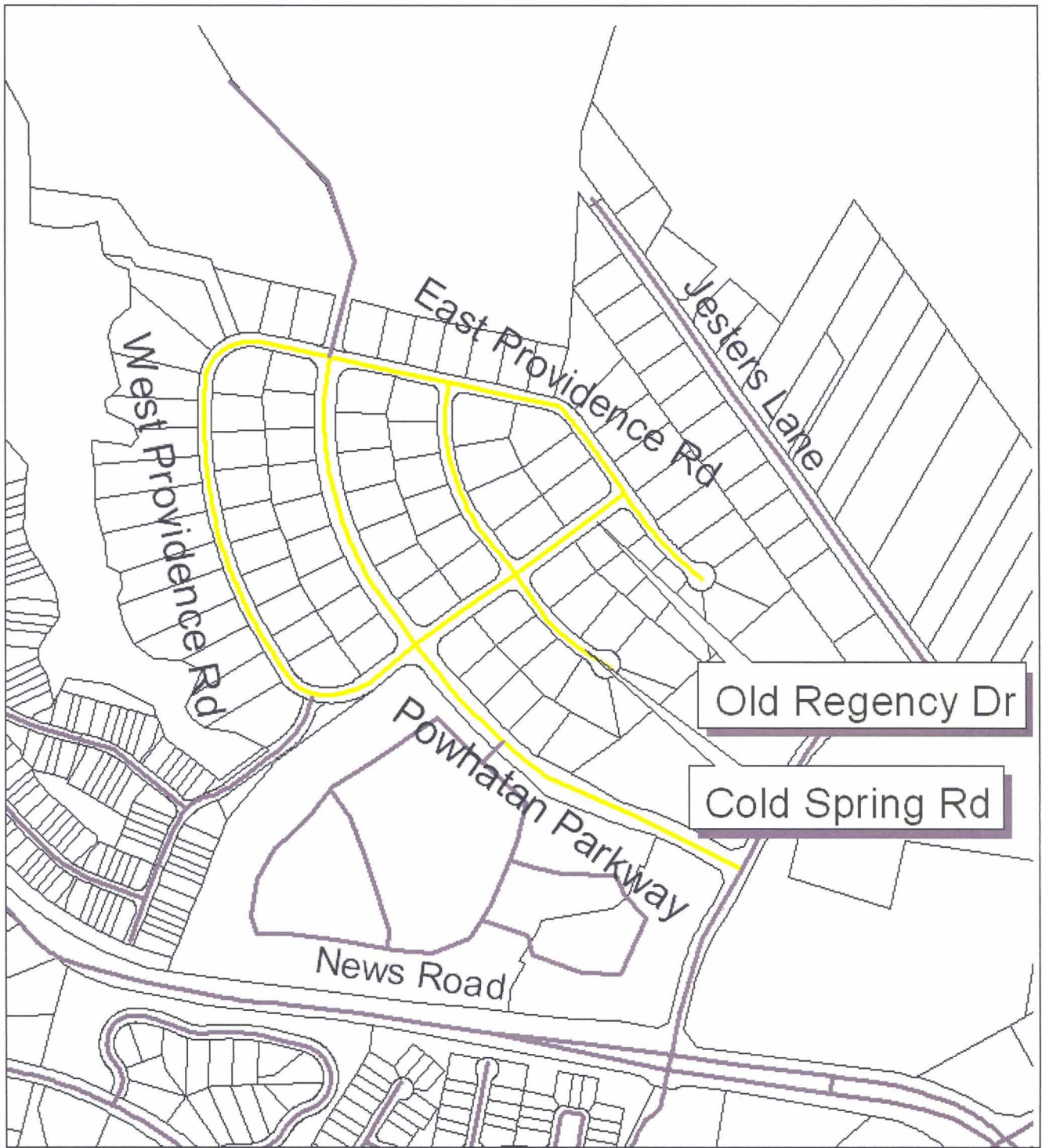
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

PowhatanSts.res



DEDICATION OF STREETS IN POWHATAN OF WILLIAMSBURG SECONDARY, PHASES 6A-C



Streets Being
Dedicated

200 0 200 400 Feet



In the County of James City

By resolution of the governing body adopted July 25, 2006

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Form AM-4.3 (11/28/2005)
Asset Management Division

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Powhatan Of Williamsburg Secondary, Phases 6 A-C

Type of Change: **Addition**

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

Reason for Change: Addition, Secondary System, New subdivision street
Pursuant to Code of Virginia §33.1-229

Route Number and/or Street Name

Powhatan Parkway, State Route Number 1765

Description: **From:** Old News Road (Route 742)
To: Old Regency Drive (Route 1766)
A distance of: 0.21 miles.

Right of Way Record: Filed with the Land Records Office on 12/26/2001, #010024124, Pb 84, Pgs. 44 -47, with a width of 61 to 89'.

Powhatan Parkway, State Route Number 1765

Description: **From:** Old Regency Drive (Route 1764)
To: East Providence Drive (Route 1765)
A distance of: 0.16 miles.

Right of Way Record: Filed with the Land Records Office on 12/26/2001, #010024124, Pb 84, Pgs. 44 -47, with a width of 61 feet.

Old Regency Drive, State Route Number 1766

Description: **From:** Powhatan Parkway (Route 1763)
To: Cold Spring Road (Route 1766)
A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 50 feet.

Old Regency Drive, State Route Number 1766

Description: **From:** Cold Spring Road (Route 1766)
To: East Providence Road (Route 1765)
A distance of: 0.07 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 50 feet.

Cold Spring Road, State Route Number 1769

Description: **From:** Old Regency Drive (Route 1764)
To: Cul de Sac
A distance of: 0.07 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 40 feet.

Report of Changes in the Secondary System of State Highways

East Providence Road, State Route Number 1767

Description: **From:** Powhatan Parkway (Route 1763)

To: Cold Spring Road (Route 1767)

A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 40 feet.

East Providence Road, State Route Number 1767

Description: **From:** Cold Spring Road (Route 1767)

To: Old Regency Drive (Route 1764)

A distance of: 0.12 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 40 feet.

East Providence Road, State Route Number 1767

Description: **From:** Old Regency Drive (Route 1764)

To: Cul de Sac

A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 40 feet.

West Providence Road, State Route Number 1768

Description: **From:** East Providence Road (Route 1765)

To: Powhatan Parkway (Route 1763)

A distance of: 0.32 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, and 5/7/2004, 040012353, with a width of 40 feet.

Cold Spring Road, State Route Number 1769

Description: **From:** East Providence Road (Route 1767)

To: Old Regency Drive (Route 1766)

A distance of: 0.11 miles.

Right of Way Record: Filed with the Land Records Office on 12/11/2002, 020029614, with a width of 40 feet.

M E M O R A N D U M

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Chesapeake Bay Restoration Fund Grant - \$5,432

James City County's Division of Parks and Recreation has been awarded a \$5,432 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 REC Connect Summer 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 week-long 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 visit the Virginia Marine Science Museum.

In-kind contributions including staff time comprise the required match for this grant.

Staff recommends approval of the attached resolution to accept the \$5,432 grant for the special marine camp and to appropriate the funds as described in the attached resolution.


Needham S. Cheely, III

NSC/gs
chesbaygrant.mem

Attachment

RESOLUTION

CHESAPEAKE BAY RESTORATION FUND GRANT - \$5,432

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 Standard of Learning based environmental component to the Division's REC Connect Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$5,432 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:

Revenue:

From the Commonwealth	<u>\$5,432</u>
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Expenditure:

Parks and Recreation	<u>\$5,432</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.


chesbaygrant.res

MEMORANDUM

DATE: June 25, 2006
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Appropriation of Grant Funds - Temperature Control Systems - \$5,000

James City County was awarded a \$5,000 pass-through grant from the Hampton Roads Metropolitan Medical Response System via the Hampton Roads Planning District Commission to reimburse expenses related to county government expense for temperature control systems on fire apparatus. These systems regulate the temperature of emergency medical drugs and intravenous solutions carried on the apparatus.

Receipt of this pass-through grant must be authorized by the Board of Supervisors. Staff recommends approval of the attached resolution.



William T. Luton

WTL/gs
tempcontrol.mem

Attachment

RESOLUTION

APPROPRIATION OF GRANT FUNDS - TEMPERATURE CONTROL SYSTEMS - \$5,000

WHEREAS, James City County applied for and was awarded a grant in the amount of \$5,000 from the Hampton Roads Metropolitan Medical Response System (HRMMRS) via the Hampton Roads Planning District Commission (HRPDC) for the purpose of reimbursing expenses related to county government costs related to the temperature control systems on fire apparatus; and

WHEREAS, the grant requires no local matching funds.

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

Revenue:

HRPDC-HRMMRS Temperature Control Boxes - EMS	<u>\$5,000</u>
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Expenditure:

HRPDC-HRMMRS Temperature Control Boxes - EMS	<u>\$5,000</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

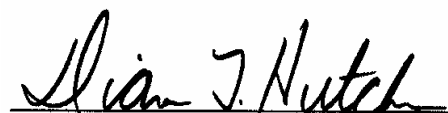
tempcontrol.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Diana F. Hutchens, Director of the Division of Social Services
SUBJECT: Overhire of Eligibility Worker

The Division of Social Services has an Eligibility Worker out on military leave for one year beginning July 5, 2006. This position is responsible for serving an ongoing caseload providing benefit programs to the Aged, Blind, and Disabled (ABD) Medicaid residents. This requires eligibility determinations and annual redetermination for continued eligibility for Medicaid, Long-Term Care, State and Local Hospitalization, and Auxiliary Grant Program applicants. Sufficient funds are available in the Social Services FY 2007 budget to pay the salaries and fringe benefits of a newly hired Eligibility Worker. It is requested that permission be granted to establish a full-time permanent "overhire" Eligibility Worker, effective July 31, 2006.

Staff recommends approval of the attached resolution to provide for the overhire of the Eligibility Worker.


Diana F. Hutchens

CONCUR:


Doug Powell

DH/gs
overhire.mem

Attachment

RESOLUTION

OVERHIRE OF ELIGIBILITY WORKER

WHEREAS, the Aged, Blind, and Disabled (ABD) Medicaid program Eligibility Worker will be out on military leave for one year beginning July 5, 2006; and

WHEREAS, this position is responsible for an ongoing caseload providing benefit programs to the aged, blind, and disabled residents requiring eligibility determinations and annual redetermination for continued eligibility for Medicaid, Long-Term Care, State and Local Hospitalization, and Auxiliary Grant Program applicants; and

WHEREAS, it is necessary to fill this position by July 31, 2006, in order to offer continued quality services; and

WHEREAS, the Division of Social Services will have sufficient funds in its FY 2007 budget to pay the salary and fringe benefits of the newly hired Eligibility Worker.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the overhire of the Eligibility Worker on July 25, 2006.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

overhire.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Beth Davis, Environmental Education Coordinator
SUBJECT: Department of Conservation and Recreation – Grant Award - \$150,000

The Department of Conservation and Recreation has approved a Water Quality Improvement Fund (WQIF) Grant for the amount of \$150,000 to conduct the Community Conservation Partnership Incentive Program.

In partnership with James City County, the Colonial Soil and Water Conservation District (CSWCD), along with a team of technically experienced professionals known as the Community Conservation Partnership (CCP), will target 30 neighborhoods within James City County through an application process to offer a 50 percent cost-share program for homeowner associations who install urban Best Management Practices (BMPs).

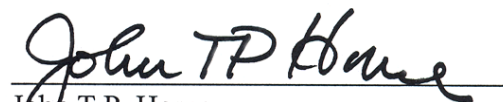
The CCP includes the following partners: James City County Development Management/Environmental Division (PRIDE), the James City Service Authority (Let's be Water Smart), James City County Neighborhood Connections, the Colonial Soil and Water Conservation District, Virginia Cooperative Extension, James City County/Williamsburg Master Gardeners, Virginia Department of Forestry, James River Association, and the Williamsburg Land Conservancy.

Matching funds will consist of in-kind support from CCP partners and the combination of in-kind support and monetary contributions from applicants. No direct James City County funds will be contributed. The grant will be administered by DCR with a grant period of July 1, 2006, through June 30, 2009. All project funding to be utilized in meeting the proposed objectives will be documented through a sub-contract between the CSWCD and James City County.

Staff recommends approval of the attached resolution.


Beth Davis

CONCUR:


John T.P. Horne

BD/nb
CnsrvRecGrntAwd.mem

Attachment

RESOLUTION

DEPARTMENT OF CONSERVATION AND RECREATION – GRANT AWARD - \$150,000

WHEREAS, the Department of Conservation and Recreation (DCR) has approved a Water Quality Improvement Fund (WQIF) Grant for the amount of \$150,000 to conduct the Community Conservation Partnership Incentive Program; and

WHEREAS, the grant will be administered by DCR with a grant period of July 1, 2006, through June 30, 2009.

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:

Revenues:

DCR – WQIF	<u>\$150,000</u>
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Expenditure:

DCR – WQIF	<u>\$150,000</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

CnsrvRecGrntAwd.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Kathryn Sipes, Planner
SUBJECT: 2006 Agricultural and Forestal District (AFD) Renewals

Agricultural and Forestal Districts

In 1977, the Virginia General Assembly created a process to “provide a means for a *mutual* undertaking by landowners and local governments to protect and enhance agricultural and forestal land as a viable segment of the Commonwealth’s economy and an economic and environmental resource of major importance.” The process also provides land owners an opportunity to try to protect their land from the pressure to develop. This process is known as the Agricultural and Forestal Districts (AFD) Act. The Act gives local governments authority, upon landowners’ voluntary application, to establish Agricultural Districts, Forestal Districts, and Agricultural and Forestal Districts.

Land within a District is directly affected in three ways:

1. District land qualifies for the benefits of use-value taxation, subject to local regulations; and
2. Restraints are imposed on government, as it may affect a property. More specifically, local governments may not restrict farming or forestry practices, except to protect public health or safety. Local comprehensive plans and zoning/subdivision ordinances apply to District land only to the extent that they do not conflict with either the conditions of the District or the purposes of the AFD Act. Local plans, ordinances, and decisions affecting land adjacent to a District must take into account both the District and the AFD Act. State agencies must modify regulations and procedures to encourage farming and forestry within Districts. Land acquisition by agencies, political subdivisions, or public service corporations (including acquisition by eminent domain) must be reviewed by the Board of Supervisors if the land acquisition in question exceeds 10 acres from the District or one acre from any one District farm or forestry operation. Finally, no special purpose assessments or taxes may be imposed on the basis of frontage, acreage, or value of land used for agricultural or forestal production within a District; and
3. A property owner wishing to keep his land in farming or forestry is protected from adjacent incompatible uses when his neighbors join with him in an AFD.

Current AFD statistics and facts

State code specifies a minimum acreage for each District of 200 acres. As shown in the following spreadsheet, there are currently 18,080± acres of land within the AFD program. This acreage represents approximately 20 percent of the total land area of the County. The AFD program began in James City County in 1986 and there have been four previous major review periods of AFD Districts (1990, 1994, 1998, and 2002).

2006 Agricultural and Forestal District (AFD) Renewals

July 25, 2006

Page 2

Of the 14 Districts, nine are set to expire in August. The Districts set to expire are highlighted in bold print below.

Agricultural and Forestal Districts (As of July 2006):

<u>District Name and Term of District in Years ()</u>		<u>Acres</u>	<u>Exp. Date</u>
AFD 1-94	Wright's Island (8)	1,454.41	8/13/2010
AFD 2-86	Croaker (4)	1,078.00	8/13/2006
AFD 3-86	Hill Pleasant Farm (4)	573.62	8/13/2006
AFD 4-86	Pates Neck (6)	624.30	11/17/2006
AFD 5-86	Barne's Swamp (4)	1,875.00	8/13/2006
AFD 6-86	Cranston's Pond (4)	1,087.81	8/13/2006
AFD 7-86	Mill Creek (4)	3,346.00	8/13/2006
AFD 9-86	Gordon Creek (4)	3,343.00	8/13/2006
AFD 10-86	Christenson's Corner (4)	562.16	8/13/2006
AFD 11-86	Yarmouth Island (4)	2,031.40	8/13/2006
AFD 12-86	Gospel Spreading Church (4)	1,190.76	8/13/2006
AFD 1-89	Armistead (4)	311.54	11/17/2010
AFD 1-93	Williamsburg Farms (4)	280.04	11/17/2010
AFD 1-02	Carter's Grove (4)	320.37	10/8/2006

	<u>Acres</u>	<u>Sq. Miles</u>
AFD Total	18,078.41	28.25
Total County Area: Land	92,224.00	144.10
Total County Area: Water	20,224.00	31.60
Total County Area: Land & Water	112,448.00	175.70

AFD percentage of Total County Area	16.08 percent
AFD percentage of Total Land Area	19.60 percent

Length of terms for individual Districts

Of the 14 AFD's in existence today, 12 have four-year terms, one has a six-year term, and one has an eight-year term. The State Code governing AFD's allows the establishment of a District for a minimum of four years and to a maximum of ten years. The Code also provides the Board of Supervisors (the Board) discretion to establish Districts for any term it deems appropriate, which may be from four-year to ten-year terms. In the past, the length of the term has been left up to the property owner. Staff is recommending that if continued, Districts be re-established for a term of four years and three months. The additional three months are a one-time addition allowing the County to synchronize the terms of all Districts so that they expire in the same month. Synchronizing the Districts will not only make it easier to administer the renewal process but also allow the Board to review the AFD program and associated policies as a whole in 2010.

When an AFD comes up for renewal

The review process is similar to other land use cases that come before the Board with several exceptions. The review of Districts begins at least 90 days before the expiration date of the District or Districts.

If there are any proposed changes to the AFD policy or to the conditions of any of the Districts, the County must convey those proposed changes to the affected property owners. During this review period the County sends notice of the renewal to all affected property owners. During this time, the County must give all AFD

property owners the opportunity to withdraw any or all of their property from the AFD. Owners do not need the Board approval to withdraw at this time. If the Board chooses to renew or “continue” the particular District, the Board simply renews the District without the acreage that has been voluntarily withdrawn.

Owners who choose to add more land to an AFD, either during the review period or during the term of the District, must file a written application to do so. The AFD Advisory Committee, the Planning Commission and the Board of Supervisors review these requests. Other agencies involved in the review process include the

Virginia Department of Forestry, and the Soil and Water Conservation Service. The AFD Advisory Committee and the Planning Commission review each new District, and any addition to, or withdrawal from, any existing District. The County notifies adjacent property owners, posts signs, and places public hearing ads in the local newspapers for renewals and additions as required by State Code. While the District renewals require public hearings, voluntary withdrawals of individual properties *during the review period* do not require the Board approval or public hearing.

Withdrawal of property from an AFD

Before a proposed District is created, and during the review of an existing District, landowners may withdraw their land simply by filing a written request. Also, when a landowner dies, the heirs may withdraw the land from a District at any time within two years of the date of death. Land withdrawn from a District by these two methods neither terminates a District nor causes a rollback tax to become due. The District continues at least until the time of its expiration date. The rollback tax (five years worth), becomes due only if the use of the withdrawn land is changed to a non-qualifying use (i.e., non-agricultural or non-forestal) during the six succeeding tax years. At other times, withdrawals must be approved by the Board, which has established withdrawal policies.

Conditions of approval on the Districts up for renewal

When AFD’s 2-86, 3-86, 5-86, 6-86, 7-86, 9-86, 10-86, 11-86, and 12-86 were last renewed in 2002, the following conditions were placed on the Districts:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts within the Primary Service Area, adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Also, generally any land within the District that is within 25 feet of an adjoining public road is excluded from the District. This exclusion allows for possible future road and/or drainage improvements.

Summary of changes to Districts during this renewal period and staff recommendations

AFD 2-86 Croaker

- Taskinas, LLC would like to remove Parcel (14-4)(1-3) consisting of 29 acres.
- After the withdrawal, the size of the District will be approximately 1,049 acres.
- Staff recommends continuation of the remainder of the District.

AFD 3-86 Hill Pleasant Farm

- Mr. Don Hunt would like to withdraw six acres from Tax Map (24-1)(1-5).
- After the withdrawal, the size of the District will be approximately 567.62 acres.
- Staff recommends continuation of the remainder of the District.

AFD 5-86 Barnes Swamp

- Toano Business Center would like to remove Parcels (4-1)(5-1); (4-1)(5-2); (4-1)(5-3); (4-1)(5-4); and (4-1)(5-5) formerly listed as (4-1)(1-8), totaling 88.376 acres.
- After the withdrawals, the size of the District will be approximately 1,786.13 acres.
- Staff recommends continuation of the remainder of the District.

AFD 6-86 Cranston's Pond

- Withdrawal requests include all six Marston properties, totaling 85.61 acres and identified as Parcels (1-90), (1-33), (1-34), (1-35), (1-36), (1-37) on Tax Map (22-2); and both Heath properties, totaling 25.91 acres and identified as Parcels (22-3)(1-33), and (21-4)(1-39). In addition, the Ripley parcel, identified as Parcel (31-2)(1-3), was approved for a family subdivision earlier this year, and the two-acre subdivision is being withdrawn from the District at this time.
- After the withdrawals, the size of the District will be approximately 974.239 acres.
- Staff recommends continuation of the remainder of the District.

AFD 7-86 Mill Creek

- The Cowles Family Limited Partnership would like to remove Parcel (20-1)(1-1) consisting of 433 acres.
- After the withdrawal, the size of the District will be 2,913 acres.
- Staff recommends continuation of the remainder of the District.

AFD 9-86 Gordon Creek

- W.A. Thompson and Charles Flemming will be removing three acres from Parcel (36-2)(1-40). The size of the remaining parcel will be 136.96.
- David and Stephanie Allen will be removing 25 acres from Parcel (34-2)(1-2). The size of the remaining parcel will be 132.98.
- John Carswell will be adding 28.36 acres of land at 2743 Jolly Pond Road. The property can also be identified as Parcel (35-2)(1-10). Parcel (43-2)(1-3), which is approximately 210 acres, has been added from the Barrett's Ferry AFD.
- After the withdrawals and with the addition, the size of the District will be 3,343.804 acres.
- Staff recommends continuation of the remainder of the District.

AFD 10-86 Christenson's Corner

- No changes are currently proposed.
- Staff recommends continuation of the District.

AFD 11-86 Yarmouth Island

- No changes are currently proposed.
- Staff recommends continuation of the District.

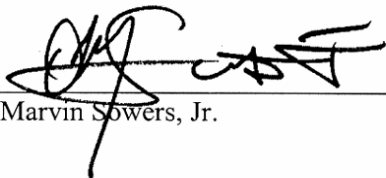
AFD 12-86 Gospel Spreading Church

- Mr. Lyman Hall, Jr. would like to remove Parcels (47-4)(1-13) consisting of 39.11 acres and (47-4)(1-11) consisting of 17.89 acres, for a total of 57 acres.
- After the withdrawal, the size of the District will be 1,133.76 acres.
- Staff recommends continuation of the remainder of the District.

Attached to this report are memorandums containing the detailed reports for each District that is up for renewal. In total, approximately 755.36 acres of land will be removed from the James City County AFD program during this renewal period, leaving approximately 17,354 acres (18.82% of Total Land Area) remaining in AFDs.

Kathryn Sipes

CONCUR:



O. Marvin Sowers, Jr.

















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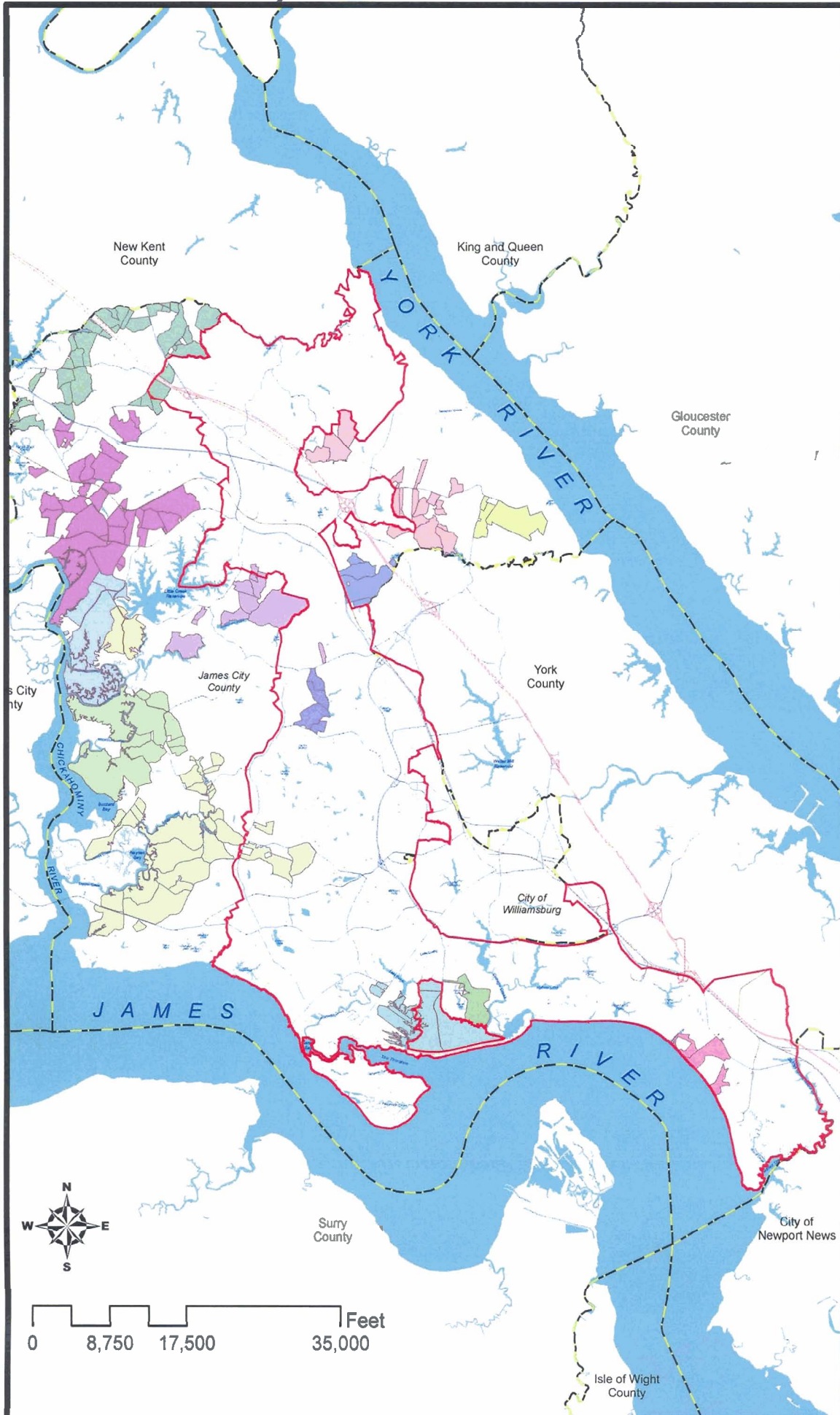
Attachments:

1. Overall AFD Map
2. Unapproved AFD Advisory Committee Minutes from June 27, 2006
3. Unapproved PC Minutes from July 10, 2006

Overall County AFD Districts

Legend

- psa only
- afd_polygons**
- NAME**
-  Armistead
 -  Barnes Swamp
 -  Barretts Ferry
 -  Carter's Grove
 -  Christianson's Corner
 -  Cranston's Pond
 -  Croaker
 -  Gordon Creek
 -  Gospel Spreading Chu
 -  Hill Pleasant Farm
 -  Mill Creek
 -  Pates Neck
 -  Williamsburg Farms
 -  Wright's Island
 -  Yarmouth Island
 -  county_line_all



AT THE MEETING OF THE AGRICULTURAL AND FORESTAL ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JUNE, TWO THOUSAND SIX, AT 3:00 P.M. AT THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. Gilley
Mr. J. Icenhour
Mr. Ford
Ms. Garrett
Ms. Lowe
Mr. Meadows
Mr. Richardson
Ms. Smith

Members Excused

Mr. Bradshaw
Mr. Abbott

Also Present

Ms. Ellen Cook
Mr. Jason Purse
Ms. Rebecca Wilson

2. Minutes

Minutes from March 16, 2006 were approved on a motion by Mr. Ford and seconded by Mr. Gilley.

3. Old Business

No old business was discussed.

4. New Business

A. AFD Renewals

- 1.AFD-2-86 Croaker
- 2.AFD-3-86 Hill Pleasant Farm
- 3.AFD-5-86 Barnes Swamp
- 4.AFD-6-86 Cranston's Pond
- 5.AFD-7-86 Mill Creek
- 6.AFD-9-86 Gordon Creek
- 7.AFD-10-86 Christenson's Corner
- 8.AFD-11-86 Yarmouth Island
- 9.AFD-12-86 Gospel Spreading Church

Mr. Gilley requested a motion to vote on the approval for the first eight districts together. Mr. Form motioned and Mr. Gilley seconded after inquiries about the duration of the renewal from Mrs. Smith. A roll call vote was taken and the renewal was approved (8-0).

Mr. Ford moved to approve the renewal of AFD-12-86, Gospel Spreading Church and Ms. Garrett seconded the motion. The Committee took a roll call vote with Mr. Gilley abstaining. The renewal was approved (7-0).

5. Adjournment

A meeting date was tentatively stated for the month of September and Mr. Gilley adjourned the meeting at 3:25 p.m.

Mr. R.E. Gilley, Chairman

Ellen Cook, Senior Planner

Jason Purse, Planner

UNAPPROVED MINUTES OF THE JULY 10, 2006 MEETING OF THE PLANNING COMMISSION

2006 Agricultural and Forestal District (AFD) Renewals

1. AFD-2-86 Croaker
2. AFD-3-86 Hill Pleasant Farm
3. AFD-5-86 Barnes Swamp
4. AFD-6-86 Cranston's Pond
5. AFD-7-86 Mill Creek
6. AFD-9-86 Gordon Creek
7. AFD-6-86 Christenson's Corner
8. AFD-11-86 Yarmouth Island
9. AFD-12-86 Gospel Spreading Church

Mr. Jason Purse presented the staff report stating currently 9 of the 14 Agricultural and Forestal Districts are up for renewal. Mandated by State Code, at the end of each District's term length a public hearing must be held to re-establish the districts for an additional term. This renewal period allows landowners to continue participating in the program, or allows them to withdraw all or some of their parcels. Property owners removing their land are subject to 5 years of roll-back taxes however, if the land-use of their parcel is not a forestal or agricultural use. At all other times, withdrawals must be approved by the Board of Supervisors, which has established withdrawal policies.

Staff is making an effort to synchronize the district's renewal times, and thus have suggested renewal of these 9 districts at a term length of 4 years and 3 months in order to put them on the same time frame as a majority of the other districts.

Staff reviewed all of the districts individually, and presented them both individually and in summary form in the Planning Commission packet. Staff found that overall, before the renewal period the combined size of the districts was approximately 18,080 acres. All of the subsequent additions and withdrawals totaled 755.36 acres, leaving the total acreage in an AFD at 17,354.

Based on the information available to staff at this time, staff recommends that the Planning Commission recommend renewal of all 9 districts at a term length of 4 years and 3 months with their attached conditions.

On June 27, 2006 the AFD Advisory Committee recommended approval by a vote of 8-0.

Mr. Hunt stated that he would like to recuse himself from the vote on AFD-3-86 Hill Pleasant Farm but would participate in the vote for all others.

Mr. Fraley opened the public hearing.

Ms. Vivian Morgan, 156 Bush Spring Road, spoke on behalf of the residents of the Bush Springs Road community in reference to case number AFD-6-86 Cranston's Pond. The residents would like to see 268, 275, 282, 290, 291 and 308 Bush Springs Road and all other properties included in this case remain as in the AFD and undeveloped. The residents believe these properties should not be developed into any type of housing subdivision, project or any other type of huge development.

Hearing no other requests the public hearing was closed.

Mr. Fraley separated item number two (AFD-3-86 Hill Pleasant Farm) and called for action on the case individually.

Mr. Kennedy motioned to approve item number two (ADF-3-86 Hill Pleasant Farm).

Mr. Obadal seconded the motion.

In a roll call vote the application and attached conditions were recommended for approval (5-0). AYE: Jones, Hughes, Kennedy, Obadal, Fraley (5); NAY (0); ABSTAIN: Hunt (1). (Billups absent)

Mr. Fraley called for discussion on the remaining AFD applications.

Ms. Hughes commented that Ms. Morgan spoke against the withdrawal of the six Marston properties within AFD-6-86 Cranston's Pond.

Mr. Purse explained that as part of the renewal process an owner is allowed to withdraw their property and if they were to develop the properties in a non-agricultural and forestal use they will be subject to a five year roll back tax penalty. Staff was not given a development plan for these parcels at this time.

Mr. Fraley commented that the Planning Commission could not deny someone the right to withdrawal their property from the AFD.

Mr. Purse stated that was correct.

Mr. Sowers stated that this was a voluntary program.

Mr. Obadal stated that the withdrawal does not give the owner of the property the right to develop the property other than what is specified in the zoning ordinance covering this land.

Mr. Purse stated that was correct.

Mr. Kennedy motioned to approve items: (1)AFD-2-86 Croaker; (3)AFD-5-86 Barnes Swamp; (4)AFD-6-86 Cranston's Pond; (5)AFD-7-86 Mill Creek; (6)AFD-9-86 Gordon Creek; (7) AFD-6-86 Christenson's Corner; (8) AFD-11-86 Yarmouth Island; (9) AFD-12-86 Gospel Spreading Church.

Ms. Jones seconded the motion.

In a unanimous roll call vote the applications and attached conditions were recommended for approval (6-0). AYE: Jones, Hughes, Kennedy, Hunt, Obadal, Fraley (6); NAY (0). (Billups absent)

MEMORANDUM

DATE: July 25, 2006

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner

SUBJECT: Renewal of AFD-5-86, Barnes Swamp

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, Districts must either be continued, modified, or terminated. This report will review AFD-5-86, Barnes Swamp which is scheduled to expire in August.

The Barnes Swamp AFD currently consists of approximately 1,875 acres and adjoins the New Kent County border, extending from a point approximately 5,000 feet east of Holly Forks Road west to Diascund Reservoir and south to Richmond Road. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
SD & SKI, LLC	(3-1)(1-1)	108.470
Shelly and John Latoski	(3-1)(1-1B)	10.230
Dennis Leonituk	(3-1)(1-1A)	10.000
Eunice P. Stewart	(3-1)(1-2)	64.000
Katherine L. Hockaday	(3-1)(1-3)	62.560
Alvin Beahm	(3-3)(1-3)	70.000
Alvin Beahm	(3-3)(1-4)	70.000
Arlene H. Bowmer	(3-3)(1-6)	96.750
Arlene H. Bowmer	(2-4)(1-12)	62.200
M. McMurran & S. Redd	(10-1)(1-1)	61.620
Harwood, Cary & Charles	(3-2)(1-1)	43.530
Estate of Mick Zuzma	(3-2)(1-2A)	17.200
Estate of Mick Zuzma	(3-2)(1-2)	13.860
Henry B. & Myrtle Johnson	(3-2)(1-3)	19.080
Henry B. & Myrtle Johnson	(3-2)(1-3A)	93.990
Robert M. Dzula	(3-2)(1-4)	28.080
John A. Richardson	(4-1)(1-5)	42.000
John A. Richardson	(4-1)(1-6)	10.000
H.P. & Mary Hazelwood	(4-2)(1-8)	249.880
Toano Business Center, LLC	(4-1)(5-1)	5.159
Toano Business Center, LLC	(4-1)(5-2)	10.073
Toano Business Center, LLC	(4-1)(5-3)	11.076
Toano Business Center, LLC	(4-1)(5-4)	11.217
Toano Business Center, LLC	(4-1)(5-5)	50.851
Peter B & Cherri Meyer	(4-2)(1-14)	99.440
Pamaka, LLC	(4-3)(1-15)	22.000
W.A. Stater, c/o Florence Carter	(4-3)(1-16)	52.000
Hazelwood Farms LLC	(4-3)(1-17)	183.140
J.W. Jr. and Isab Woodward	(9-2)(1-1)	114.000
Alex Lamar Penland	(2-4)(1-29)	55.900
Donald A. Hazelwood	(4-2)(1-20)	116.335

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Donald A. Hazelwood	(4-2)(1-18)	3.460
Donald A. Hazelwood	(4-4)(1-1)	6.900

History

The District was approved on December 1, 1986, for a term of four years. It was renewed for a period of four years by the Board in October 1990. One addition to the District of 60.7 acres was approved by the Board in February 1991. The AFD was renewed again on October 19, 1994. The Board of Supervisors approved an addition of 127.36 acres on July 8, 1997. It was renewed for a period of four years by the Board in September 1998, with the withdrawal of a 58.6 acre parcel (2-4)(1-61) owned by R.E. and Mary Mountcastle. On January 26, 1999, the Board approved the addition of the 58.6 acre Parcel No. (2-4)(1-61) owned by R.E. and Mary Mountcastle. When the District was renewed in 2002, the same 58.6 acre R.E. and Mary Mountcastle parcel was withdrawn.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

This District has remained essentially the same since the time it was put in the District. The District consists mainly of forested land. Records indicate that approximately 80 percent of the District is used for forestry purposes and the balance of the District is used for agriculture. Most of the land within the District is zoned A-1, General Agricultural, with the exception of part of Parcel No. (1-17) on Tax Map (4-3) which is zoned B-1, General Business. Most of the surrounding land is agricultural in nature, although two parcels located on Fire Tower Road are adjacent to the Stonehouse PUD-R Development. The vast majority of the District is located outside the PSA and designated Rural Lands and Conservation by the Comprehensive Plan. A small portion near the Route 30/Interstate 64 interchange is within the PSA and is designated Mixed Use on the Comprehensive Plan Land Use Map; however, the utilities necessary for the commercial development of the property are not currently available to the site. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property.

Withdrawals

As part of this renewal, Toano Business Center would like to remove Parcel Nos. (4-1)(5-1); (4-1)(5-2); (4-1)(5-3); (4-1)(5-4); and (4-1)(5-5) which had formerly been listed as Tax Map (4-1)(1-8). These parcels are 88.376 acres in size.

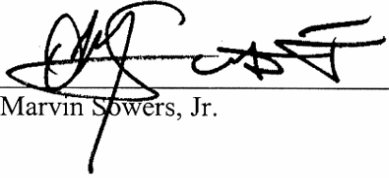
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. On July 10, 2006, the Planning Commission recommended renewal by a vote of 7-0.

The changes outlined above would bring the size of the District to approximately 1,786.1 acres.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

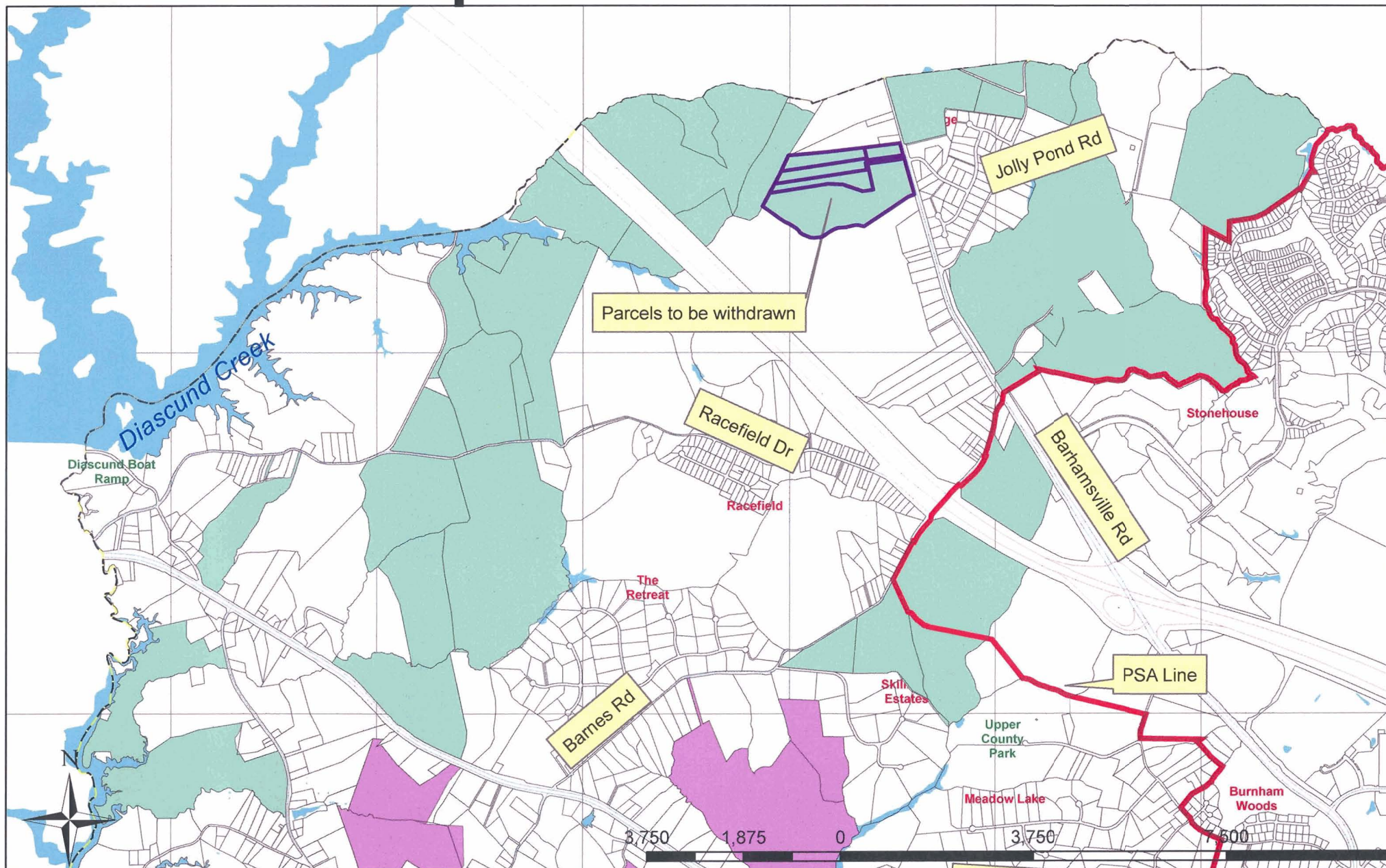
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Attachments:

1. Location map
2. Withdrawal Letter
3. Ordinance

AFD-5-86

Barnes Swamp AFD 2006 Renewal



TOANO BUSINESS CENTRE, LLC

P.O. Box 150 ~ BARHAMSVILLE, VIRGINIA 23011

(757) 566-3254

FAX (757) 566-8990

May 23, 2006

Mr. Marvin Sowers
Planning Director
James City County
P.O. Box 8784
Williamsburg, Virginia 23187-8784



RE: Request for removal from Barnes Swamp AFD

Dear Marvin:

Pursuant to your letter dated May 8, 2006 regarding the notice to withdraw property from the AFD; I am formally requesting that the following properties owned by Toano Business Centre, LLC be removed from the Barnes Swamp AFD

<u>Address</u>	<u>Parcel ID</u>	<u>RPC</u>	<u>Acreage</u>
10135 Old Stage Road	0410500001	28690	5.159
10115 Old Stage Road	0410500002	28691	10.073
10095 Old Stage Road	0410500003	28692	11.076
10075 Old Stage Road	0410500004	28693	11.217
10055 Old Stage Road	0410500005	28694	<u>50.851</u>
		TOTAL:	88.376

It was my understanding that the county was to have reversed the original subdivision once the early withdrawal request was denied by the Board of Supervisors. I would like to also request that the county take whatever steps necessary to return the property to its former configuration of one 88.376 acre parcel. Thank you in advance for your time and effort with this situation.

Regards,

Michael C. Brown, Sole Member and Manager
Toano Business Centre, LLC

John & Shelly Latoski
PO Box 248
Lanexa, VA 23089

May 14, 2006

Mr. Geoff Cripe
James City County Planning Division
101-A Mounts Bay Road
Williamsburg, VA 23187-8784

Dear Mr. Cripe:

We would like to withdraw one-half (0.5) acre for the purpose of a home site from the Barnes Swamp Agricultural and Forestry District. This acreage is part of a 10.23 acre parcel identified by Map No. 03-1 01-01B also known as 346 Racefield Drive and is affiliated with a parent tract of 108 acres identified by Map No. 03-1 01-01 also known as 338 Racefield Drive. The total property was subdivided through a family subdivision completed in March 2005. We were instructed at that time that we needed to wait for the expiration of the existing AFD contract to withdraw a portion for the purpose of a home site. Our current AFD contract is due to expire in August 2006.

Your consideration in this matter is greatly appreciated. If you need to discuss this matter, please contact John Latoski at 757-291-5020.

Sincerely,

John and Shelly Latoski

ORDINANCE NO. _____

BARNES SWAMP AGRICULTURAL AND FORESTAL DISTRICT (AFD-5-86)

WHEREAS, James City County has completed a review of the Barnes Swamp Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Barnes Swamp Agricultural and Forestal District; and

WHEREAS, Toano Business Center has requested the withdrawal of 88.376 acres from their parcels which are identified as Tax Map IDs (4-1)(5-1), (4-1)(5-2), (4-1)(5-3), (4-1)(5-4), and (4-1)(5-5); and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on June 27, 2006, voted 8 to 0 to recommend renewal of the District; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6 to 0 to recommend renew of the District with the conditions listed below.

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

1. The Barnes Swamp Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the twenty-fifth day of July, 2006, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
SD & SKI, LLC	(3-1)(1-1)	108.470
Shelly and John Latoski	(3-1)(1-1B)	10.230
Dennis Leonituk	(3-1)(1-1A)	10.000
Eunice P. Stewart	(3-1)(1-2)	64.000
Katherine L. Hockaday	(3-1)(1-3)	62.560
Alvin Beahm	(3-3)(1-3)	70.000
Alvin Beahm	(3-3)(1-4)	70.000
Arlene H. Bowmer	(3-3)(1-6)	96.750
Arlene H. Bowmer	(2-4)(1-12)	62.200
M. McMurran & S. Redd	(10-1)(1-1)	61.620

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Harwood, Cary & Charles	(3-2)(1-1)	43.530
Estate of Mick Zuzma	(3-2)(1-2)	17.200
Estate of Mick Zuzma	(3-2)(1-2A)	13.860
Henry B. & Myrtle Johnson	(3-2)(1-3)	19.080
Henry B., Myrtle & John B. Johnson	(3-2)(1-3A)	93.990
Robert M. Dzula	(3-2)(1-4)	28.080
John A. Richardson	(4-1)(1-5)	42.000
John A. Richardson	(4-1)(1-6)	10.000
H.P. & Mary Hazelwood	(4-2)(1-8)	249.880
Peter B. & Cherri Meyer	(4-2)(1-14)	99.440
Pamaka, LLC	(4-3)(1-15)	22.000
W.A. Stater, c/o Florence Carter	(4-3)(1-16)	52.000
Hazelwood Farms LLC	(4-3)(1-17)	183.140
J.W. Jr. and Isab Woodward	(9-2)(1-1)	114.000
Alex Lamar Penland	(2-4)(1-29)	55.900
Donald A. Hazelwood	(4-2)(1-20)	116.335
Donald A. Hazelwood	(4-2)(1-18)	3.460
Donald A. Hazelwood	(4-4)(1-1)	<u>6.900</u>
Total:		<u>1,786.100</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District.

3. That pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Barnes Swamp Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
 - c. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of

Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July,
2006.

Afd5-86.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Melissa C. Brown, Senior Zoning Officer
SUBJECT: Renewal of AFD-10-86, Christenson's Corner

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, Districts must be either continued, modified, or terminated. This report will review AFD-10-86, Christenson's Corner which is scheduled to expire in August.

The Christenson's Corner AFD consists of 562.16 acres located south of Riverview Road between Newman Road and Riverview Plantation. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Wallace Steiffen, <i>et al</i>	(16-4)(1-3)	402.90
C.M. Chandler	(16-3)(1-1)	8.01
C.M. Chandler	(15-4)(1-11)	151.25

History

The District was approved on December 1, 1986, for a term of four years, and the Board of Supervisors approved four-year renewals in 1990, 1994, 1998, and 2002. The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road improvements.

Analysis

The bulk of the District contains woodland. The remainder of the property in the District is in open land and swamp or low-lying land. All of the land within this District is zoned A-1, General Agricultural, and a major portion of the surrounding property is zoned A-1 and is forested. Most of the District is designated Rural Lands by the Comprehensive Plan. A very small portion of the District is designated Conservation Area by the Comprehensive Plan.

The entire District is located outside of the Primary Service Area (PSA) and the area remains relatively rural in nature. All land within 25-feet of arterial road rights-of-way shall be excluded from the District.

Recommendation:

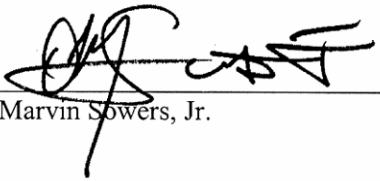
Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD

Advisory Committee recommended renewal by a vote of 8-0. On July 2, 2006, the Planning Commission recommended approval by a vote of 6-0.

This would renew the District at approximately 562 acres.

Melissa C. Brown

CONCUR:



O. Marvin Sowers, Jr.

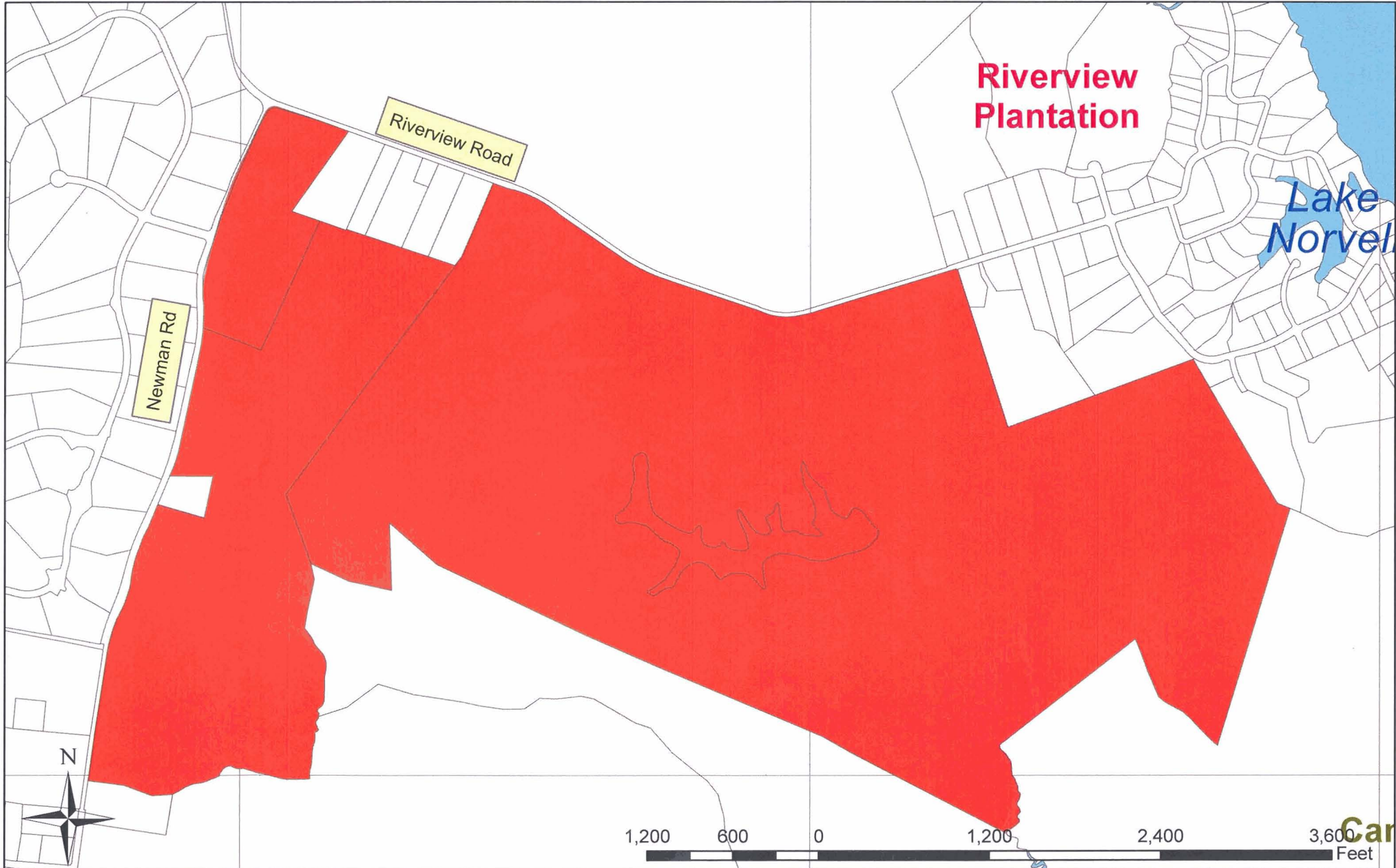
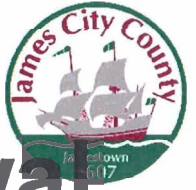
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Attachments:

1. Location map
2. Ordinance

AFD-10-86

Christenson's Corner AFD 2006 Renewal



ORDINANCE NO. _____

CHRISTENSON'S CORNER AGRICULTURAL AND FORESTAL DISTRICT (AFD-10-86)

WHEREAS, James City County has completed a review of the Christenson's Corner Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Christenson's Corner Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District for a period of four years and three months; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee, and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Christenson's Corner Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the 25th day of July, 2006, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Wallace Steiffen, <i>et al</i>	(16-4)(1-3)	402.900
C.M. Chandler	(16-3)(1-1)	8.010
C.M. Chandler	(15-4)(1-11)	<u>151.250</u>
Total:		<u>562.160</u>

provided, however, that all land within 25 feet of the road rights-of-way shall be excluded from the District.

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Christenson's Corner Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:

- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
- b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

afd10-86.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Kathryn Sipes, Planner
SUBJECT: Renewal of AFD-6-86. Cranston's Pond

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, Districts must be either continued, modified, or terminated. This report will review AFD-6-86, Cranston's Pond which is scheduled to expire in August.

The Cranston's Pond AFD consists of 1,087.809 acres and is located southeast of Chickahominy Road and Little Creek Dam Road. The bulk of the properties straddle the Virginia Power easement. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hidden Acres Farm, c/o Wayne Nunn	(23-3)(1-1)	416.500
Bert Geddy, Jr.	(22-3)(1-26)	167.500
Kenneth and Wendy Heath	(22-3)(1-33)	19.410
Edward K. English	(22-4)(1-1A)	101.670
Harcum Trust	(22-2)(1-87)	62.559
Marston, LLC	(22-2)(1-90)	40.000
Otto C. and Thelma Ripley	(31-2)(1-3)	23.060
Kenneth and Wendy Heath	(21-4)(1-39)	6.500
Douglas L. Hornsby Trust	(21-4)(1-46)	205.000
Marston, LLC	(22-2)(1-33)	12.000
Marston, LLC	(22-2)(1-35)	1.000
Marston, LLC	(22-2)(1-36)	2.110
Marston, LLC	(22-2)(1-37)	16.500
Marston, LLC	(22-2)(1-34)	14.000

History

The District was approved on December 1, 1986, for a term of four years and has been renewed for additional four-year terms by the Board of Supervisors in October 1990, November 1994, September 1998, and August 2002. This District has remained essentially the same since the AFD was created, with the following changes occurring over time: approximately 32 acres were added to the District in 1994, approximately 14 acres were added to the District in 2002, and approximately 130 acres were removed between 1998 and 2002.

The District includes all the land on the above properties with the exception of all land within 50 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The District consists mainly of forested land, about 75 percent. The remainder of the District is in marsh land. A majority of the land (over 920 acres) within the District is zoned A-1, General Agricultural. However,

Parcel No. (22-3)(1-33) and parts of Parcel Nos. (22-2)(1-87), (21-4)(1-39), and (22-4)(1-1A) are zoned R-8, Rural Residential. Additionally, all six Marston properties are zoned R-1, Limited Residential.

Most of the District, approximately 1,065 acres, is located outside of the Primary Service Area (PSA) and is designated Rural Lands by the Comprehensive Plan. The Ripley parcel and two of the Marston parcels, (22-2)(1-33) and (22-2)(1-37), are located inside the PSA and are designated Low Density Residential. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property. The Comprehensive Plan also designates Cranston's Pond and its tributaries as Conservation areas. All land within 50 feet of the road rights-of-way of Chickahominy Road (Route 631) and Centerville Road (Route 614) has been excluded from the District to allow for possible road and/or drainage improvements.

Withdrawals

The following properties are being withdrawn: all six Marston properties, totaling 85.61 acres and identified as Parcel Nos. (1-90), (1-33), (1-34), (1-35), (1-36), and (1-37) on James City County Real Estate Tax Map No. (22-2); and both Heath properties, totaling 25.91 acres and identified as Parcel Nos. (22-3)(1-33) and (21-4)(1-39). In addition, the Ripley parcel, identified as (31-2)(1-3), was approved for a family subdivision earlier this year, and the two-acre subdivision is being withdrawn from the District at this time.

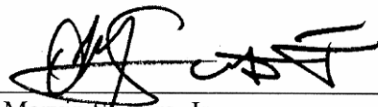
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District, with the above withdrawals, for a period of four years and three months, with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. On July 10, 2006, the Planning Commission recommended renewal by a vote of 6-0.

After the withdrawals the District will total approximately 974.239 acres.

Kathryn Sipes

CONCUR:



O. Marvin Sowers, Jr.

KS/nb

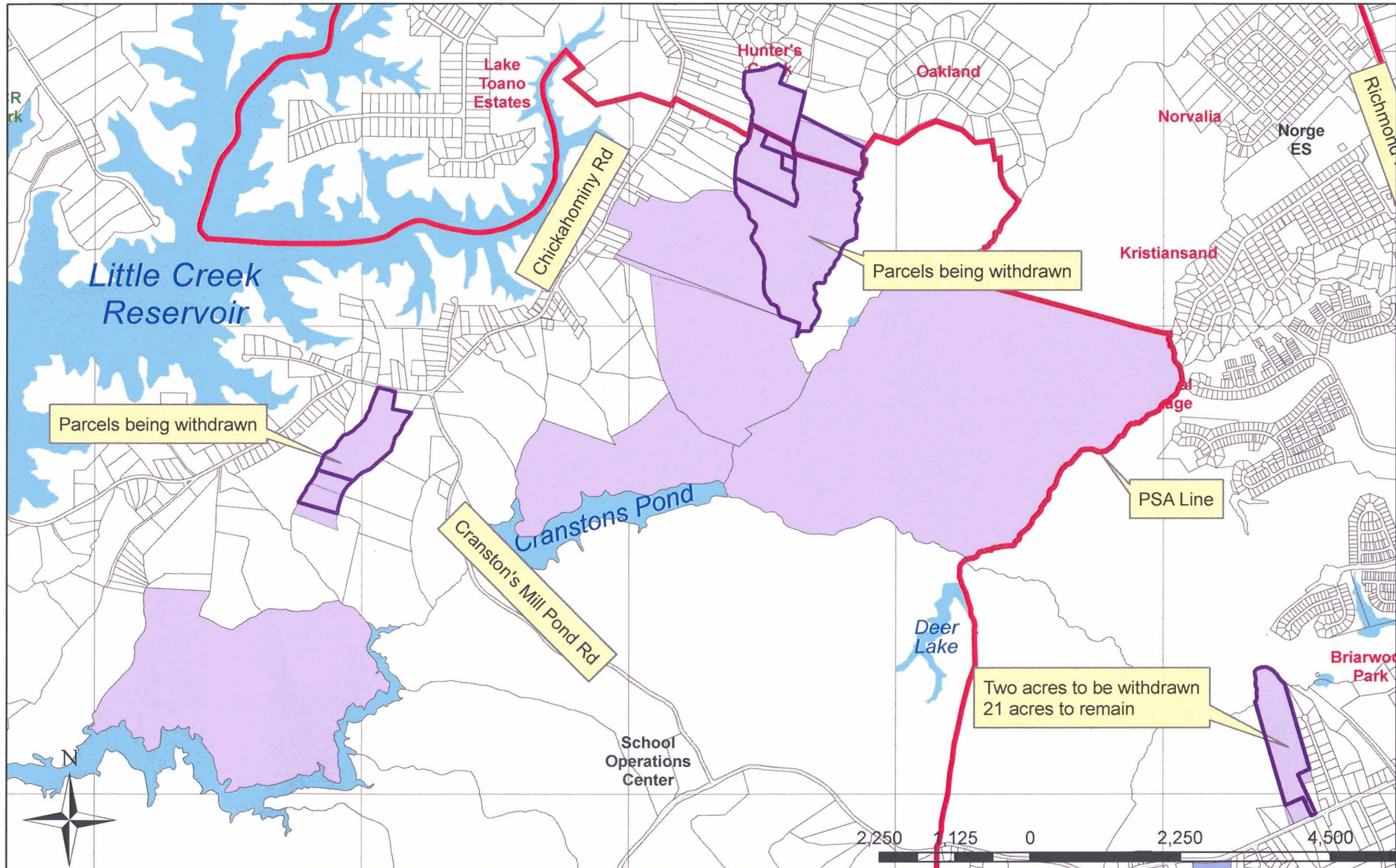
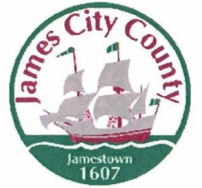
AFD6_86_CranstonsPnd.mem

Attachments:

1. Location Map
2. Withdrawal request letters
3. Ordinance

AFD-6-86

Cranston's Pond AFD 2006 Renewal



Jones, Blechman, Woltz & Kelly, P.C.
ATTORNEYS AND COUNSELORS AT LAW

May 26, 2006

**VIA FACSIMILE – 253-6822 &
MAILED**

Attn: Geoffrey Cripe
Development Management Assistant
James City County Planning Division
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784

RE: **Marston, LLC – AFD 6-86: Cranston's Pond**
2220100033 (275 Bush Springs Rd); 2220100034 (308 Bush Springs Rd);
2220100035 (290 Bush Springs Rd); 2220100036 (282 Bush Springs Rd);
2220100037 (268 Bush Springs Rd) & 2220100090 (291 Bush Springs Rd)
JBW&K File No.: 57410.014


Dear Mr. Cripe:

Please be advised that we would like to withdraw all of the property listed above from the Agricultural and Forestal Districts. Please advise the other members of the Planning Department.

Thank you for your attention in this matter. If you have any questions or need anything further, please do not hesitate to call or contact me.

Sincerely,

JONES, BLECHMAN, WOLTZ & KELLY, P.C.


Michael B. Ware

MBW/cc

cc: Health-E-Community Enterprises

*In Memory of
Svein J. Lassen (1947-2006)*

Herbert V. Kelly
Raymond H. Suttle
B. M. Millner
Ralph M. Goldstein
John T. Tompkins, III
Conway H. Sheild, III
David W. Otey
Herbert V. Kelly, Jr.
Richard B. Donaldson, Jr.
David W. Otey, Jr.
Michael B. Ware
Robyn H. Hansen
Leonard C. Heath, Jr.
Raymond H. Suttle, Jr.
Bryan H. Schempf
Helena S. Mock
J. Vance Stallings

Daniel R. Quarles
Shawn W. Overbey
Matthew D. Meadows
Lauren C. Baddar
Rebecca S. Aman
Steven C. Miller
Justin M. Sizemore

Newport News Law Office
701 Town Center Drive
Suite 800
Newport News, VA 23606
phone: 757-873- 8076
fax: 757-873- 8053
email: mware@jbwk.com

www.jbwk.com

100 Year Anniversary


James H. Hudson, III
jh@hudbon.com
B. Elliott Bondurant
beb@hudbon.com

P.O. Box 231 826 Main Street
West Point, Virginia 23181

(804) 843-3262
Fax (804) 843-4946

May 26, 2006

Mr. O. Martin Sowers, Jr. AICP
Planning Director
James City County
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784

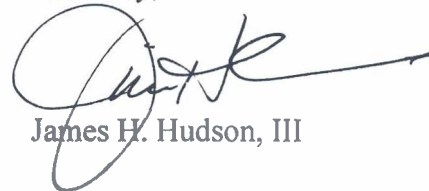
RE: Beverly L. Heath, et al, Tax ID# 21-4-010-0039 & 22-3-010-0033

Dear Mr. Sowers:

This office represents Kenneth I. Heath, Wendy A. Heath, Beverly Lee Heath and Sherry D. Heath, owners of the above referenced properties situated in Powhatan District, James City County. I enclose a copy of the relevant pages of the Deed for your information. The Heaths are in receipt of your letter of May 8, 2006 relative to Agricultural and Forestal District redesignation. The Heaths request that the subject property be withdrawn in total from the AFD during your review period. Please consider this letter a written request to withdraw pursuant to your May 8, 2006 letter.

Please call with any questions or concerns.

Sincerely,


James H. Hudson, III

JHHIII/wfw

enclosure

cc: Beverly L. Heath



ORDINANCE NO. _____

CRANSTON'S POND AGRICULTURAL AND FORESTAL DISTRICT (AFD-6-86)

WHEREAS, James City County has completed a review of the Cranston's Pond Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Cranston's Pond Agricultural and Forestal District; and

WHEREAS, Michael B. Ware, on behalf of Marston, LLC, has requested the withdrawal of 85.61 acres, identified as Tax Map IDs (22-2)(1-33), (22-2)(1-34), (22-2)(1-35), (22-2)(1-36), (22-2)(1-37), and (22-2)(1-90); and

WHEREAS, James Hudson, on behalf of Kenneth and Wendy Heath, has requested the withdrawal of 25.91 acres, which are identified as Tax Map ID (21-4)(1-39) and (22-3)(1-33); and

WHEREAS, Thelma and Otto Ripley and Shirley Sulenski completed a family subdivision on Tax Map ID (31-2)(1-3), thereby resulting in a 2.05-acre parcel which must be withdrawn from the District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee, at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District; and

WHEREAS, the Planning Commission, following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Cranston's Pond Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the twenty-fifth day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et seq.
2. That the District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hidden Acres Farm, c/o Wayne Nunn	(23-3)(1-1)	416.500
Bert Geddy, Jr.	(22-3)(1-26)	167.500
Edward K. English	(22-4)(1-1A)	101.670
James Peyton Harcum	(22-2)(1-87)	62.559
Otto C. and Thelma Ripley	(31-2)(1-3)	21.010
Douglas L. Hornsby Trust	(21-4)(1-46)	<u>205.000</u>
Total:		<u>974.239</u>

provided, however, that all land within 50 feet of the road rights-of-way shall be excluded from the District.

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Cranston's Pond Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

AFD6-86CranstonsPnd.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Ellen Cook, Senior Planner
SUBJECT: Renewal of AFD-2-86, Croaker

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, Districts must either be continued, modified, or terminated. This report will review AFD-2-86, Croaker, which is scheduled to expire in August.

The Croaker AFD consists of approximately 1,078 acres located in and around the Croaker area. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hankins Land Trust	(15-3)(1-44)	119.000
William Apperson	(14-4)(1-15)	51.450
V. D. McManus Estate	(15-3)(1-43)	119.850
V. D. McManus Estate	(15-3)(1-42)	10.100
V. D. McManus Estate	(15-3)(1-36)	40.400
Hazel and LA Richardson	(15-3)(1-2)	39.760
Clarence D. Richardson, Jr.	(15-3)(1-34)	34.000
Judith R. Pieper	(14-4)(1-10)	40.000
Robert I. Solomon	(14-4)(1-9)	49.079
Wenger Farms, LLC	(13-2)(1-18)	95.300
Wenger Farms, LLC	(14-1)(1-1)	150.000
Wenger Farms, LLC	(14-1)(1-14)	143.500
Thomas B. Ballard	(15-3)(1-35)	53.170
Lasata LLC	(15-3)(1-18)	16.051
Lasata LLC	(15-3)(1-19)	16.397
Lasata LLC	(15-3)(1-29)	30.937
Taskinas LLC	(14-4)(1-3)	29.000
Milly Wallis c/o Doris Lockley	(15-4)(1-4)	40.000

History

The District was originally approved on November 17, 1986, for a term of four years. In July 1989, the Board of Supervisors approved the withdrawal of 421.773 acres associated with the Old French Winery property. The District was renewed a second time in 1994. Twenty-nine acres were added to the District on January 14, 1997, and 40 acres were added on January 13, 1998. The District was renewed by the Board in 1998 and 2002 with no additions or withdrawals.

This includes all the land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The bulk of the District appears to consist of soils well suited for agriculture and is located a considerable distance from the I-64/Croaker Road interchange. Most of the District is forested and remains rural in nature.

All of the land within this District is zoned A-1, General Agriculture, and a major portion of the surrounding property is presently zoned A-1. The Old French Winery/Kiskiack development, zoned R-5, Multi-Family Residential, and M-1, Limited Business/Industrial, abuts two of the AFD tracts found on Tax Map No. (14-4).

The entire District is outside the Primary Service Area and is designated Rural Lands by the Comprehensive Plan.

Withdrawals

As part of this renewal, Taskinas LLC would like to remove Parcel (14-4)(1-03); this parcel is 29 acres.

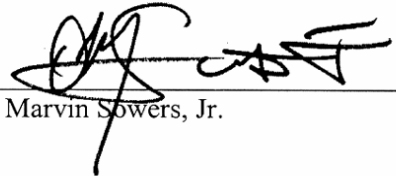
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing (the District) for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. On July 10, 2006, the Planning Commission recommended renewal by a vote of 6-0.

After renewal, this District would consist of approximately 1,049 acres.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/gs

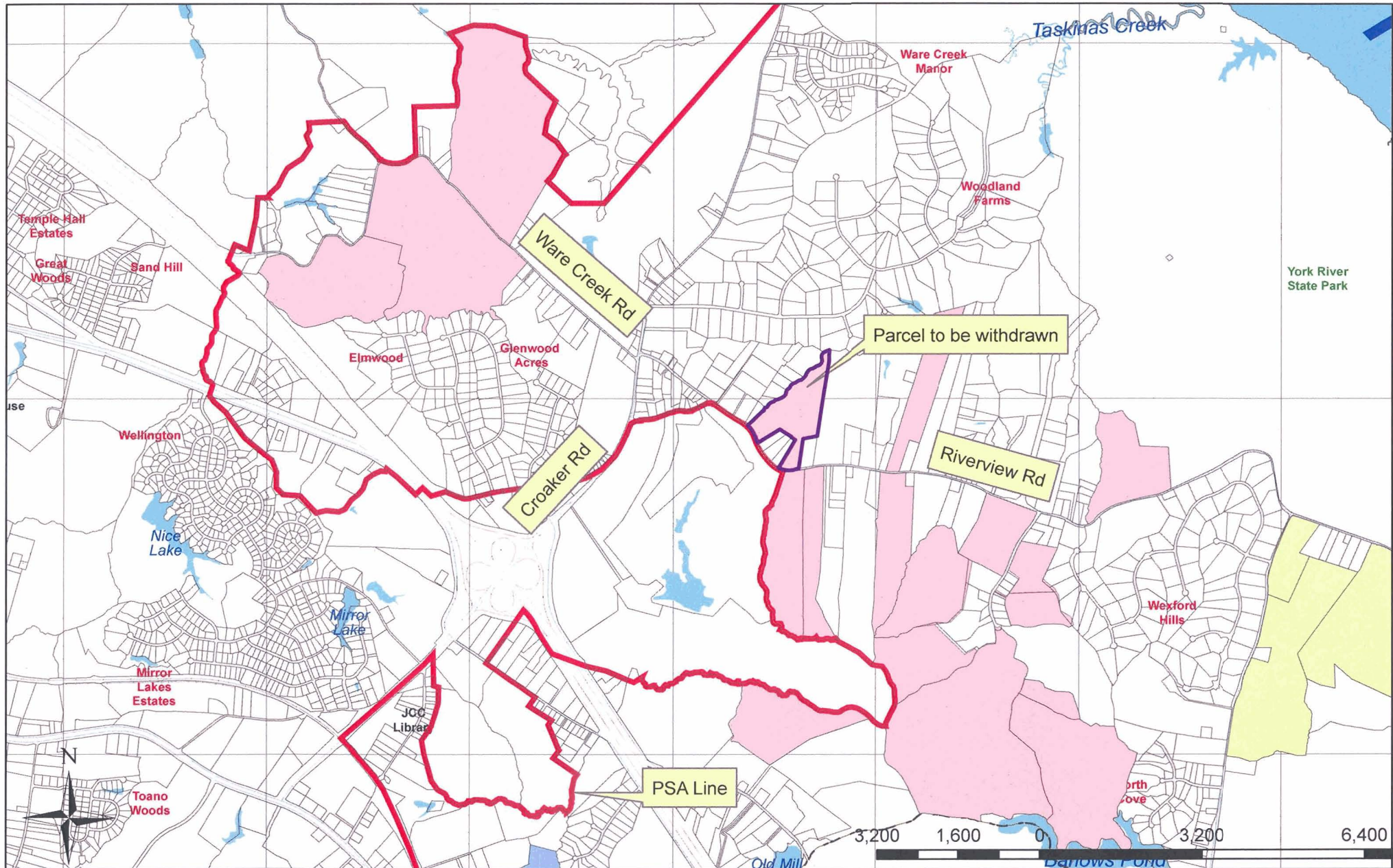
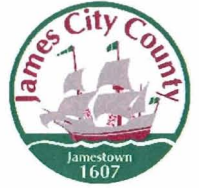
AFD-2-86.mem

Attachments:

1. Location map
2. Withdrawal Letter
3. Ordinance

AFD-2-86

Croaker AFD 2006 Renewal





TASKINAS, LLC
11817 CANON BLVD. #300
NEWPORT NEWS, VA 23606

11 May 2006

Re: AFD2-86

Mr. O. Marvin Sowers, Jr.
James City County Planning Division
101-A Mounts Bay Road.
PO Box 8784
Williamsburg, VA 23187-8784

Dear Mr. Sowers,

I am in receipt of your letter dated 8 May, 2006 regarding the changes that are proposed for AFD uses. While we are appreciative of the tax credits that we have received over the years, the designation has simply been a bit of a discomfort over the years.

We have absolutely no plans to subdivide the land. We would, however, like to be able to build a nice equestrian oriented home on the property, similar to what we are seeing in the Forge Road area of James City County. Though this should currently be permitted, it may change the use from forestry to farming (or whatever one would consider having a home, horses, barn, implement shed, hay & alfalfa pastures and so forth).

For this reason, we would request that you withdraw all of Taskinas LLC land (map no: 14-4-01-03, 30 ac +/-) from the AFD program.

We anticipate leaving the land to our daughter, who is 2005 high-point champion in Virginia Horse Show Association ranking and would like for the property to remain unencumbered for that purpose. As a note: the term Taskinas is the name of a nearby creek, and was the name of our family farm that is now "York River State Park".

Sincerely yours,

Trip Ferguson, Manager
cc: Mr. Vernon M. Geddy, III

ORDINANCE NO. _____

CROAKER AGRICULTURAL AND FORESTAL DISTRICT (AFD-2-86)

WHEREAS, James City County has completed a review of the Croaker Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Croaker Agricultural and Forestal District; and

WHEREAS, Taskinas, LLC has requested the withdrawal of 29 acres from its parcel, which is identified as Tax Map ID (14-4)(1-03); and

WHEREAS, the AFD Advisory Committee at its meeting on June 27, 2006, voted 8 to 0 to recommend renewal of the District; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee, and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Croaker AFD is hereby continued for a period of four years and three months beginning the 25th day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hankins Land Trust	(15-3)(1-44)	119.000
William Apperson	(14-4)(1-15)	51.450
V. D. McManus Estate	(15-3)(1-43)	119.850
V. D. McManus Estate	(15-3)(1-42)	10.100
V. D. McManus Estate	(15-3)(1-36)	40.400
Hazel and LA Richardson	(15-3)(1-2)	39.760
Clarence D. Richardson, Jr.	(15-3)(1-34)	34.000
Judith R. Pieper	(14-4)(1-10)	40.000
Robert I. Solomon	(14-4)(1-9)	49.079
Wenger Farms, LLC	(13-2)(1-18)	95.300
Wenger Farms, LLC	(14-1)(1-1)	150.000
Wenger Farms, LLC	(14-1)(1-14)	143.500
Thomas B. Ballard	(15-3)(1-35) 3 parts	53.170
Lasata LLC	(15-3)(1-18)	16.051
Lasata LLC	(15-3)(1-19)	16.397
Lasata LLC	(15-3)(1-29)	30.937
Milly Wallis c/o Doris Lockley	(15-4)(1-4)	<u>40.000</u>
Total:		<u>1,048.5</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District.

3. That pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Croaker Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to 5 acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to *Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area*, adopted September 24, 1996.
 - c. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

AFD-2-86.res

M E M O R A N D U M

DATE: July 25, 2006

TO: The Board of Supervisors

FROM: Jason Purse, Planner

SUBJECT: Renewal of AFD 9-86, Gordon Creek

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must either be continued, modified, or terminated. This report will review AFD-9-86, Gordon Creek which is scheduled to expire in August.

The Gordon Creek AFD consists of approximately 3,343 acres located in and around the Centerville Road/News Road area. The AFD contains parcels which front on the following roads: News Road, John Tyler Highway, Centerville Road, Bush Neck Road, Jolly Pond Road, and Brick Bat Road. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Sarah Armistead	(35-2)(1-16)	369.000
Sarah Armistead	(36-3)(1-1)	120.46
Rosa Armistead Est.	(30-3)(1-4)	23.000
Warburton, J. G. Est., c/o M. McMurran	(35-4)(1-1)	394.500
Edward D. Warburton	(35-2)(1-1)	86.643
Allen, David H. & Stephanie M.	(34-2)(1-2)	157.98
Patrick, Matthew C.H. & Theresa L.	(34-2)(1-2A)	25.02
Warburton, J. G. Est., c/o M. McMurran	(36-3)(1-3)	264.000
Thomas L. Hitchens	(36-1)(1-6)	35.000
W.A. Thompson & Charles Flemming	(36-2)(1-40)	139.96
Claybank Landing, LLC	(43-2)(1-1)	124.100
Richardson Holding LP	(36-4)(1-7)	116.83
Richardson Holding LP	(30-3)(1-3)	33.000
Jane T. Carsewell	(36-1)(1-3)	44.000
Warburton, J. G. Est., c/o M. McMurran	(36-1)(1-4)	37.620
Powhatan Assoc.	(44-1)(1-1)	387.420
Powhatan Hunt Club, c/o J. Kenneth Timmons	(35-3)(1-1)	241.680
Mary Abbott	(36-2)(1-18)	43.55
Trust Company of Virginia, c/o Gregory Davis	(35-4)(1-9)	57.600
Linda Henderson Gordon	(34-2)(1-1)	35.300
Williamsburg Pottery, Inc.	(44-1)(1-2)	26.000
Nayes Bay Land Co.	(35-1)(1-3)	32.000
Nayes Bay Land Co.	(35-1)(1-6)	11.000
William Kane	(29-4)(1-3)	4.000
William Kane	(30-3)(1-7)	8.000
William Kane	(35-2)(1-7)	131.000
William Kane	(36-1)(1-1)	8.330
William Kane	(36-1)(1-2)	13.000
J.G. Warburton Estate, c/o M. McMurran	(37-3)(1-4)	165.50
Baxter I. & Anne F. Bell	(43-2)(1-3)	207.951

History

The District was approved on December 1, 1986, for a term of four years. It was subsequently renewed for four-year periods in October 1990, October 1994, September 1998, and August 2002. There have been several additions to the Gordon Creek AFD since 1994. The Kane addition consisting of five parcels totaling 164.3 acres was approved by the Board of Supervisors in February 1995. The Nayses Bay Land Company addition consisting of three parcels totaling 42.5 acres was approved by the Board of Supervisors in December 1995.

During the April 2006 renewal period, the Barrett's Ferry AFD was terminated and the remaining land was transferred to the Gordon Creek AFD. The transfer consisted of one parcel of approximately 210 acres in land, mostly wooded in nature. The Board of Supervisors approved the transfer at their April 11, 2006, meeting, and the parcel became a part of the Gordon Creek District and thus eligible to be renewed during this review.

Forty-Four acres of land was taken out of the Gordon Creek AFD District in May for the purpose of constructing the 8th Williamsburg-James City County Elementary School. Originally, this piece was a part of the 163.880 acre parcel placed in the AFD by the previous owner. The original parcel can be identified as Parcel (36-3)(1-1) on the James City County Real Estate Tax Map.

The District includes all the land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The bulk of the District contains woodland. All of the land within this District is zoned A-1, General Agriculture, and a major portion of the surrounding property is presently zoned A-1 and is forested. Most of the District is designated Rural Lands by the Comprehensive Plan. The Nayses Bay area is designated a Conservation Area by the Comprehensive Plan. The bulk of the District is located outside of the Primary Service Area (PSA) and the area remains relatively rural in nature. A small portion (250 acres) is located inside the PSA, however; infrastructure is currently lacking to support major development on these parcels. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property.

Withdrawals

Three acres from 4213 Centerville Road is being withdrawn. The parcel can be identified as Parcel (36-2)(1-40) on the James City County Real Estate Tax Map.

A 25-acre piece of land will be withdrawn from 2001 Bush Neck Road. This parcel can be further identified as Parcel No. (34-2) on the James City County Real Estate Tax Map No. (1-2).

Additions

A parcel located at 2743 Jolly Pond Road, and further identified at Parcel (35-2)(1-10) on the James City County Real Estate Tax Map, is being added to the District. The parcel is 28.36 acres, and is owned by John Carswell. It is adjacent to existing parcels in the District. The parcel contains both agricultural and forestal land; with agricultural land along the northern and western areas of the parcel and a forestal area to the east of

the parcel. There is also a residence along the frontage of the property.

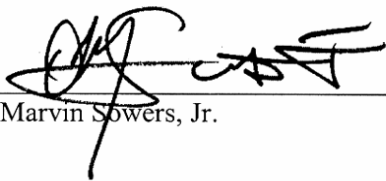
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. Staff also recommends that the 28.36 acre parcel (35-2)(1-10) be added to this District. On June 27, 2006, the AFD Advisory Committee recommended approval by a vote of 8-0. At the July 10, 2006, meeting the Planning Commission voted 6-0 to recommend approval of the renewal for this District.

After the withdrawals, and the addition, the District will total approximately 3,343.804 acres.

Jason Purse

CONCUR:



O. Marvin Sowers, Jr.

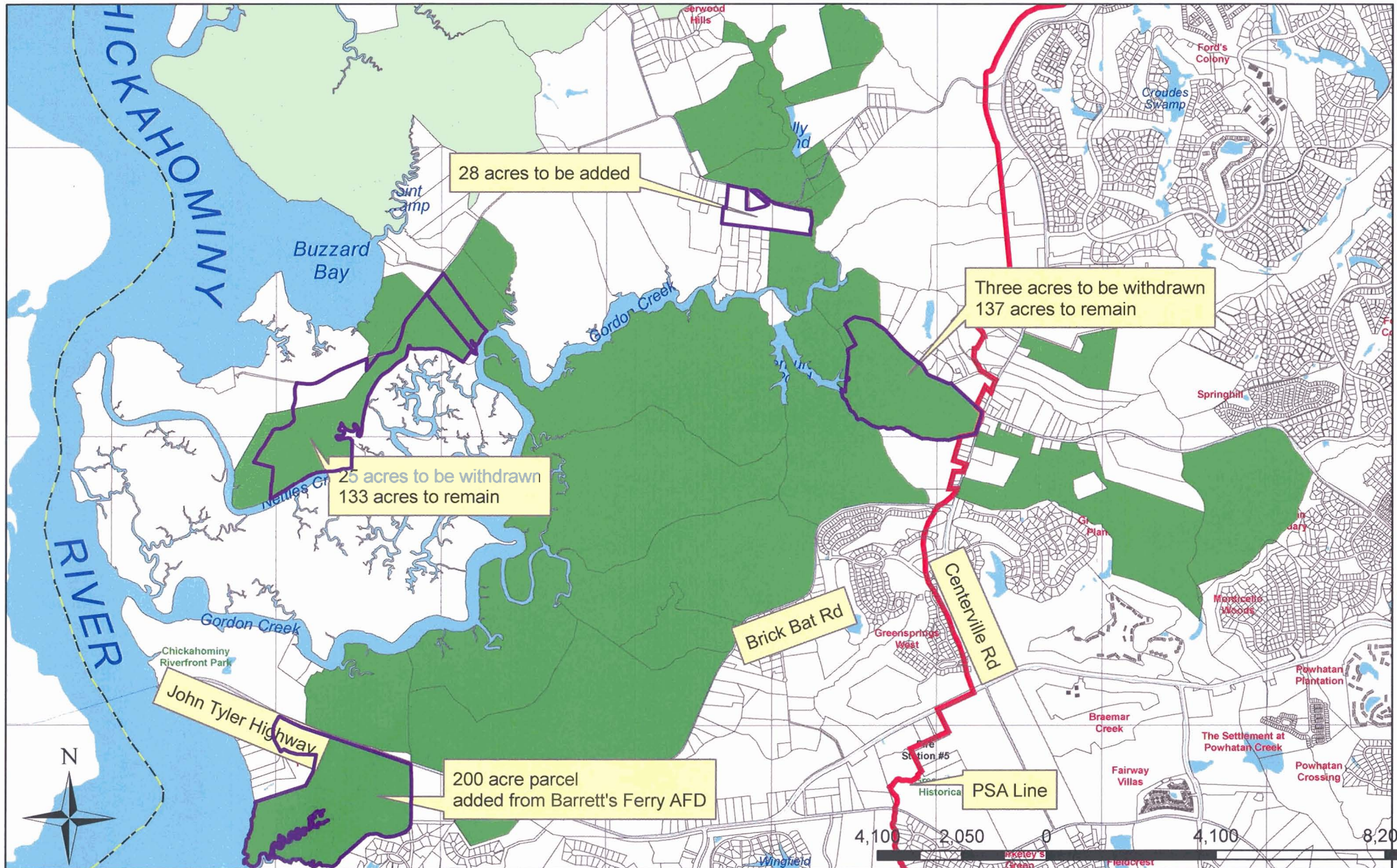
JP/nb
AFD 9_86_GordnCrk.mem

Attachments

1. Location map
2. Withdraw request letter from David and Stephanie Allen
3. Withdraw request letter from William Thompson
4. Addition request from John Carswell
5. Ordinance

AFD-9-86

Gordon Creek AFD 2006 Renewal



June 12, 2006

James City County Planning Division

I am writing to inform you that I am amending the property we currently have in AFD to exclude a 25 acre parcel at the North-^{East}~~west~~ end of our property for the purpose of subdividing it into four building lots. I am including a copy of a plat to show the 25 acres in question – indicated on the plat by the number 2. The lines on the plat that divide the property into 25 acre parcels are not exact, and are there for study purposes only.

Thank you for your attention on this matter.

Sincerely,


Stephanie M. Allen
2001 Bush Neck Road
Williamsburg, VA 23188



*Isaiah
* ~~that~~ has Plat*

May 27, 2006

Scotland Farms
Thompson Family
138 The Colony
Williamsburg, VA 23185

James City County
Planning Division
101-A Mounts Bay Road
P. O. Box 8784
Williamsburg, VA 23187-8784

Re: AFD-09-86

James City County Planning Division

We the landowner's of AFD-09-86, ADJ Scotland Farm, 139.96 acres at 4213 Centerville Road, request withdrawal of three (3) acres of land from the AFD. The three (3) acres will be used as new residential by a member of the owner's immediate family. The land will be access from Thompson Lane.

Sincerely,

William Albert Thompson, Jr.

William A. Thompson Jr.

Charles Fleming Thompson

Charles F. Thompson

Anna Katherine Thompson

Anna Katherine Thompson

Pamela Meadow Thompson

Pamela M. Thompson





Application for the Creation of or Addition to Agricultural, Forestal, or Agricultural and Forestal District

(A copy of this completed form and required maps shall be submitted by the applicant landowners to the local governing body. This form shall be accompanied by United States Geological survey 7.5 minute topographic maps that clearly show the boundaries of the district or addition and the boundaries of the property each applicant owns within the district or addition. A Department of Transportation general highway map for the locality that shows the general location of the district or addition shall also accompany this form.)

SECTION A: To be completed by the applicant:

1. General location of the district (city, county or town) (Gordon Creek AFD)
2743 Jolly Pond Road
Parcel # 3520100010, Map 35-2
2. Total acreage in the district or addition 28.36 acres
3. Landowners applying for the district:

NAME

SIGNATURE

ADDRESS
(current legal residence)

WITNESS

<u>John W. Carswell</u> <u>Ph. 804-798-5291</u>	<u>[Signature]</u>	<u>12292 Elm St Rd</u>	<u>Betty M. Carswell</u>
<u>Jane T. Carswell</u>	<u>[Signature]</u>	<u>Arland VA 23025</u>	
		<u>1754 Hwy 268</u>	<u>[Signature]</u>
		<u>Lenoir NC 28645</u>	<u>[Signature]</u>
<u>Arthur D. Carswell</u>	<u>[Signature]</u>	<u>PO Box 151</u>	<u>[Signature]</u>
		<u>Patterson, NC 28661</u>	<u>[Signature]</u>
		<u>3455 Cumberland Rd</u>	<u>[Signature]</u>
		<u>Fayetteville NC 28306</u>	

ORDINANCE NO. _____

GORDON CREEK AGRICULTURAL AND FORESTAL DISTRICT (AFD-9-86)

WHEREAS, James City County has completed a review of the Gordon Creek Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gordon Creek AFD; and

WHEREAS, David and Stephanie Allen have requested the withdrawal of 25 acres from their parcel which is identified as Tax Map ID (34-2)(1-2); and

WHEREAS, W. A. Thompson and Charles Flemming have requested the withdrawal of three acres from their parcel which is identified as Tax Map ID (36-2)(1-40); and

WHEREAS, John Carwell has requested the addition of a 28.36 acre parcel which is identified as Tax Map ID (35-2)(1-10); and

WHEREAS, the AFD Advisory Committee at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Gordon Creek AFD is hereby continued for a period of four years and three months beginning the 25th day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel Nos.</u>	<u>Acres</u>
Sarah Armistead	(35-2)(1-16)	369.000
Sarah Armistead	(36-3)(1-1)	120.46
Rosa Armistead Est.	(30-3)(1-4)	23.000
Warburton, J. G. Est., c/o M. McMurren	(35-4)(1-1)	394.500
Edward D. Warburton	(35-2)(1-1)	86.643
Allen, David H. & Stephanie M.	(34-2)(1-2)	132.98
Patrick, Matthew CH & Theresa L	(34-2)(1-2A)	25.02
Warburton, J. G. Est., c/o M. McMurren	(36-3)(1-3)	264.000
Thomas L. Hitchens	(36-1)(1-6)	35.000
W. A. Thompson & Charles Flemming	(36-2)(1-40)	136.96

<u>Owner</u>	<u>Parcel Nos.</u>	<u>Acres</u>
Claybank Landing, LLC	(43-2)(1-1)	124.100
Richardson Holding LP	(36-4)(1-7)	116.83
Richardson Holding LP	(30-3)(1-3)	33.000
Jane T. Carsewell	(36-1)(1-3)	44.000
Warburton, J. G. Est., c/o M. McMurran	(36-1)(1-4)	37.620
Powhatan Assoc.	(44-1)(1-1)	387.420
Powhatan Hunt Club c/o J. Kenneth Timmons	(35-3)(1-1)	241.680
Mary Abbott	(36-2)(1-18)	43.55
Trust Company of Virginia, c/o Gregory Davis	(35-4)(1-9)	57.600
Linda Henderson Gordon	(34-2)(1-1)	35.300
Williamsburg Pottery Inc.	(44-1)(1-2)	26.000
Nayes Bay Land Co.	(35-1)(1-3)	32.000
Nayes Bay Land Co.	(35-1)(1-6)	11.000
William Kane	(29-4)(1-3)	4.000
William Kane	(30-3)(1-7)	8.000
William Kane	(35-2)(1-7)	131.000
William Kane	(36-1)(1-1)	8.330
William Kane	(36-1)(1-2)	13.000
J. G. Warburton Estate, c/o M. McMurran	(37-3)(1-4)	165.50
Baxter I. & Anne F. Bell	(43-2)(1-3)	207.951
John Carswell	(35-2)(1-10)	<u>28.360</u>
Total:		<u>3,343.804</u>

provided, however, that all land within 25 feet of road rights-of-way is excluded from the District.

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Gordon Creek AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to *Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area*, adopted September 24, 1996.

- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

AFD9-86_GordnCrk.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Kathryn Sipes, Planner
SUBJECT: Renewal of AFD 12-86, Gospel Spreading Church Farm

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must be either continued, modified, or terminated. This report will review AFD 12-86, Gospel Spreading Church Farm, which is scheduled to expire in August.

The Gospel Spreading Church Farm, AFD 12-86, consists of 1,190.76 acres located from College Creek extending west to Neck-O-Land Road. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
JCC Bible and Agricultural Training School	(48-3)(1-35)	403.56
JCC Bible and Agricultural Training School	(56-2)(1-1)	457.80
Floyd P. Carmines	(47-4)(1-37)	27.93
Lyman Hall, Jr.	(47-4)(1-11)	17.89
Lyman Hall, Jr.	(47-4)(1-13)	39.11
R.E. Gilley	(47-4)(1-42C)	2.89
R.E. Gilley	(47-4)(1-42D)	2.82
R.E. Gilley	(47-4)(1-42E)	16.30
REGJAG, LLC	(47-4)(1-40)	42.85
REGJAG, LLC	(47-4)(1-41)	108.28
R.E. Gilley	(48-3)(1-42)	71.33

History

This District was approved on December 1, 1986, for a term of four years, and the Board of Supervisors approved four-year renewals in 1990, 1994, 1998, and 2002. The following changes have occurred over time: a 26.46-acre parcel has been withdrawn and added several times, finally withdrawing for the final time in 2002; 22.97 acres were withdrawn in 2002; the Gilley District (AFD-13-86) of approximately 198 acres was added in 2002 (a 27-acre parcel did not transfer, making the addition approximately 173 acres); and an additional 71.33 acres was added in 2004.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road improvements.

Analysis

The bulk of the District consists primarily of woodland. The remainder of the property in the District is in open land and swamp or low-lying land. Property within this District is zoned mostly R-8, Rural Residential, R-2, General Residential, and R-1, Limited Residential and is not developed. Portions of Parcel Nos. (47-4)(1-40) and (47-4)(1-41) are zoned A-1, General Agricultural. Surrounding property for the most part has

developed residentially. The bulk of the District (approximately 950 acres) is designated Rural Lands or Conservation Area by the Comprehensive Plan, with the several parcels (approximately 240 acres) designated Low-Density Residential. Most of the AFD is located along Lake Powell Road and Treasure Island Road. A majority of the land within this District (860 acres) is located outside of the Primary Service Area (PSA). The remaining parcels lie within the PSA. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property.

Withdrawals

As part of this renewal, Mr. Lyman Hall, Jr. would like to remove Parcel No. (47-4)(1-13), which consists of 39.11 acres, and Parcel No. (47-4)(1-11), which consists of 17.89 acres, for a total removal of 57 acres.

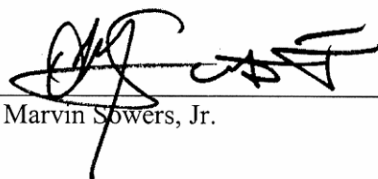
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 7-0, with one abstention. On July 10, 2006, the Planning Commission recommended renewal by a vote of 6-0.

After renewal, the size of the District would be approximately 1,133.76 acres.

Kathryn Sipes

CONCUR:



O. Marvin Sowers, Jr.

KS/nb

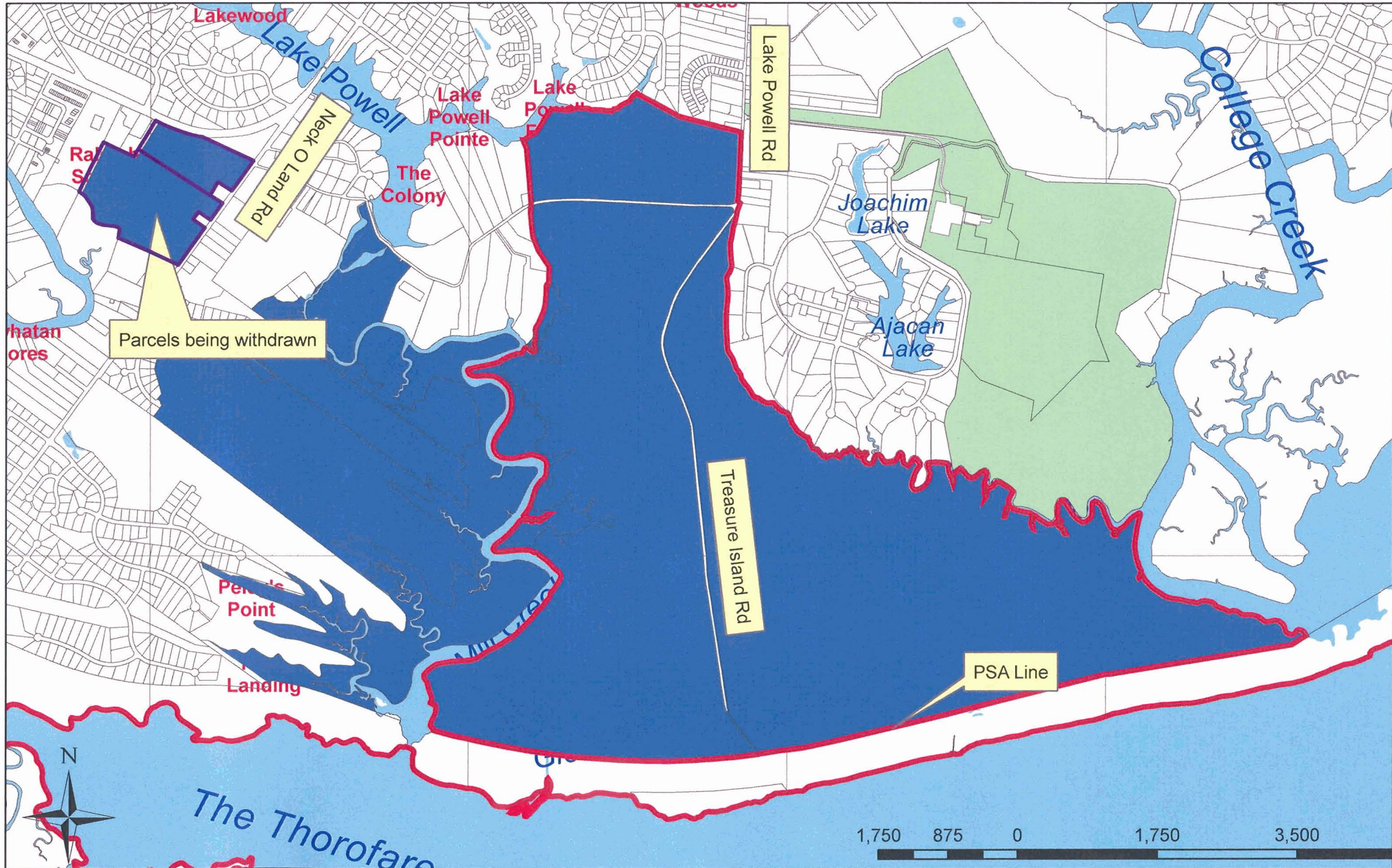
AFD12_86_2006.mem

Attachments:

1. Location map
2. Withdrawal Request Letter
3. Ordinance

AFD-12-86

Gospel Spreading Church 2006 Renewal



June 14, 2006

TO: James City County Planning Committee

RE: AFD 12-86 - Withdrawal

Please be advised I wish to withdraw the following parcels from the Agricultural Forestry District effective immediately:

Tax Map #	47-4	01-13
Acreage	39.11	
Description:	Part of Neck-O-Land	
	205 Neck-O-Land Road	

Tax Map #	47-4	01-11
Acreage	17.89	
Description:	Part of Neck-O-Land	
	205 Neck-O-Land Road	

Please contact me if you have any questions.



Lyman R. Hall, Jr.
147 Winston Drive
Williamsburg, VA 23185
(757) 869-6730

ORDINANCE NO. _____

GOSPEL SPREADING CHURCH AGRICULTURAL AND FORESTAL DISTRICT

(AFD-12-86)

WHEREAS, James City County has completed a review of the Gospel Spreading Church Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gospel Spreading Church Agricultural and Forestal District; and

WHEREAS, Lyman R. Hall, Jr. has requested the withdrawal of 57 acres, which are identified as Tax Map ID (47-4)(1-13) and (47-4)(1-11); and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on June 27, 2006, voted 7-0, with one abstention, to recommend renewal of the District; and

WHEREAS, the Planning Commission, following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee, and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Gospel Spreading Church Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the 25th day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et seq.
2. That the District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
JCC Bible and Agricultural Training School	(48-3)(1-35)	403.560
JCC Bible and Agricultural Training School	(56-2)(1-1)	457.800
Floyd P. Carmines	(47-4)(1-37)	27.929
R.E. Gilley	(47-4)(1-42C)	2.890
R.E. Gilley	(47-4)(1-42D)	2.819
R.E. Gilley	(47-4)(1-42E)	16.300
REGJAG, LLC	(47-4)(1-40)	42.849
REGJAG, LLC	(47-4)(1-41)	108.275
R.E. Gilley	(48-3)(1-42)	<u>71.330</u>
Total:		<u>1,133.752</u>

provided, however, that all land within 25 feet of the road rights-of-way shall be excluded from the District.

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Gospel Spreading Church Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

AFD12_86_2006.res

MEMORANDUM

DATE: July 25, 2007
TO: The Board of Supervisors
FROM: Ellen Cook, Senior Planner
SUBJECT: Renewal of AFD 3-86, Hill Pleasant Farm

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must either be continued, modified, or terminated. This report will review AFD 3-86, Hill Pleasant Farm which is scheduled to expire in September.

The Hill Pleasant Farm AFD consists of approximately 573.6 acres located southwest of Norge in between the CSX Railway and Interstate 64. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
C.E. Stevens	(24-1)(1-4)	105.04
Hill Pleasant Farm, Inc.	(24-1)(1-5)	397.30
Wayne Moyer	(24-1)(1-15D)	32.28
Williamsburg Pottery, Inc.	(24-3)(1-17)	27.00
Williamsburg Pottery, Inc.	(24-3)(1-31B)	12.00

History

The Hill Pleasant Farm AFD was created on November 17, 1986, for a term of four years and renewed again on October 1, 1990, for a period of four years. The Board of Supervisors approved the withdrawal of 2.2 acres from the property in 1991. This withdrawal was for the purpose of installing an HRSD trunk main. The 1994 renewal was approved by the Board of Supervisors on October 19, 1994. Subsequently, 32 acres were added on September 10, 1996; 27 acres were added on October 23, 1996; and 12 acres were added on November 12, 1997. The District was renewed in 1998 and 2002 for terms of four years with no additions or withdrawals.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The bulk of this District has remained essentially the same since the time it was put in the District. Except for a few residences, all acreage in this District is in agriculture or forestal uses. The properties have been managed in the past for food and fiber production and have the potential to support significant agriculture and commercial timber operations. The majority of land within the District is zoned A-1, General Agricultural, and is located outside the PSA. The one exception is the 12-acre parcel owned by the Williamsburg Pottery, which is located inside the PSA and is zoned M-1, Limited Business/Industrial. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily

while development plans can be created, maximizing the beneficial use of the property. The District is designated rural lands on the Comprehensive Plan Land Use Map except for the one 12-acre parcel located inside the PSA. This parcel is designated Mixed Use.

Most of the surrounding land to the north of the District is zoned A-1. The property to the west of the District is a mixture of businesses, residences and developed property within the PSA zoned B-1, General Business; R-2, General Residential; and MU, Mixed Use. The property to the south of the District is mostly zoned M-1, Limited Business/Industrial. Although it is located in the vicinity of existing commercial development along Richmond Road, the District is separated from Richmond Road by the CSX Railway. The District borders York County to the east.

Withdrawals

As part of this renewal Mr. Donald Hunt would like to withdraw 6 acres from Tax Map (24-1)(1-5). Five of the six acres are located to the west of the CSX railway line, with one acre on the east.

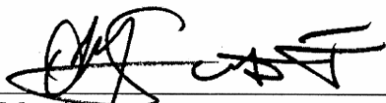
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. On July 10, 2006, the Planning Commission recommended renewal by a vote of 5-0, with one abstention.

After renewal, the size of the District would be approximately 567.62 acres.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/nb

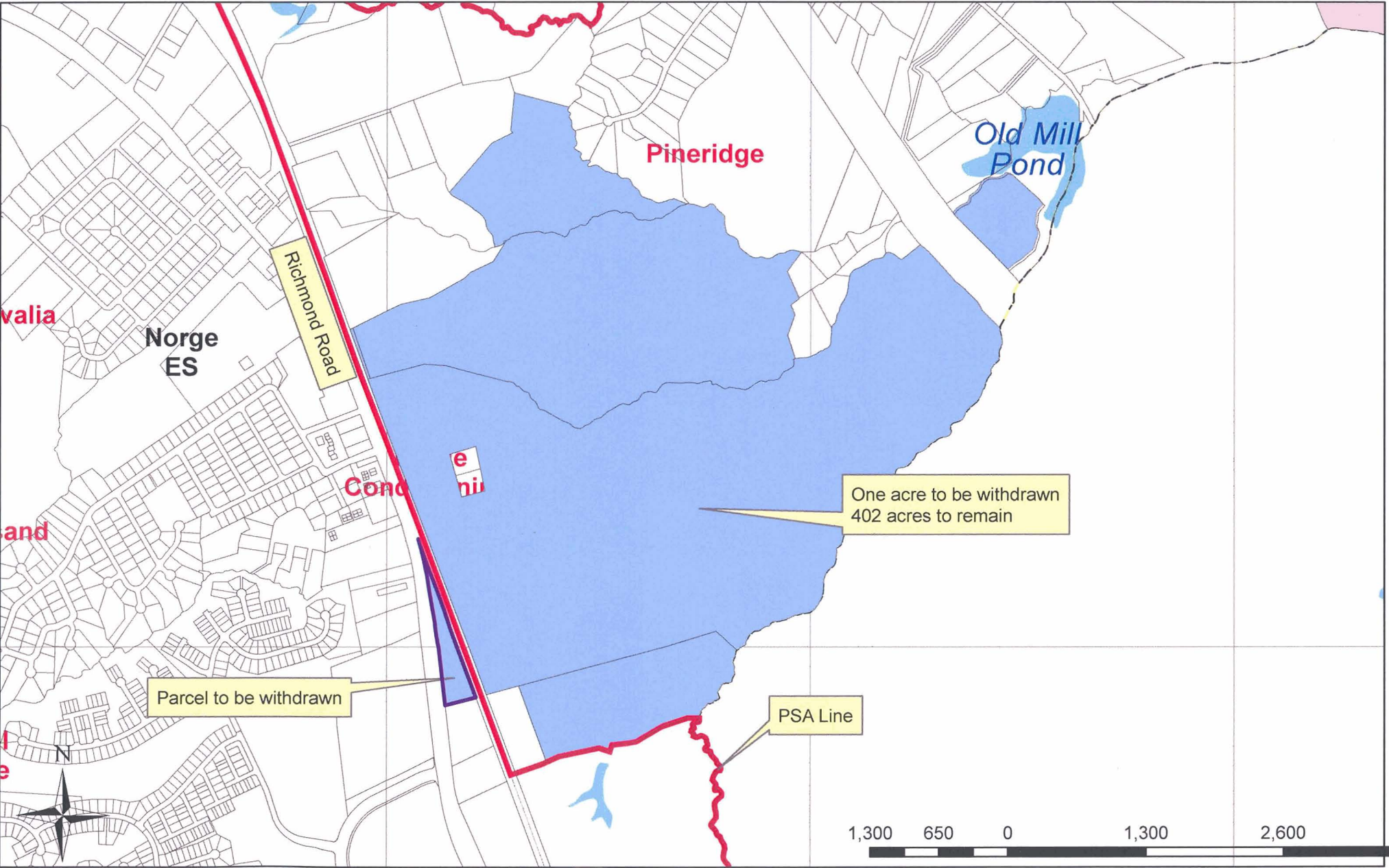
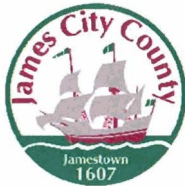
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Attachments

1. Location map
2. Withdrawal letter
3. Ordinance

AFD-3-86

Hill Pleasant Farm AFD 2006 Renewal





May 24, 2006

To: James City County Planning Division

I am giving written notice that Hill Pleasant Farm is amending our AFD 3-86 to exclude the 5 acre parcel next to GO-Karts plus and bordered by CSX and Route 60 West. Also, we are setting out a 1acre lot in the far Northwest corner of the property, adjacent to the CSX right of way for a cell tower location. We will go forward with the application for renewal on the balance of the property. Thank you for your attention to this matter. If you have any questions, please contact me at 757-564-9491.

Sincerely,

Donald Hunt

President

Hill Pleasant Farm, Inc.

ORDINANCE NO. _____

HILL PLEASANT FARM AGRICULTURAL AND FORESTAL DISTRICT (AFD-3-86)

WHEREAS, James City County has completed a review of the Hill Pleasant Farm Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Hill Pleasant Farm Agricultural and Forestal District; and

WHEREAS, Mr. Don Hunt has requested the withdrawal of 6 acres from the parcel which is identified as Tax Map ID (24-1)(1-5); and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 5-0, with one abstention, to recommend renewal this District with the conditions listed below.

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

1. The Hill Pleasant Farm Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the 25th day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
C.E. Stevens	(24-1)(1-4)	105.04
Hill Pleasant Farm, Inc.	(24-1)(1-5)	391.30
Wayne Moyer	(24-1)(1-15D)	32.28
Williamsburg Pottery, Inc.	(24-3)(1-17)	27.00
Williamsburg Pottery, Inc.	(24-3)(1-31B)	<u>12.00</u>
Total:		<u>567.62</u>

provided, however, that all land within 25 feet of road rights-of-way is excluded from the District.

3. That pursuant to the Virginia Code, Section 15.2-4312, and 15.2-4313, as amended, and the Board of Supervisors requires that no parcel in the Hill Pleasant Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:

- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of telecommunications towers and related equipment, provided, a) The subdivision does not cause the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
- b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

AFD3-86_HillPlsntFrm.res

MEMORANDUM

DATE: July 25, 2006

TO: The Board of Supervisors

FROM: Melissa C. Brown, Senior Zoning Officer

SUBJECT: Renewal of AFD-7-86, Mill Creek

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must be either: continued, modified, or terminated. This report will review AFD-7-86, Mill Creek, which is scheduled to expire in August.

The Mill Creek AFD consists of approximately 3,346 acres located from Richmond Road in the north to below Uncle's Creek in the south. The bulk of the land lies between Forge Road and the CSX railroad tracks. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel Nos.</u>	<u>Acres</u>
Linda B. Cowles Estate, c/o Carter C.,	(20-2)(1-6)	352.963
Melinda Cowles Barbour, et.al.	(20-2)(1-3)	102.669
Melinda Cowles Barbour, et.al.	(20-2)(1-1)	8.759
Mayes and Cheryl Matthews	(21-1)(1-5)	46.010
Cowles Family Limited Partnership	(20-1)(1-1)	433.000
Steve L. & Pamela C. Massie	(11-3)(1-28)	99.457
Steve L. & Pamela C. Massie	(11-3)(1-28A)	32.610
Steve W. & Margaret J. Kraph	(11-4)(1-6)	4.730
Nancy Cottrell, c/o M. Anderson Bradshaw	(11-4)(1-2)	297.288
Linda B. Cowles Estate, c/o Carter C. Cowles III	(10-4)(1-5)	249.885
Linda B. Cowles Estate, c/o Carter C. Cowles III	(10-4)(1-6)	124.768
C.C. Cowles Sr. Estate, c/o Carter C. Cowles III	(10-4)(1-3) 2 pts.	103.260
Sarah H. Armistead	(10-1)(1-38)	50.000
Daniel & Marion Winall	(10-3)(1-19)	97.590
PAMAKA, LLC	(10-2)(1-17)	244.500
Albert T. & Joan Lloyd Slater	(10-1)(1-28)	69.690
McRae O. Selph	(10-1)(1-7)	50.000
Walter Nelson Marshall	(11-4)(1-5)	79.947
Martha Ware	(20-2)(1-2)	57.411
John Lee Darst	(9-2)(1-36)	41.225
PAMAKA, LLC	(10-3)(1-3)	42.000
Caroline W. Dozier	(20-2)(1-5)	186.170
Caroline W. Dozier	(20-2)(1-7)	16.500
Caroline W. Dozier	(20-2)(1-8)	12.000
Dennis P. and Christine A. Weygand	(10-3)(1-13)	34.030
John M.L. Barnes Est., c/o James F. Cowles III	(10-2)(1-4)	215.768
John M.L. Barnes Est., c/o James F. Cowles III	(11-1)(1-1)	29.000
Linda B. Cowles Est., c/o Carter C. Cowles III	(20-1)(1-2)	2.000

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
John and Marie Findlay	(9-4)(1-8h)	118.29
Eugene and Mary Andrews Living Trust	(9-4)(1-8n)	57.81
Randolph Gulden	(10-2)(1-12)	87.201

History

The District was originally approved in December 1986 for a period of four years. In March 1989, the Board of Supervisors approved the withdrawal of 41.124 acres. In November 1990, the Board approved the continuation of the District for another four years. In January 1992, the Board approved the withdrawal of three acres and in April 1992, the Board approved the addition of 33.62 acres. In 1994, before the District's renewal, 77 acres were removed. In 1995, the Board approved a 303.97 acre addition and the District was renewed for four years in 1998. During the 1998 renewals, approximately 25 acres was withdrawn. Following the 1998 renewal, 19.0 acres were added into the District. The District was renewed again in 2002. In April 2004 the Board of Supervisors approved an addition of 87 acres. In July 2005 an addition of 102 acres was approved and in September 2005 an addition of 73 acres was approved.

At present, the District contains approximately 3,346 acres and includes all land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The bulk of the District contains many agricultural and forestry uses. All of the land within this District is zoned A-1, General Agricultural, and a major portion of the surrounding property is presently zoned A-1 and is forested. This District is located outside of the Primary Service Area (PSA) and remains relatively rural in nature. The District is designated Rural Lands on the Comprehensive Plan Land Use Map.

Withdrawals

As part of this renewal, the Cowles Family Limited Partnership would like to remove Parcel No. (20-1)(1-1), which consists of 433 acres.

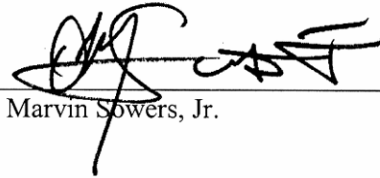
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would renew the District at 2,913 acres. This would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. On July 2, 2006, the Planning Commission recommended renewal by a 6-0 vote.

After the withdrawal, the District will total approximately 2,913 acres.

Melissa C. Brown

CONCUR:

A handwritten signature in black ink, appearing to read "O. Marvin Sowers, Jr.", is written over a horizontal line.

O. Marvin Sowers, Jr.

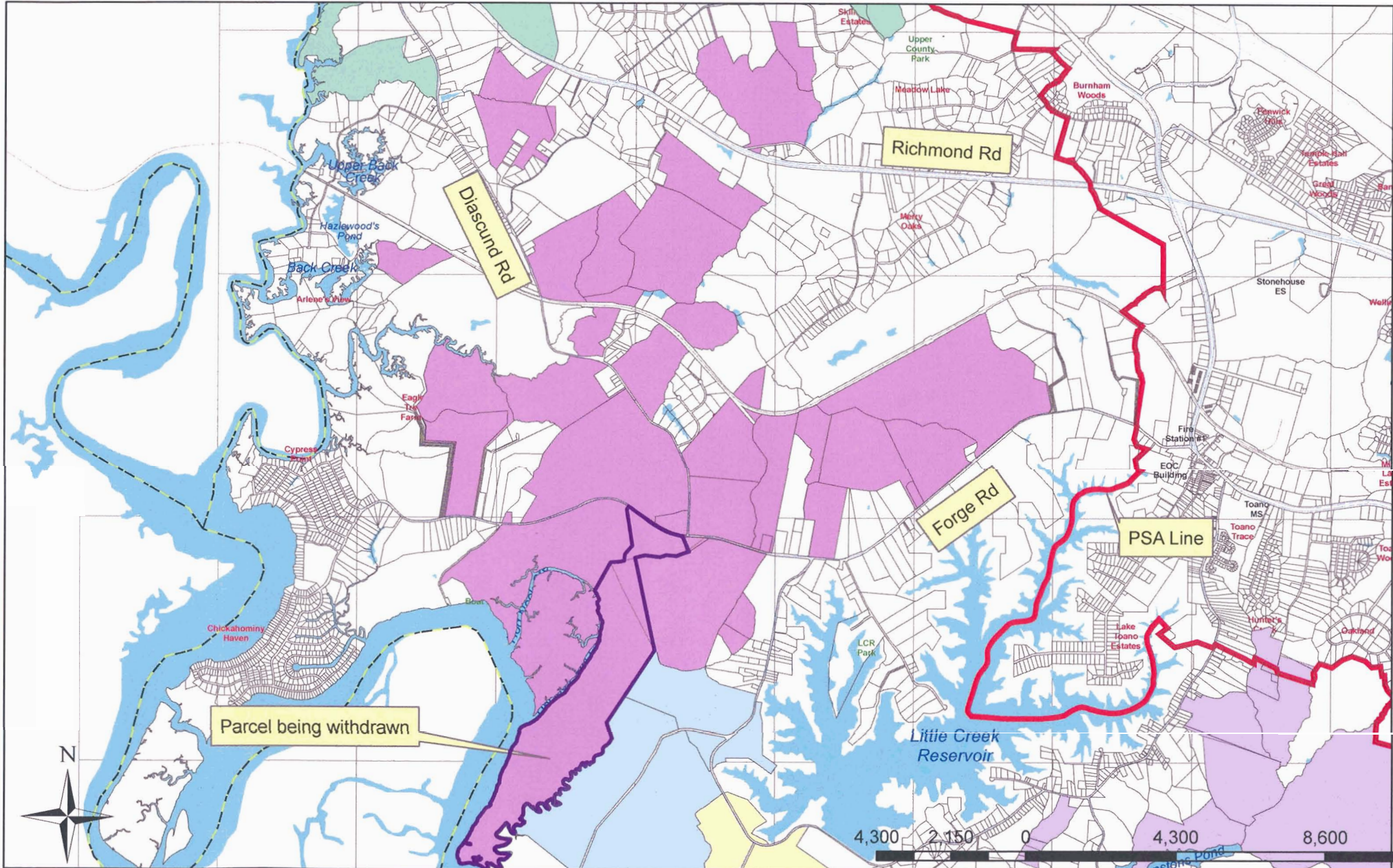
MCB/gs
AFD-7-86.mem

Attachments:

1. Location Map
2. Letter from Elizabeth Cowles Requesting Withdrawal
3. Ordinance

AFD-7-86

Mill Creek AFD 2006 Renewal



5-11-06

TO - O. MARVIN SOWERS, JR.
JCC PLANNING DIRECTOR

REF: REMOVING PROPERTY KNOWN AS
UNCLE'S NECK - 433 ACRES -
ACCT# 505 065, Appl. # 161 YR. 2006-2007
MAP # 20-1 01-01 IN MILL CREEK
DIVISION.

ATTACHED IS COPY OF OUR LETTER AND
UNSIGNED APPLICATION FORM TO MR.
BRAD SHAW - COMM OF REVENUE. HE
INSTRUCTED US TO HANDLE OUR REQUEST
TO REMOVE THIS PROPERTY IN THIS
MANNER. WE JUST WANT TO BE SURE
YOU ARE AWARE OF THIS ALSO.

THANK YOU,

Eizabeth C. Cowles
Nels C. Cowles



2010100001
COWLES FAMILY LIMITED
PARTNERSHIP
3335 NORTH WATERSIDE DRIVE
LANEXA, VA 230895541

ORDINANCE NO. _____

MILL CREEK AGRICULTURAL AND FORESTAL DISTRICT (AFD-7-86)

WHEREAS, James City County has completed a review of the Mill Creek Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Mill Creek AFD; and

WHEREAS, the Cowles Family Limited Partnership would like to remove a parcel and has requested the withdrawal of 433 acres which is identified as Tax Map ID (20-1)(1-1); and

WHEREAS, the AFD Advisory Committee at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District for a period of four years and three months; and

WHEREAS, the Planning Commission following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 to renew this District with the conditions listed below.

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

1. The Mill Creek AFD is hereby continued for a period of four years and three months beginning the 25th day of July 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel Nos.</u>	<u>Acres</u>
Linda B. Cowles Estate, c/o Carter C.,	(20-2)(1-6)	352.963
Melinda Cowles Barbour, et.al.	(20-2)(1-3)	102.669
Melinda Cowles Barbour, et.al.	(20-2)(1-1)	8.759
Mayes and Cheryl Matthews	(21-1)(1-5)	46.010
Steve L. & Pamela C. Massie	(11-3)(1-28)	99.457
Steve L. & Pamela C. Massie	(11-3)(1-28A)	32.610
Steve W. & Margaret J. Kraph	(11-4)(1-6)	4.730
Nancy Cottrell, c/o M. Anderson Bradshaw	(11-4)(1-2)	297.288
Linda B. Cowles Estate, c/o Carter C. Cowles III	(10-4)(1-5)	249.885
Linda B. Cowles Estate, c/o Carter C. Cowles III	(10-4)(1-6)	124.768
C.C. Cowles Sr. Estate, c/o Carter C. Cowles III	(10-4)(1-3) 2 pts.	103.260
Sarah H. Armistead	(10-1)(1-38)	50.000
Daniel & Marion Winall	(10-3)(1-19)	97.590
PAMAKA, LLC	(10-2)(1-17)	244.500
Albert T. & Joan Lloyd Slater	(10-1)(1-28)	69.690
McRae O. Selph	(10-1)(1-7)	50.000

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Walter Nelson Marshall	(11-4)(1-5)	79.947
Martha Ware	(20-2)(1-2)	57.411
John Lee Darst	(9-2)(1-36)	41.225
PAMAKA, LLC	(10-3)(1-3)	42.000
Caroline W. Dozier	(20-2)(1-5)	186.170
Caroline W. Dozier	(20-2)(1-7)	16.500
Caroline W. Dozier	(20-2)(1-8)	12.000
Dennis P. and Christine A. Weygand	(10-3)(1-13)	34.030
John M. L. Barnes Est., c/o James F. Cowles III	(10-2)(1-4)	215.768
John M. L. Barnes Est., c/o James F. Cowles III	(11-1)(1-1)	29.000
Linda B. Cowles Est., c/o Carter C. Cowles III	(20-1)(1-2)	2.000
John and Marie Findlay	(9-4)(1-8h)	118.29
Eugene and Mary Andrews Living Trust	(9-4)(1-8n)	57.81
Randolph Gulden	(10-2)(1-12)	<u>87.201</u>
Total:		<u>913.271</u>

provided, however, that all land within 25 feet of the road rights-of-way shall be excluded from the District.

3. That pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Mill Creek AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned, and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to *Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area*, adopted September 24, 1996.
 - c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July,
2006.

AFD-7-86.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Jason Purse, Planner
SUBJECT: Renewal of AFD-11-86, Yarmouth Island

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, Districts must be either continued, modified, or terminated. This report will review AFD-11-86, Yarmouth Island which is scheduled to expire in August.

The Yarmouth Island AFD consists of approximately 2,031.40 acres and is generally located west of Jolly Pond Road near Yarmouth Creek. Specifically, the AFD is currently comprised of the following:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Richardson Holdings Limited Partnership	(29-3)(1-5)	172.840
Richardson Holdings Limited Partnership	(29-3)(1-2)	68.500
Richardson Holdings Limited Partnership	(28-4)(1-5)	940.000
Richardson Holdings Limited Partnership	(29-1)(1-1)	28.500
John C. & Lorraine Richardson	(29-2)(1-1)	123.000
J. G. Warburton, Est., c/o M. McMurrin	(29-4)(1-1)	38.700
Margaret Walubuka	(29-4)(1-2)	34.650
Shield's Point LLC	(28-4)(1-8)	625.200

History

The District was approved on December 1, 1986, for a term of 4 years. It was subsequently renewed for four-year periods in October 1990, October 1994, and September 1998, and August 2002. In 1999, approximately 625 acres was added into the District.

The District includes all land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

Analysis

The majority of the District contains woodland. The remainder of the property in the District is in open, swamp, and low-lying land. All of the property within this District is zoned A-1, General Agriculture, and a major portion of the surrounding property is zoned A-1 and is forested. The District is designated Rural Lands by the Comprehensive Plan, is located outside of the Primary Service Area (PSA), and remains relatively rural in nature.

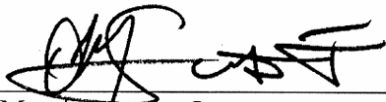
Recommendation:

Staff believes this AFD is consistent with the Comprehensive Plan and recommends renewing the District for a period of four years and three months with no change in the conditions of approval. A four-year and three-month approval would be consistent with prior action and would allow for the re-evaluation of the District for consistency with possible policy changes and Comprehensive Plan revisions. On June 27, 2006, the AFD Advisory Committee recommended renewal by a vote of 8-0. At their July 10, 2006, meeting the Planning Commission voted 6-0 to recommend approval of the renewal for this District.

After the renewal process, the District will total approximately 2,031.40 acres.

Jason Purse

CONCUR:



O. Marvin Sowers, Jr.

JP/gb

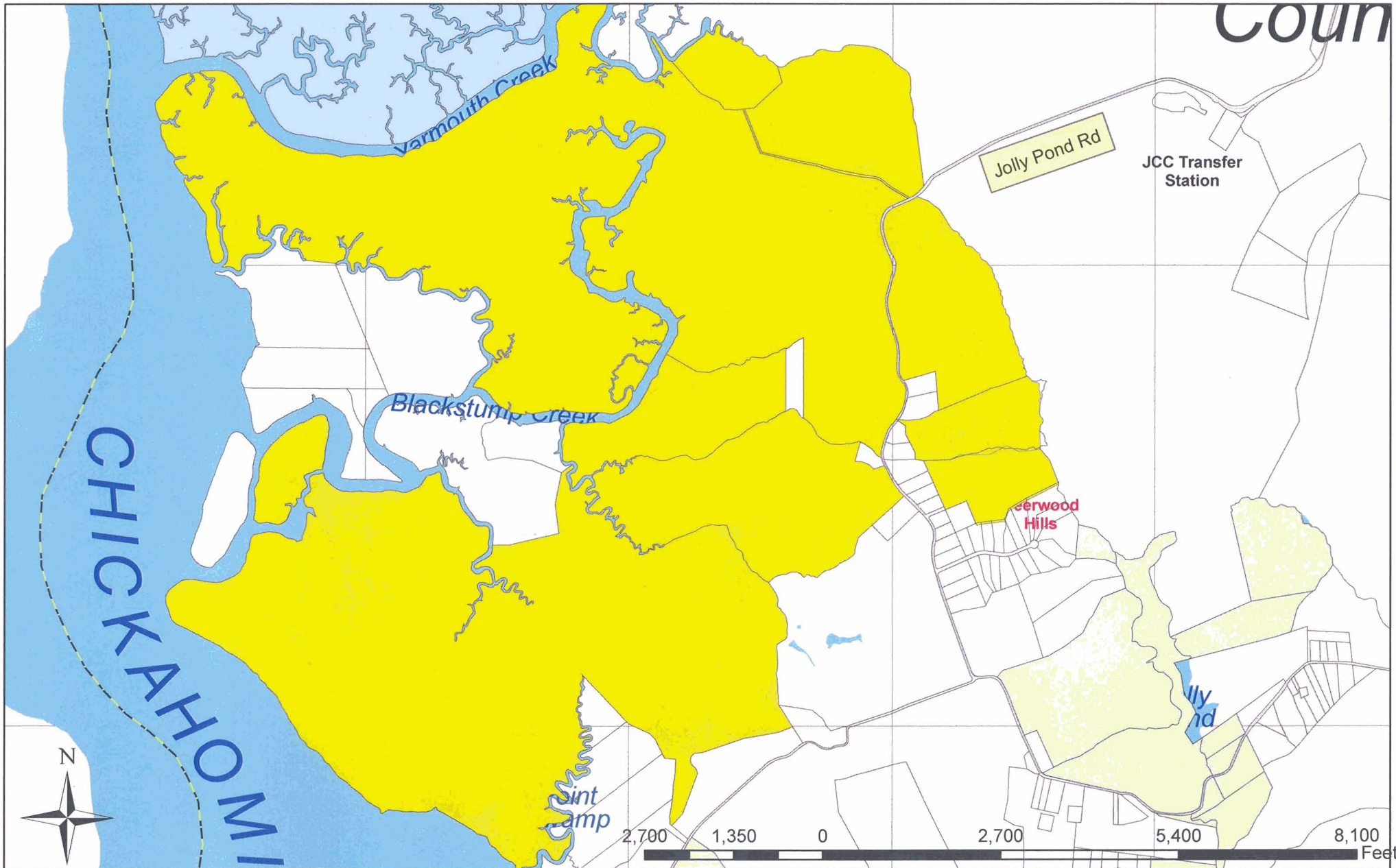
Afd11-86.mem

Attachments:

1. Location Map
2. Ordinance

AFD-11-86

Yarmouth Island AFD 2006 Renewal



ORDINANCE NO. _____

YARMOUTH ISLAND AGRICULTURAL AND FORESTAL DISTRICT (AFD-11-86)

WHEREAS, James City County has completed a review of the Yarmouth Island Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Yarmouth Island Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee, at its meeting on June 27, 2006, voted 8-0 to recommend renewal of the District; and

WHEREAS, the Planning Commission, following its public hearing on July 10, 2006, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 to recommend renewal of the District with the conditions listed below.

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

1. The Yarmouth Island Agricultural and Forestal District is hereby continued for a period of four years and three months beginning the 25th day of July, 2006, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Richardson Holdings Limited Partnership	(29-3)(1-5)	172.840
Richardson Holdings Limited Partnership	(29-3)(1-2)	68.500
Richardson Holdings Limited Partnership	(28-4)(1-5)	940.000
Richardson Holdings Limited Partnership	(29-1)(1-1)	28.500
John C. & Larraine Richardson	(29-2)(1-1)	123.000
J. G. Warburton, Est., c/o M. McMurran	(29-4)(1-1)	38.700
Margaret Walubuka	(29-4)(1-2)	34.655
Shield's Point LLC	(28-4)(1-8)	<u>625.200</u>
Total:		<u>2,031.395</u>

provided, however, that all land within 25 feet of road rights-of-way is excluded from the District.

3. That pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Yarmouth Island Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:

- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
- b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

Afd11-86.res

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Adam R. Kinsman, Assistant County Attorney
SUBJECT: Assign Contract to Purchase Property - 2945 and 2976 Forge Road

On April 18, 2006, the County entered into an agreement to purchase the Sunnyside Farm and Branch residence constituting 88 acres along Forge Road (the "Branch Property") for \$1,910,000. This purchase agreement was made in furtherance of the County's continuing efforts to retain, protect, and enhance the rural character of the County through the protection of important, unique, and/or critical agricultural, forestal, environmental, or open space lands or wildlife habitat. This agreement supports the purpose of the County's Greenspace and PDR Programs. The Branch Property is predominantly comprised of pastureland and is adjacent to other parcels upon which the County has purchased development rights.

The Branch Property generally surrounds a 10-acre parcel owned by Elwood and Sharon Perry (the "Perrys"). Subsequent to the time the County entered into the agreement to purchase the Branch Property, the Perrys indicated a desire to assume the County's rights under the contract in exchange for \$1,910,000, which is set for closing on July 26, 2006. If they are permitted to assume the contract, the Perrys have agreed to record a comprehensive conservation easement at the time of closing, which will protect the Branch Property, in addition to the Perrys' property, totaling 98 acres, in a manner which will preserve the pastureland and limit further development of the Properties. Copies of the proposed conservation easement and the conceptual development plan are attached for your consideration.

In short, the easement and associated development plan will preserve the existing pastureland on the Properties, limit development to not more than seven houses in the unobtrusive locations shown on the conceptual development plan, and will prohibit all non-agricultural commercial activities on the Properties. In addition, the easement requires that the County remove the old Branch house from the Property within one year. James City County's Office of Housing and Community Development will attempt to relocate the home and find a qualified buyer. Due to the size of the house, options for relocation are limited. The proposed conservation easement is similar to easements purchased pursuant to the County's PDR Program and will further the County's efforts to preserve the rural nature that predominates along the Forge Road corridor.

Staff recommends adoption of the attached resolution to assign the County's interest in the contract to purchase the Branch Property to Elwood and Sharon Perry.

Adam R. Kinsman

CONCUR:

Leo P. Rogers

ARK/g
forgePDR.mem

Attachments

RESOLUTION

ASSIGN CONTRACT TO PURCHASE PROPERTY - 2945 AND 2975 FORGE ROAD

WHEREAS, on April 18, 2006, the County entered into a contract (the "Contract") to purchase 88 acres of real property located at 2945 and 2975 Forge Road, designated as Tax Parcel Nos. 1230100021 and 1230100022 (the "Property") for \$1,910,000; and

WHEREAS, protection of the Property and the pastureland thereon is vital to the County's efforts to preserve the rural and agricultural nature of the Forge Road corridor; and

WHEREAS, Elwood and Sharon Perry (the "Perrys") have indicated a desire to assume the County's interest in the Contract; and

WHEREAS, upon settlement on the Property, the Perrys have agreed to grant the County a conservation easement intended to protect the Property and the property currently owned by the Perrys located at 2875 Forge Road and designated as Tax Map No. 1230100022A (together with the Property, the "Properties") for a total of 98 acres; and

WHEREAS, the proposed conservation easement on the Properties will further the purpose of protecting the rural and agricultural nature of the Forge Road corridor and will prevent inappropriate development of the Properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the attached assignment agreement and any other documents needed to assign the right to purchase the Property to Elwood and Sharon Perry.

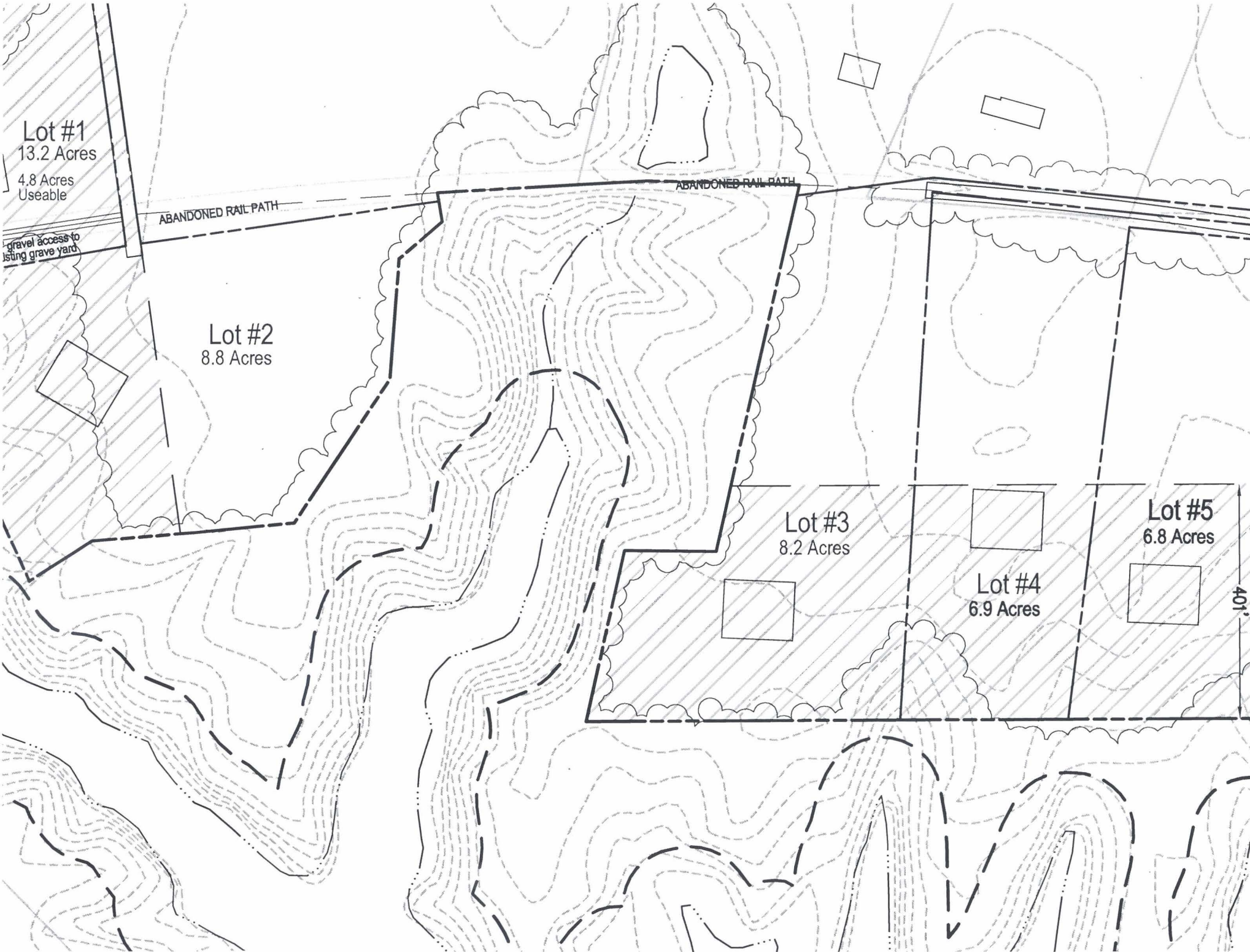
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of July, 2006.

forgePDR.res



Lot #1
13.2 Acres

4.8 Acres
Useable

gravel access to
listing grave yard

ABANDONED RAIL PATH

ABANDONED RAIL PATH

Lot #2
8.8 Acres

Lot #3
8.2 Acres

Lot #4
6.9 Acres

Lot #5
6.8 Acres

40'

ASSIGNMENT OF REAL ESTATE SALES AGREEMENT

THIS ASSIGNMENT AGREEMENT, made this _____ day of _____, 2006, by thee COUNTY OF JAMES CITY, VIRGINIA (the "Assignor" or the "County"), to _____ (the "Assignee").

WHEREAS, on April 12, 2006, the County entered into a Real Estate Sales Agreement attached as Exhibit A (the "Sales Agreement") with the owner of certain real property (the "Owner") located in James City County, Virginia, commonly known as Sunnyside Farm and Branch Residence and designated as James City County Real Estate Tax Map Nos. (1-21) and (1-22) collectively containing approximately 88 acres, more or less (the "Property"); and

WHEREAS, the terms of the Sales Agreement permit the County, at its sole discretion, to assign the Sales Agreement; and

WHEREAS, the Assignee desires to purchase the Property and further desires to grant to the County a conservation easement restricting use of the Property, a copy of which is attached as Exhibit A (the "Conservation Easement"); and

WHEREAS, the County desires to assign the Sales Agreement to the Assignee and desires to accept the voluntarily-offered Conservation Easement; and

WHEREAS, the County has agreed to assign the Sales Agreement to the Assignee and accept the Conservation Easement, and Assignee has agreed to abide by all of the terms of the Sales Agreement and this Assignment Agreement.

NOW, THEREFORE, in consideration of the sum of \$10.00 paid by the Assignee to the County and upon the mutual covenants and promises contained in the recitals above, the receipt and sufficiency of which is hereby acknowledged, the County hereby assigns, transfers, and sets over to Assignee, its successors, and assigns, all of County's right, title, and interest in and to the Sales Agreement, and any and all other documents or instruments necessary to effect the assignment of the agreement to purchase the Property, subject to the following terms and conditions:

1. **Sales Agreement.** Assignee agrees to assume and abide by all terms of the Sales Agreement.

2. **Settlement.** Settlement shall occur on July 26, 2006 at the Office of the County Attorney of James City County, 101-C Mounts Bay Road, Williamsburg, Virginia, 23185, or on such other date and at such other place as the parties may agree in writing. Assignee shall pay \$1,000,000.00 to the County, \$910,000.00 to the Owner, and all purchaser's costs of closing, including, but not limited to, recordation fees and taxes.

3. **Recordation.** The Conservation Easement shall be recorded simultaneously with recordation of the deed transferring property from Owner to Assignee.

Witness the following signatures on the date above first written.

County of James City, Virginia:

By: _____
Its: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was subscribed, sworn to, and acknowledged before me in
_____, Virginia, this ____ day of _____, _____, by
_____, _____, a _____ on behalf of the
_____.

Notary Public

My commission expires: _____

Exhibit A

Sales Agreement

Exhibit B

Conservation Easement

THIS DEED IS EXEMPT FROM TAXATION UNDER VIRGINIA CODE §§58.1-811 (A)(3)
AND 58.1-811(C)(4)

JCC TAX ID NOS.: 1230100022, 1230100021, and 1230100022A

CONSIDERATION: \$10.00

INDEX UNDER:

COUNTY OF JAMES CITY, and
ELWOOD H. PERRY, JR., and
SHARON W. PERRY

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT, made this _____ day of July, 2006, by and between ELWOOD H. PERRY, Jr. and SHARON W. PERRY, HUSBAND AND WIFE, whose address is 2875 Forge Road in James City County, Virginia, (jointly and severally, the “Grantors”) and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the “County” or the “Grantee”) whose address is 101-C Mounts Bay Road, Williamsburg, Virginia 23185.

WITNESSETH:

WHEREAS, Grantors are the owners in fee simple of the property located in James City County, Virginia, that is described on “Exhibit A” attached hereto and made a part hereof, together with and in addition to the property identified as JCC Real Estate Tax Map No. 1230100022A, also known as 2875 Forge Road (collectively, the “Property”); and

WHEREAS, under the County’s Purchase of Development Rights Program, codified in Chapter 16A of the James City County Code, as amended (the “County Code”) (the “PDR Program”), the County is authorized to acquire and accept conservation easements over qualifying properties in order to accomplish the purposes of the PDR Program and the Open-Space Land Act (Section 10.1-1700 et seq. of the Code of Virginia, 1950, as amended (the “Virginia Code”)); and

WHEREAS, the Grantors have voluntarily agreed to have the Property be subject to the terms of this Deed of Conservation Easement (the “Conservation Easement”); and

WHEREAS, the Conservation Easement is granted exclusively for conservation purposes; and

WHEREAS, the County's acceptance of the Conservation Easement identified herein furthers the purposes of the PDR Program in that such acceptance, among other things, assures that James City County's resources are protected and efficiently used, establishes and preserves open space, and furthers the goals of the James City County Comprehensive Plan to protect James City County's natural, scenic and historic resources, promotes the continuation of a viable agricultural and forestal industry and resource base, and protects the quality of James City County's surface water and groundwater resources; and

WHEREAS, the Grantors have offered to donate this Conservation Easement and the Grantee has agreed to hold said Conservation Easement in perpetuity.

NOW, THEREFORE, in consideration of the above recitals, and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the Grantors hereby grant, convey, covenant, and agree as follows:

1. GRANT AND CONVEYANCE OF EASEMENT. The Grantors hereby grant and convey to the Grantee and its successors and assigns, with General Warranty and the English Covenants of Title, this Conservation Easement in gross over the Property, restricting in perpetuity the use of the Property in the manner set forth in this Conservation Easement.

2. DESCRIPTION. The Property is shown as all or part of 2945 Forge Road, comprising 80 acres, more or less, and identified as Tax Parcel ID No. 1230100022 (the "Branch Property"), 2925 Forge Road, comprising 8 acres, more or less, and identified as Tax Parcel ID No. 1230100021 (the "Branch Residence"), and 2875 Forge Road, comprising 10 acres, more or less, and identified as Tax Parcel ID No. 1230100022A (the "Perry Property") among the land records of the County. The Property shall be considered to be one parcel for the purposes of this Conservation Easement, and the restrictions and covenants of this Conservation Easement shall apply to the Property as a whole except as noted.

3. USES AND ACTIVITIES. In order to accomplish the purposes of the PDR Program and the Open-Space Land Act (the Code of Virginia, 1950, as amended, Section 10.1-1700, et seq.) the Property shall be subject to the following restrictions:

A. Construction, installation, location, placement of structures and improvements. There shall be no construction, placement, or maintenance of any structure or improvements on the Property unless the structure or improvements are either on the Property as of the date of this Conservation Easement or are authorized as follows:

1. *Existing dwellings.* The repair, expansion, removal, or relocation of the dwellings that exist as of the date of this Conservation Easement is permitted, except as noted in this instrument.

a. The removal of the existing dwelling on the Branch Residence shall extinguish all development rights on this parcel in perpetuity except as allowed by this deed. The Grantee shall have one (1) year from the date of execution of this Conservation Easement to

remove, at its cost, the existing dwelling from the Branch Residence. The parties may extend this date by mutual agreement in writing.

b. Any relocation of the existing or replacement dwelling on the Perry Property shall not be closer than 400 linear feet to the centerline of Forge Road, as it is currently located.

2. *Future dwellings.*

a. Placement of dwellings on the parcels identified as numbers 1 and 2 on "Exhibit B," attached hereto and made a part hereof, shall be situated in substantially the same location as identified on "Exhibit B," as determined by the Grantee. Dwellings located on the parcels identified as numbers 3, 4, 5, and 6 on "Exhibit B" shall be situated within 400 linear feet of the southern property line. Placement of any dwelling not currently shown on Exhibit B shall be approved in advance by the Grantee.

b. The Grantor shall be permitted to construct one "caretaker" dwelling (the "Caretaker Dwelling") upon the Property, subject to the following restrictions:

1. The Caretaker Dwelling shall be wholly situated within a barn or similar agricultural structure (the "Agricultural Structure"). The Caretaker Dwelling shall be oriented at the rear of the Agricultural Structure and shall not be visible from Forge Road.

2. The Caretaker Dwelling shall be only used by a bona fide caretaker of the Property.

3. The size of the Caretaker Dwelling shall be limited to not more than 800 square feet.

4. The location, color, and architectural design of the Agricultural Structure shall be designed to complement the agricultural and rural nature of the Forge Road corridor and shall be approved in advance in writing by the Grantee.

5. The Agricultural Structure shall access Forge Road only via the existing driveway serving the Perry Residence and from the Perry Residence via an unpaved road.

6. The Agricultural Structure shall not be subdivided from the Property.

B. Types of structures. The following structures may be established on the Property without the prior written consent of the Grantee:

1. Accessory structures incidental to the existing structures and allowed additional dwellings such as outbuildings, swimming pools, garages, and tool sheds.

2. Farm buildings and structures.

3. There shall be no more than a total of seven (7) dwelling units situated on the Properties, each of which shall be a single family detached dwelling unit; provided, however, that a Caretaker Dwelling may be situated upon the Property as limited by section 3(A)(2)(b) of this Conservation Easement.

C. Size of structures. Excluding the Caretaker Dwelling, each altered, relocated, or new structure, including dwellings, farm buildings and farm structures shall have a structural footprint of not more than four thousand five hundred (4,500) square feet and total dwellings, buildings, structures, and impervious surfaces shall not exceed ten (10) percent of the surface area of the Property, unless prior written approval for a greater footprint or surface area is obtained from the Grantee.

D. Improvements. The following may be constructed, placed, or maintained, provided they are consistent with this Deed of Easement and the PDR Program with prior written approval to be obtained by the Grantee: private roads, utilities and other improvements customary and related to the use of the existing dwelling or permitted buildings and structures.

1. *Miscellaneous:* The Grantor may enclose any portion of the Property with wooden, split-rail, or similar fencing with the prior written approval of the Grantee. Those portions of the Property not adjacent to Forge Road may be enclosed with wire fencing. Said fencing shall not unduly obstruct views of the Property from Forge Road. The Grantor shall not plant trees or other landscaping in such a manner as to block views of Parcel 2 depicted on "Exhibit B" from Forge Road.

2. *Commercial and industrial uses prohibited; description of uses not deemed to be commercial and industrial uses.* There shall be no industrial or commercial uses or activities conducted on the Property as defined by the County Code, provided, however, the following uses are NOT deemed to be commercial or industrial uses for the purposes of this Conservation Easement:

a. Single-family residential uses.

b. Agricultural uses, consisting of establishing, reestablishing, maintaining or using cultivated fields, orchards or pastures in accordance with generally accepted agricultural practices for the purpose of producing or maintaining crops, including horticultural specialties; livestock, including all domestic and domesticated animals; and livestock products. The processing of agricultural products is not an agricultural use, except as an accessory use with prior written approval by the Grantee.

c. The Grantors, and their successors and assigns, shall be allowed to have and board large animals (e.g., horses and cattle) on the Property; provided, however, that the total number of large animals boarded or otherwise held by the Grantors and their successors and assigns on the Property shall not exceed a ratio of 1 large animal per 2 acres of pastureland on the Property or 3 large animals per lot, whichever is greater.

d. Forestal uses, consisting of reforestation, timber harvesting and forest management activities undertaken to produce wood products and/or improve the health and productivity of the woodland. The processing of wood products is not a forestal use, except as an accessory use with prior written approval by the Grantee.

e. Seasonal activities that do not permanently alter the physical appearance of the Property that are related to and consistent with an authorized use of the Property delineated herein, including but not limited to the sale of agricultural products grown or raised on the Property, and the granting of licenses to enter and use the Property for hunting or fishing.

f. Uses that are subordinate and customarily accessory to a principal use of the Property (such as, for example, a shed for a residence, a garage, a patio, a deck, etc.) that are not expressly prohibited by this Conservation Easement and are otherwise consistent with the purposes of this Conservation Easement, the PDR Program and the County Code.

g. Uses or activities not expressly excepted herein, but which are determined by the Grantee in writing not to be a commercial or industrial use or activity, and to be consistent with the purposes of this Conservation Easement, the PDR Program, and the County Code.

3. *Unlisted uses.* The Grantor may petition the Board of Supervisors for permission to establish a use which is not otherwise listed herein and which is otherwise permitted by the County Code on the Property. Said petition shall be in writing and shall be considered by the Board of Supervisors at a public meeting within ninety (90) days of the date of submission of the petition.

4. CONFIGURATION/SUBDIVISION OF THE PROPERTY. Within one (1) year from the date of execution of this Conservation Easement, the Grantors shall vacate the property lines on the Perry Property and the Branch Residence. The maximum number of lots on the Property shall be limited to no more than seven (7) lots as depicted on "Exhibit B" The lots shall be configured in substantial conformance with "Exhibit B," provided, however, that any of the lots may be combined to result in fewer than seven (7) lots. All driveways shall be situated in substantially the same location as shown on "Exhibit B," as determined by the Grantee.

5. BILLBOARDS AND SIGNS. There shall be no display of billboards, signs or other advertisements on the Property, except signs that: (1) state solely the name of the owners, the name of the farm, and/or the address of the Property; (2) advertise the sale or lease of the Property; (3) advertise the sale of goods or services produced pursuant to a permitted use of the Property; (4) give directions to visitors; or (5) provide warnings pertaining to trespassing, hunting, dangerous conditions and other similar such warnings. No such sign shall exceed twenty-four (24) square feet.

6. GRADING, EXCAVATION, EARTH REMOVAL, BLASTING, AND MINING. Earth removal, except for activities allowed within Section 3(D) of this Conservation Easement, and blasting are prohibited. The exploration for, or development and extraction of minerals and hydrocarbons by mining or any other method is prohibited. Grading and excavation is allowed but shall not materially alter the topography of the Property. Grading and excavation shall be allowed for dam construction to create private conservation ponds with prior written approval by the Grantee, and grading and excavation shall be allowed during the construction of permitted structures or associated improvements. Common agricultural activities such as plowing, erosion control, and restoration are permitted activities provided that they do not materially alter the topography of the Property.

7. MANAGEMENT OF AGRICULTURAL AND FORESTAL RESOURCES. The application of Agricultural and Forestal Best Management Practices approved by the Virginia Department of Agriculture and Consumer Services, the Virginia Department of Forestry, the Virginia Department of Conservation and Recreation, the Virginia Department of Environmental Quality, a local Soil and Water Conservation District, the USDA Natural Resources Conservation Service, or other USDA agency, or other applicable agency of the state or federal government, shall be undertaken in all agricultural and forestal activities, including all activities involving equine, other livestock or domesticated animal(s) allowed by this deed to protect the soil, control erosion, manage nutrients and manure and protect water quality. The Grantors shall give the Grantee, its successors or assigns, written notice not less than forty-five (45) days prior to the anticipated commencement of any commercial timber harvest. If an aspect of the harvest activities is inconsistent with one or more purposes of this conservation easement, the Grantee reserves the right to require reasonable modifications to the harvest activities that will minimize such impacts.

8. ACCUMULATION OF WASTE MATERIAL. There shall be no accumulation or dumping of trash, refuse, or junk on the Property. This restriction shall not prohibit customary agricultural, horticultural or wildlife management practices including, but not limited to, establishing brush, compost piles, or the routine and customary short-term accumulation of household trash.

9. NOTICE AND PERMISSION. Whenever notice is to be given pursuant to any of the provisions of this Conservation Easement, or where a request for permission is required of the Grantee, or for a change of address, such notice or request for permission shall be in writing and shall be deemed to have been given upon (i) delivery by hand, (ii) three days after deposit in the U.S. mail with postage prepaid, for delivery by certified mail, return receipt requested, or (iii) one day after delivery to a recognized national courier service for overnight delivery to:

If to Grantor: Mr. Elwood H. Perry, Jr.
2875 Forge Road
Toano, VA 23168

With Copy To:

David W. Otey, Jr., Esquire
Jones, Blechman, Woltz & Kelly, P. C.
485 McLaws Circle
Williamsburg, VA 23185

If to County:

County Administrator
101-C Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23185

With Copy To:

County Attorney
101-C Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23185

10. MISCELLANEOUS PROVISIONS.

A. No public right-of-access to Property. This Conservation Easement does not create, and shall not be construed to create, any right of the public to enter upon or to use the Property or any portion thereof, except as Grantors may otherwise allow in a manner consistent with the terms of this Conservation Easement and the PDR Program.

B. Continuation. The covenants, terms, conditions, and restrictions of this Conservation Easement shall apply to the Property as a whole and shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs, and be considered a servitude running with the land in perpetuity.

C. Enforcement. In addition to any remedy provided by law or equity to enforce the terms of this Conservation Easement, the parties shall have the following rights and obligations:

1. *Monitoring.* Employees or agents of Grantee may enter the Property from time to time, at reasonable times, for the purpose of monitoring compliance with the terms of this Conservation Easement. The Grantee shall give reasonable prior notice before entering the Property, when practicable.

2. *Action at law inadequate remedy.* The parties agree that monetary damages would not be an adequate remedy for the breach of any terms, conditions and

restrictions herein contained, and therefore, in the event that the Grantors, their successors or assigns, violate or breach any of the terms, conditions and restrictions herein contained, the Grantee, its successors, or assigns, may institute a suit, and shall be entitled, to enjoin by *ex parte* temporary and/or permanent injunction such violation and to require the restoration of the Property to its prior condition.

3. *Restoration.* Upon any breach of the terms of this Conservation Easement by Grantors, Grantee may require by written demand to the Grantors that the Property be restored promptly to the condition required by this Conservation Easement. Furthermore, the Grantee retains the right to restore the Property to a condition consistent with the terms of this Conservation Easement and assess the cost of such restoration against the owner of the parcel in violation of this Conservation Easement and as a lien against the Property in violation of this Conservation Easement, provided however, that no such lien shall affect the rights of a subsequent bona fide purchaser for value, unless an accurate, legally sufficient, and enforceable memorandum of such lien was recorded among the land records prior to such purchase, and such lien shall be subordinate to any deed of trust recorded prior to the recordation of a memorandum of such lien.

4. *Failure to enforce does not waive right to enforce.* The failure of Grantee to enforce any term of this Conservation Easement shall not be deemed a waiver of the right to do so thereafter, nor discharge nor relieve Grantors from thereby complying with any such term.

5. *Costs of enforcement.* Any reasonable and ordinary costs incurred by the Grantee in enforcing the terms of this Conservation Easement against the Grantors, including, without limitation, costs of suit and reasonable attorneys' fees shall be borne by the Grantors, provided, however, if the Grantor prevails in any claim, litigation, or administrative order or ruling, the Grantee shall not be entitled to any of the costs or fees described herein.

6. *No right of enforcement by the public.* This Conservation Easement does not create, and shall not be construed to create, any right of the public to maintain a suit for any damages against the Grantors for any violation of this Conservation Easement.

D. Property Right. Grantors agree that the grant of the perpetual conservation restriction contained in this Conservation Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is at least equal to the value of the Property without the Conservation Easement minus the value of the Property with the Conservation Easement or the value determined pursuant to section 10(R), whichever is greater. If a subsequent unexpected change in the conditions surrounding the Property makes impossible or impractical the continued use of the Property for the conservation purposes specified herein, the Grantee may petition the Board of Supervisors to grant extinguishment of the Conservation Easement in exchange for the conveyance to the Grantee of a Conservation Easement on a different parcel located in James City County and in accordance with the PDR Ordinance in place at the time of the recording of this Conservation Easement. The Grantee, upon a sale,

exchange or conversion due to an extinguishment, shall be entitled to a portion of the proceeds determined by multiplying all the proceeds by the proportionate value established above. All proceeds to which Grantee is entitled from such sale, exchange or involuntary conversion shall be used by the Grantee in a manner consistent with the original conservation purposes of this Conservation Easement.

E. Notice of proposed transfer or sale. The Grantors shall notify the Grantee in writing at the time of closing on any transfer or sale of all or any portion of the Property. In any deed conveying all or any part of the Property, this Conservation Easement shall be referenced by deed book and page number in the deed of conveyance and shall state that this Conservation Easement is binding upon all successors in interest in the Property in perpetuity.

F. Relation to applicable laws. This Conservation Easement shall not be construed to violate any applicable federal, state, or local law. Notwithstanding any other provision of this Conservation Easement, the County Code shall apply to the Property. In the event of a conflict between any applicable law and this Conservation Easement, the more restrictive provision shall apply.

G. Severability. If any provision of this Conservation Easement is determined to be invalid by a court of competent jurisdiction, the remainder of this Conservation Easement shall not be affected thereby. The Grantor shall remunerate Grantee for the proportionate loss of value in the Conservation Easement as determined by the Board of Supervisors due to any invalidated provision.

H. Recordation. Upon execution by the parties, this Conservation Easement shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Williamsburg/James City County, Virginia. The Grantee shall provide the Grantor with one (1) certified copy of the Deed of Conservation Easement.

I. Authority to convey easement. The Grantors covenant that they are vested with good title to the Property and may convey this Conservation Easement.

J. Authority to accept easement. The Grantee is authorized to accept this Conservation Easement pursuant to the Virginia Code, 1950, as amended, Section 10.1-1701.

K. Proceeds from eminent domain. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Conservation Easement, in whole or part, Grantors and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantors and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount received. Grantee's share of the balance of the amount recovered shall be determined by multiplying the proceeds by a fraction, the numerator of which shall be the value of the conservation easement as determined in section 10(D) and the

denominator of which shall be the value of the Property. Grantee shall have the right to appear as a party in any eminent domain proceeding concerning the Property.

L. Construction. This Conservation Easement shall be construed to promote the purposes of this Conservation Easement and the PDR Program.

M. Liability and indemnification. Grantors agree that Grantee has no obligations, express or implied, relating to the maintenance or operation of the Property. Grantors agree to indemnify and hold Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys' fees arising from any personal injury, accidents, negligence, damage, or any claim relating to the Property. Grantors warrant that they have no actual knowledge of a prior release or threatened release of hazardous substances or wastes on the Property and agrees to hold harmless, indemnify, and defend Grantee from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees arising from or out of the existence, actual or alleged, of any and all environmentally hazardous or toxic substances or materials on or under the Property.

N. Taxes and assessments. Grantors shall be responsible for paying all taxes, levies, assessments and other governmental charges which may become a lien on the Property.

O. Controlling law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the Commonwealth of Virginia. The venue for any cause of action brought under this Conservation Easement shall be the Circuit Court for the City of Williamsburg and the County of James City.

P. Entire agreement. This instrument sets forth the entire agreement of the Parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Easement, all of which are merged herein.

Q. Amendments. This Conservation Easement may be amended only with the written consent of the Grantee and Grantors, and such amendment shall be duly recorded. Any amendment shall be at the sole discretion of the Grantee, and shall be consistent with the Open-Space Land Act and Chapter 16A of the County Code. Any such amendment shall also be consistent with the overall purposes and intent of this Conservation Easement. Further, such amendment shall not be of a kind or nature that would disqualify any income tax benefits that have or may have been applicable to the Grantors.

R. Valuation By Grantors. Grantors reserve the right to calculate the value of this Conservation Easement.

WITNESS the following signatures and seals:

GRANTORS:

Elwood H. Perry, Jr.

Sharon W. Perry

COMMONWEALTH OF VIRGINIA

City/County of James City, to-wit:

The foregoing Deed of Conservation Easement was signed, sworn to and
acknowledged before me this _____ day of July, 2006, by Elwood H. Perry, Jr. , Grantor.

WITNESS my signature and notarial seal.

[SEAL]

Notary Public

My Commission Expires:_____

COMMONWEALTH OF VIRGINIA
City/County of JAMES CITY, to-wit:

The foregoing Deed of Conservation Easement was signed, sworn to and
acknowledged before me this _____ day of July , 2006, by Sharon W. Perry, Grantor.

WITNESS my signature and notarial seal.

[SEAL]

Notary Public

My Commission Expires _____