

AGENDA

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

November 14, 2006

7:00 P.M.

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 - a. Economic Development Authority

L. ADJOURNMENT


MEMORANDUM

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Employee and Volunteer Outstanding Service Awards

The Recognition Program is designed to provide meaningful recognition of exceptional achievement, performance, and improvements by employees and volunteers of James City County and James City Service Authority.

The following individuals and teams to be recognized at the November 14, 2006, Board of Supervisors meeting exemplify the County's Mission and demonstrate its values:

- Two individual employees;
- Two employee teams;
- Four teams of volunteers;
- Three individual volunteers; and
- One Lifesaving Award.



Sanford B. Wanner

SBW/gb
ServiceAwd06.mem

MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: Beth Davis, Environmental Education Coordinator

SUBJECT: Chesapeake Bay Foundation Environmental Achievement Award

James City County's Protecting Resources in Delicate Environments (PRIDE) program was selected to receive the Chesapeake Bay Foundation's William H. Savedge III Environmental Achievement Award for 2006 for the Hampton Roads Peninsula region.

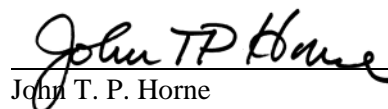
The Chesapeake Bay Foundation is recognizing the PRIDE program for its efforts to educate and inform others in the community about the importance of the protection of water quality and other important environmental resources that exemplify the kind of commitment and innovation that will ultimately help to Save the Bay.

At the meeting, Christina M. Everett, Virginia Assistant Director for Hampton Roads, will be presenting the award to Board of Supervisors Chairman, Bruce C. Goodson.



Beth Davis

CONCUR:



John T. P. Horne

BD/cec
ChesBayAwd.mem

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF OCTOBER 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

Preston Wilson, a 10th-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Valuing Diversity in James City County

Mr. Alex Holloway, James City County Human Resource Specialist, gave a brief presentation highlighting success in diverse applicant pools, effective hiring, development opportunities, and a work culture of inclusion to enhance diversity in the County's workforce.

Mr. Icenhour thanked Mr. Holloway for recognizing the effectiveness of the recalibration process recently passed by the Board.

Mr. Harrison thanked Mr. Holloway for his presentation.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Williamsburg, stated the Route 5 bike trail should be finished on time, Monticello Avenue project was on schedule, and stated drainage problems were present throughout the County.

Mr. Harrison asked if a study could be done on reducing the speed limit at the intersection of Monticello and Ironbound Road from 45 to 35 to provide for bike and pedestrian traffic, and asked about signage on Route 5 from Ironbound Road to King's Way to impose fines for speeding.

Mr. Icenhour asked if the Ironbound Road repaving was complete including striping, because it seemed the striping for turn lanes and the bike path were not complete.

Mr. Brewer stated the striping was ongoing, and VDOT would be out to continue this.

Mr. Icenhour asked if there was a required temperature to complete the paving and striping for Monticello.

Mr. Brewer stated there was none, and this should be complete in the next two weeks.

Mr. Icenhour asked if the traffic light at Jamestown High School was not pursued due to financial reasons.

Mr. Brewer stated the road warranted, but the matter was discussed with the School Board and they elected to continue with the crossing guard.

Mr. Icenhour asked if the local government always paid for stoplights in this matter.

Mr. Brewer stated this responsibility fell to the Secondary System.

Mr. Icenhour asked if the School Board was satisfied with this solution.

Mr. Brewer stated according to his information that was correct.

Mr. Icenhour asked that potholes be evaluated on News Road in the area coming from Target toward Powhatan Secondary.

Mr. McGlennon thanked Mr. Brewer for helping to address drainage concerns of Lakewood Homeowner's Association, and consideration of placement of signs on Jamestown Road to warn people to decrease speed in this area.

Mr. Wanner stated the County would work with Mr. Brewer on Mr. Harrison's request regarding the fines for speeding as there was some local responsibility, and stated in response to Mr. Icenhour's inquiries, Chief Harmon has spoken with the Commonwealth's Attorney, and stated an employee of the school system would have authority to control school traffic without being sworn.

Mr. McGlennon stated concern about sunlight glare in regard to the safety of the Traffic Control Officer at the school.

F. PUBLIC COMMENT

Mr. Ed Oyer, 139 Indian Circle, commented on the cost of crosswalks at New Town; traffic on Route 60; and school construction problems.

G. CONSENT CALENDAR

Mr. Icenhour asked to pull Item No. 4 for separate consideration.

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

Mr. Bradshaw noted corrections on Item Nos. 1, 2, 3, and 5.

Mr. Goodson disclosed that on Item No. 8, he had limited business with all three candidates, but as the business does not reach a level that would be considered inappropriate and as there was a competitive bid process, he felt he could fairly vote on the item.

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

1. Minutes – October 10, 2006, Regular Meeting
2. Dedication of a Street Known as Louise Lane South Extension

RESOLUTION

DEDICATION OF A STREET KNOWN AS LOUISE LANE SOUTH EXTENSION

WHEREAS, the street described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on a plat 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 street meets 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, 2004, for comprehensive stormwater detention which applies to this request for addition.

WHEREAS, the County guarantees the necessary surety amount of \$4,000 to provide for all loss, cost, damage, or expense incurred to correct faulty workmanship or materials, associated with the construction of the street and/or related drainage facilities. The effective period of this surety obligation will last one calendar year from the day the street is added to the Secondary System of State Highways.

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, this Board hereby rescinds the resolution adopted September 12, 2006, requesting dedication of this same street into the Secondary System of State Highways.

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

3. Dedication of Streets in Powhatan Woods, Phases 1 and 2

RESOLUTION

DEDICATION OF STREETS IN POWHATAN WOODS, PHASES 1 AND 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. FY 2008-2013 Six-Year Improvement Program Priorities

RESOLUTION

FY 2008-2013 SIX-YEAR IMPROVEMENT PROGRAM PRIORITIES

WHEREAS, the James City County Board of Supervisors believes that a safe, efficient, and adequate transportation network is vital to the future of the County, the region, and the State; and

WHEREAS, the James City County Comprehensive Plan and/or regional and State transportation plans and studies conclude that the following highway projects are essential to permit the safe and efficient movement of traffic in the Williamsburg-James City County area and promote economic development; and

WHEREAS, there exists a pressing need to implement the projects below to relieve traffic congestion, which impedes the actions of emergency vehicles and personnel, causes inconvenience and delays, and contributes the major source of air pollution to the area; and

WHEREAS, James City County strives to maintain aesthetic enhancements along high visibility corridors in order to protect the historic and scenic values of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following list comprises the highest-priority primary highway projects in James City County:

- Funding the construction of Route 60 relocation;
- On-schedule completion of the widening of Ironbound Road;
- Funding for landscaping along the Route 199 corridor; and
- Support for the Peninsula Light Rail Project.

6. Williamsburg Community Health Foundation Grant Award - \$71,000

RESOLUTION

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT AWARD - \$71,000

WHEREAS, the Williamsburg Community Health Foundation has awarded a grant in the amount of \$71,000 to the James City County Department of Emergency Management for the purchase of a WebEOC; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant expires on October 9, 2007, thus allowing any unspent funds as of June 30, 2007, to be carried forward to James City County's next fiscal year.

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:

WCHF – WebEOC	<u>\$71,000</u>
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Expenditure:

WCHF – WebEOC	<u>\$71,000</u>
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7. Community Development Fund Appropriation to Support Hazard Mitigation/Disaster Recovery Project

RESOLUTION

COMMUNITY DEVELOPMENT FUND APPROPRIATION TO SUPPORT

HAZARD MITIGATION/DISASTER RECOVERY PROJECT

WHEREAS, the Virginia Department of Housing and Community Development has awarded James City County a Community Development Block Grant in the amount of \$355,960 to assist homeowners to elevate and rehabilitate homes which sustained substantial damage during Hurricane Isabel; and

WHEREAS, the Virginia Department of Emergency Management has awarded James City County Federal and State grant funds in the amount of \$153,998 through the Hazard Mitigation Grant Program to assist designated homeowners to elevate homes which sustained substantial damage during Hurricane Isabel; and

WHEREAS, designs and specifications have been prepared for work necessary to elevate and rehabilitate the designated homes and contractor bids have been obtained to perform this work; and

WHEREAS, the cost of the elevation, foundation construction, and rehabilitation for the designated homes exceeds the available grant funds; and

WHEREAS, the Board of Supervisors has previously authorized establishment of the Housing Rehabilitation Revolving Loan Fund and the use of the Indoor Plumbing Rehabilitation Program Income for housing rehabilitation loans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes loans to be provided from the Housing Rehabilitation Loan Fund and from the Indoor Plumbing Rehabilitation Program Income to supplement Federal and State grant funds provided to elevate and rehabilitate homes which have sustained substantial damage from storms and flooding.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Budget and appropriates the funds, as adopted for the fiscal year ending June 30, 2006, as follows;

Revenue:

Community Development Fund Balance	<u>\$152,000</u>
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Expenditure:

Disaster Recovery/Hazard Mitigation Loans	<u>\$152,000</u>
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8. Contract Award – Construction of Ironbound Square Revitalization Road Improvements – Phase I

RESOLUTION

CONTRACT AWARD – CONSTRUCTION OF IRONBOUND SQUARE

REVITALIZATION ROAD IMPROVEMENTS - PHASE I

WHEREAS, in February 2002 the James City County Board of Supervisors adopted the Ironbound Square Redevelopment Plan (the “Redevelopment Plan”) and reaffirmed the “Redevelopment Plan” in February 2005 in accordance with the Virginia State Code; and

WHEREAS, the “Redevelopment Plan” includes among its objectives “develop sites for additional housing for families and senior citizens” and includes among its authorized undertakings “clearance of areas acquired and installation, construction, or reconstruction of streets, utilities, and site improvements essential to the preparation of sites for use in accordance with the Redevelopment Plan; and

WHEREAS, the US Department of Housing and Urban Development has awarded a Section 202 Supportive Housing for the Elderly Program Grant to Bay Aging to develop the Parker View Apartments, a 67-unit elderly housing development within the Redevelopment Area; and

WHEREAS, Bay Aging agrees to pay building permit and inspection fees which are eligible for waiver in accordance with County Code in exchange for construction of waterline, sewer line, and fire hydrants valued at \$18,989 in the Construction of Ironbound Square Revitalization Road Improvements-Phase I contract (the “Construction Contract”); and

WHEREAS, the Virginia Department of Housing and Community Development awarded James City County a Community Development Block Grant to support the development of housing for low- and moderate-income elderly and family households in Ironbound Square including \$255,424 for construction of a storm sewer system and storm water detention basin which is required to permit the development of the Parker View Apartments and which is included in the “Construction Contract”; and

WHEREAS, the Virginia Department of Transportation (VDOT) has approved road improvement work included within the Construction Contract as an authorized project under the VDOT Revenue Sharing Program and allocated \$97,460 of VDOT grant funds which has been matched with \$97,460 of Capital Improvements Program funds for this project; and

WHEREAS, appropriated funding of \$296,294.46 is available in the Community Development Fund to pay for work included in the “Construction Contract.”

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$18,989 from the General Fund Contingency to the Community Development Fund and appropriates \$18,989 in the Community Development Fund for the Construction Contract.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the Construction Contract to Henry S. Branscome, LLC in the amount of \$765,627.46.

9. Contingency Transfer – Peninsula Workforce Development Center

RESOLUTION

CONTINGENCY TRANSFER – PENINSULA WORKFORCE DEVELOPMENT CENTER

WHEREAS, the Board of Supervisors of James City County has been requested by Thomas Nelson Community College (TNCC) to provide an additional \$21,000 in support of the Peninsula Workforce Development Center (the “Center”); and

WHEREAS, this additional funding would restore an annual contribution of \$21,000 for the Center lease that was mistakenly reduced by TNCC to \$10,500 for the 2006 and 2007 fiscal years.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes an amendment to the budget for the year ending June 30, 2007, and transfers \$21,000 from Operating Contingency to the budget of Thomas Nelson Community College to increase previously budgeted funding for the Peninsula Workforce Development Center.

4. Comprehensive Plan Regional Coordination

Mr. Marvin Sowers, Planning Director, stated this item was brought forward by the Regional Issues Committee and the key recommendation was to coordinate the timing among Williamsburg, James City County, and York County targeted for 2010. Mr. Sowers explained that the other two recommendations were a series of forums among the local planning commissions beginning in 2007 to coincide with County’s 2008 update with more forums during the coordination process, and to coordinate the base data collection efforts. Mr. Sowers stated that the Regional Issues Committee is recommending endorsement. Mr. Sowers stated the Williamsburg City Planning Commission, Williamsburg City Council, and York County Planning Commission have all voted to endorse the project and the issue was scheduled to go before the York County Board of Supervisors for consideration in November.

Mr. Icenhour stated he believed this was an issue that had been considered before, but he believed it was a benefit to have joint meetings and joint public hearings.

Mr. Goodson stated he believed that the County could not wait until 2010 for an update due to a five-year update requirement, but would have to update in 2008; however, if the County opted to update the Comprehensive Plan earlier than the required deadline, it could be done.

Mr. Harrison commended the Regional Issues Committee for bringing jurisdictions together and working cooperatively in this manner.

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

RESOLUTION

COMPREHENSIVE PLAN REGIONAL COORDINATION

WHEREAS, the Code of Virginia requires that all jurisdictions prepare and adopt a Comprehensive Plan addressing physical development within their jurisdictional limits for the purpose of guiding and accomplishing coordinated, adjusted, and harmonious development that will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of its inhabitants; and

WHEREAS, the Code also requires that such Plans be reviewed every five years and updated if necessary; and

WHEREAS, James City County, York County, and the City of Williamsburg have adopted Comprehensive Plans and each has established procedures for compliance with the five-year review requirement; and

WHEREAS, the Regional Issues Committee (RIC), which is composed of representatives from James City County, York County, and the City of Williamsburg, among others, and serves as a forum for discussion of land use, transportation, infrastructure, and development issues that affect and influence the Greater Williamsburg area, has noted that the five-year Comprehensive Plan review cycles currently occur at different times in each jurisdiction; and

WHEREAS, in the interest of promoting closer coordination and communication concerning Comprehensive Plan issues that cross jurisdictional boundaries, the RIC has recommended that James City County, York County, and the City of Williamsburg adjust their five-year review cycles so that each can consider its next review and update in 2010 and then every five years thereafter; and

WHEREAS, to promote inter-jurisdictional discussion of Comprehensive Plan related matters, RIC has recommended that the five-year review cycles include three joint meetings of the respective Planning Commissions, with one of those meetings being a public forum format to allow citizen comments; and

WHEREAS, as an additional measure to promote full understanding and integration of regional data, RIC has recommended that the three jurisdictions explore opportunities for jointly conducted baseline studies and analyses of such things as demographics, transportation, and the economy; and

WHEREAS, these recommendations were reviewed and endorsed by the James City County Planning Commission on September 11, 2006.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the recommendations of RIC concerning Comprehensive Plan review cycle coordination, as referenced herein and as set forth in the report from RIC, dated August 23, 2006, be supported, endorsed, and approved as a procedural framework that will be followed by James City County for its 2010 Comprehensive Plan review cycle.

H. PUBLIC HEARINGS

1. Norge Depot Restoration – Phase III

Mr. Shawn Gordon, Capital Projects Coordinator, stated the County was applying for a grant for Phase III of the Norge Depot restoration. Mr. Gordon gave an overview of the previous phases of the project, and stated Phase III was for the interior restoration of the Depot, including the employment of a restoration architect for an accurate reproduction of the inside of the depot. Mr. Gordon stated the grant required local endorsement. Mr. Gordon recommended approval of the endorsement for \$425,000.

Mr. Goodson opened the Public Hearing.

Mrs. Donna Garrett, Historical Commission Chair, thanked the Board for support of the project and commented on the community impact of the project. Ms. Garrett commended Mr. Gordon for his efforts.

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

Mr. Bradshaw 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

NORGE TRAIN DEPOT RESTORATION – PHASE III

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or State agency in order for the Virginia Department of Transportation (VDOT) to fund a transportation enhancement project in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Commonwealth Transportation Board to establish a project in 2007 for the Norge Train Depot – Phase III for the employment of a restoration architect as a consultant, and restoration of the interior at its new location at the James City County Library site on Croaker Road.

BE IT FURTHER RESOLVED that the James City County hereby agrees to pay a minimum of 20 percent of the total cost of \$425,000 for Phase III of this project and that if the James City County subsequently elects to cancel this project, the James City County hereby agrees to reimburse VDOT for the total amount of costs expended by VDOT through the date VDOT is notified of such cancellation.

2. Route 5/Judith Stewart Dresser Memorial Bridge Underpass for Virginia Capital Trail

Mr. Marvin Sowers, Planning Director, stated during the design process of the Judith Stewart Dresser Memorial Bridge, there was discussion to run the Virginia Capital Trail underneath the proposed bridge to avoid the current crossing. Mr. Sowers stated the current alignment of the trail followed John Tyler Highway on the north side and crossed Route 5 near the entrance of the Barrett's Ferry subdivision. Mr. Sowers stated

during the construction of the bridge, the design considered running the trail under the bridge; but, due to funding reasons, the trail was unable to be rerouted. Mr. Sowers stated that as part of the project, VDOT suggested that the County come forward again to apply for a TEA-21 enhancement grant to compete for funding. Mr. Sowers explained that the cost of the project would be \$1.8 million according to VDOT, and the County's share at 20 percent was estimated to be \$360,000. Mr. Sowers stated the resolution authorized staff to continue with the application for the grant, which is competitive; but the Board may elect to cancel at a later date. Mr. Sowers stated that initially there would be a planning and design stage involving citizen input as well as VDOT staff assisting to implement the project.

Mr. Wanner stated that though the grants are competitive, the County has been assured to receive both because one grant was a local initiative and one was a State initiative, but when the Board's action is transmitted he would include a letter indicating that if the County could not receive both grants, the Norge Depot grant would be the Board's highest priority.

Mr. Harrison stated his appreciation for Mr. Wanner's comments.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the resolution.

Mr. Goodson stated he was concerned about the cost for this smaller portion of the trail and asked for more feedback before spending this amount of money when he had not seen an indication of an issue of safety and also considering the environmental factors involved.

Mr. Wanner stated this had been discussed by staff, Mr. Sowers, himself, Mr. Ellis from the Virginia Capital Trail Foundation, the Acting Commissioner of Transportation, and other VDOT members during a site visit. Mr. Wanner explained that due to the 55 mile-per-hour speed limit at the site, the safety issue was brought forward and has compelled the County to participate in the grant application process.

Mr. Goodson asked if there was a study to put the trail under Route 5.

Mr. Sowers stated there was, and that going under Route 5 was more expensive due to the mechanical needs of a tunnel.

Mr. Wanner stated that was the suggestion, and many other options including safety warnings had been considered, but every option aside from running the trail under the bridge failed due to safety concerns.

Mr. Goodson asked if it was staff's opinion that there was a significant safety risk with the current configuration.

Mr. Wanner stated that a significant safety issue was presented to bikers, joggers, and others who may use the trail if it were to cross Route 5, but asked the Board to consider that this was a 2010 or 2011 project and there was the option to change the project at a later date.

Mr. Goodson stated that he would ordinarily not support the issue due to the high cost, but he would support the application due to the safety concerns.

Mr. McGlennon stated this was a competitive grant and the money was not assured, but grant application this allows the flexibility to look into this option.

Mr. Sowers stated there would be at least three years of experience with the trail before construction would need to commence with the bridge project, assuming it stays on schedule.

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

RESOLUTION

ROUTE 5/JUDITH STEWART DRESSER MEMORIAL BRIDGE

UNDERPASS FOR VIRGINIA CAPITAL TRAIL

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government in order for the Virginia Department of Transportation (VDOT) Enhancement Program to fund a transportation improvement project in James City County; and

WHEREAS, a grade-separated crossing for the Virginia Capital Trail under Route 5 is deemed to be safer and more accessible than an at-grade crossing, and is hereby recommended to VDOT.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request the Commonwealth Transportation Board to establish this project in 2008 for the planning, right-of-way acquisition, and construction of a grade-separated crossing at the eastern end of Judith Stewart Dresser Memorial Bridge along Route 5.

BE IT FURTHER RESOLVED that James City County hereby agrees to pay 20 percent of the total cost of \$1,800,000 of this project and that if James City County subsequently elects to cancel this project, James City County hereby agrees to reimburse VDOT for the total amount of costs expended by VDOT through the date VDOT is notified of such cancellation.

I. BOARD CONSIDERATIONS

Mr. Goodson stated there were two items that were not on the agenda having to do with the first Public Hearing item that have come forward. Mr. Goodson explained that the first item was a resolution authorizing the County Administrator to sign documents to execute the Norge Depot restoration and the second was a budget amendment moving money from the enhancement grant to the Norge Depot restoration project account for Phase II.

Mr. Harrison made a motion to adopt both resolutions simultaneously.

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

RESOLUTION

**TRANSPORTATION ENHANCEMENT PROGRAM AMENDMENT TO PROJECT
DEVELOPMENT AND ADMINISTRATION AGREEMENT FOR THE NORGE DEPOT
RELOCATION AND RESTORATION (EN01-047-120,P101,R201,C501, UPC 59767)**

WHEREAS, James City County, Virginia, has expressed its desire to administer the work of the Norge Depot Relocation and Restoration Phase II (EN01-047-120,P101,R201,C501, UPC 59767) project in Stonehouse District; and

WHEREAS, the Virginia Department of Transportation requires the official signing for James City County to have authority from the Board of Supervisors to execute the agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Norge Depot Relocation and Restoration Phase II Project Administration Agreement.

RESOLUTION

**VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) GRANT – NORGE DEPOT
RELOCATION AND RESTORATION – PHASE II**

WHEREAS, the Virginia Department of Transportation has allocated \$80,000 in Federal STP Transportation Enhancement funds for the relocation and restoration of the Norge Depot Phase II.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the previously adopted capital budget for the fiscal year ending June 30, 2007, and appropriates the following sum in the amount and for the purpose indicated:

FY2007 Capital Budget

Revenues:

VDOT STP Transportation Enhancement Grant	<u>\$ 80,000</u>
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Expenditures:

Norge Depot	<u>\$ 80,000</u>
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J. PUBLIC COMMENT - None

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner reminded citizens to participate in the Parks and Recreation Master Plan discussions at the remaining meeting times and stated there was a telephonic citizen survey conducted. Mr. Wanner stated a listening board would be at the Community Centers and stated citizens could always contact the County or go on the website.

Mr. Wanner recommended that when the Board completed its business that it recess to 8:00 a.m. on Saturday, October 28, 2006, for a retreat with the Planning Commission. Mr. Wanner stated that the Board did not need to go into Closed Session to make an appointment to the Economic Development Authority.

Mr. Goodson nominated Ms. D. Jean Van Tol for appointment to the Williamsburg Regional Library Board of Trustees for a four-year term to expire on June 30, 2010.

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

L. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison commented on the media coverage on the Matoaka Elementary School and asked who was responsible for the construction project.

Mr. Wanner stated this was a school project and there were no County employees overseeing this project. Mr. Wanner stated that we would administer transportation improvements and the Service Authority would administer water and sewer, but the construction issues were School Board issues.

Mr. Harrison stated that similar accountability should be addressed to the School Board.

Mr. Goodson stated the County made an offer to manage Williamsburg-James City County School construction projects but the offer was declined.

Mr. McGlennon asked about Ironbound Road intersection pedestrian crosswalk issue.

Mr. Wanner stated that three-fourths of the intersection was in the City and one-fourth was in the County and the \$150,000-\$160,000 was an overall cost and the allocation of the funds was yet to be determined.

Mr. McGlennon stated the Virginia Municipal League adopted a statement on the Constitutional Amendment Number 1 proposal at its recent meeting that does not take a position on the amendment, but encouraged citizens to look at the second paragraph of the proposed amendment to consider what consequences it may have for economic competition and local government policymaking.

M. RECESS to 8:00 a.m. on October 28, 2006, for a retreat with the Planning Commission

Mr. Harrison made a motion to recess.

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

At 7:43 p.m. Mr. Goodson recessed the Board to 8:00 a.m. on Saturday, October 28, 2006, for a retreat with the Planning Commission.

Sanford B. Wanner
Clerk to the Board

102406bos.min

**AT A JOINT RETREAT OF THE BOARD OF SUPERVISORS AND PLANNING COMMISSION OF
THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF OCTOBER, 2006, AT
8:00 A.M. IN THE TOWNE BANK BOARD ROOM, 5216 MONTICELLO AVENUE, 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

Karen Firehock and Clark Larson, facilitators from the Institute for Environmental Negotiation at the University of Virginia, introduced themselves and briefly discussed the agenda for the retreat.

The retreat covered the following topics:

- Roles for the Board of Supervisors and Planning Commission and how they work with the Planning Department staff.
- Requests for policy changes; general application of policy and the need to apply consistently and clearly lay out its intent; the practice of how policy is applied; and request for policy changes.
- Staff workload and the communication of work programs and time projection for Board and Planning Commission.
- The need for joint work sessions; how agendas for joint work sessions are put together; and formation of joint subcommittees for issues that are high interest for the Board of Supervisors and Planning Commission.

At 11:25 a.m. Mr. Goodson recessed the Board to 7:00 p.m. on November 14, 2006.

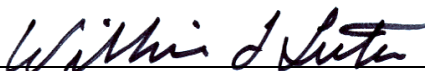
Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: Tal Luton, Coordinator of Emergency Management
SUBJECT: Declaration of a Local Emergency Rescinded

On September 7, 2006, the County's Director of Emergency Management, Sanford B. Wanner, declared a local emergency due to the recovery operations from Tropical Storm Ernesto. On September 1, 2006, Tropical Storm Ernesto approached and moved through James City County. The local effects of the storm brought wind gusts in excess of 45 miles per hour and over eight inches of rain to the County with resulting small stream and tidal flooding of low-lying areas. On September 12 the James City County Board of Supervisors confirmed the declaration of local emergency.

The Director's declaration of a local emergency was necessary to mitigate the resulting wind and water damages, and to provide for a coordinated local government response for the public safety of citizens and visitors of James City County. Conditions requiring the declaration have been mitigated. A resolution declaring an end to the local emergency is attached.



William T. Luton

WTL/cec
RescindErnestoEmer.mem

Attachment

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY RESCINDED

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the effects of Tropical Storm Ernesto, the County faced dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to mitigate the damage, loss, hardship, or suffering threatened or caused thereby; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, the effects of Tropical Storm Ernesto have been mitigated by James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, that the Declaration of a Local Emergency dated September 7, 2006, by Sanford B. Wanner, Director of Emergency Management for James City County, is rescinded this 14th day of November, 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 14th day of November, 2006.

RescindErnestoEmer.res

MEMORANDUM

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: Larry M. Foster, Assistant County Administrator (Acting)
SUBJECT: Memorandum of Agreement – Regional Water Supply Plan

The General Assembly in 2004 approved Sections 62.1-44.15 and 62.1-44.38 of the Code of Virginia, which requires that local governments in the Commonwealth prepare local or regional water supply plans in accordance with criteria established by the State Water Control Board.

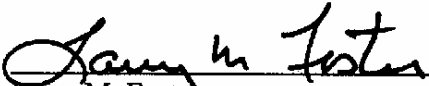
The Directors of Utilities serving Hampton Roads communities have met for over 15 years in an effort to coordinate regional utility activities and planning processes. The Directors have agreed that the most prudent method of meeting the water plan requirement is through a regional approach using the Hampton Roads Planning District Commission (HRPDC) as the coordinating agency for this important and complex project.

On October 18, 2006, the HRPDC accepted a Memorandum of Agreement recommended by the Directors of Utilities Committee establishing the terms for the preparation of a Regional Water Supply Plan. The Agreement has been forwarded to the 24 local governments within the Hampton Roads area for approval.

A summary of the Agreement follows:

- The HRPDC Directors of Utilities will guide and direct the Regional Water Supply Plan process.
- The Regional Water Supply Plan will be completed by August 2008, ahead of the 2011 deadline.
- HRPDC and local utilities will collect the necessary data/information defined by the State Water Control Board as necessary to complete the Plan.
- HRPDC will facilitate the Plan development process and contract/manage consultants as determined needed by the Directors of Utilities.
- Local governments will maintain active participation and provide timely review of technical information and reports associated with the development of the Plan.
- Each local government will coordinate activities necessary to ensure that the Plan complements its local Comprehensive Plan.
- Costs to prepare Plan will be allocated based on the individual utilities pro-rata share of the region's total water customers.
- Defines the terms for withdrawing from the Plan preparation process.

Staff recommends that the Board approve the attached resolution authorizing the County Administrator to sign the Memorandum of Agreement - Regional Water Supply Plan on behalf of James City County and appoint the General Manager of the James City Service Authority as the County's representative for the process.


Larry M. Foster

LMF/cec
WaterSup.mem

Attachment

RESOLUTION

MEMORANDUM OF AGREEMENT – REGIONAL WATER SUPPLY PLAN

WHEREAS, the Virginia General Assembly has mandated that the local governments in the Commonwealth prepare a water supply plan; and

WHEREAS, the State Water Control Board has prepared and distributed regulations that define the schedule and method for preparing the local water supply plans and allowing for the preparation of regional plans; and

WHEREAS, the Directors of Utilities Committee serving the Hampton Roads Planning District Commission (HRPDC) have monitored the water supply plan legislation and regulations, and, in conjunction with HRPDC staff, developed a Memorandum of Agreement that provides the terms for local governments served by the HRPDC to participate in the development of a Regional Water Supply Plan; and

WHEREAS, on October 18, 2006, the HRPDC voted to accept the Memorandum of Agreement and forwarded it to the individual local governments **served by the Commission** for approval.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to sign the Memorandum of Agreement – Regional Water Supply Plan on behalf of the County and designates the General Manager of the James City Service Authority as the County's representative for the process.

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 14th day of November, 2006.

WaterSup.res

MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: Katie W. Green, Colonial Community Corrections Administrator

SUBJECT: Colonial Community Corrections Position Request – Pretrial Services Officer

Colonial Community Corrections received additional funding from the Department of Criminal Justice Services to hire one additional full-time limited-term Pretrial Services Officer. The primary responsibility of this position will be to provide pretrial supervision to defendants released by the Courts from the Virginia Peninsula Regional Jail to pretrial services supervision. Additionally, this position will conduct investigations and will provide the Courts with reports to aid in bond determinations. Since James City County is the fiscal agent for Colonial Community Corrections, the Board of Supervisors must authorize this position.

Staff recommends approval of the attached resolution, which authorizes the creation of this full-time limited-term position.

Katie W. Green

CONCUR:


Doug Powell

DP/cec
CCCPosReq.mem

Attachment

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS POSITION REQUEST -

PRETRIAL SERVICES OFFICER

WHEREAS, Colonial Community Corrections administers the Community Corrections Program; and

WHEREAS, this program has received additional funding from the Department of Criminal Justice Services to hire one Pretrial Services Officer; and

WHEREAS, James City County is the fiscal agent for Colonial Community Corrections.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby creates the full-time limited-term position of Pretrial Services Officer.

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 14th day of November, 2006.


CCCPosReq.res

MEMORANDUM

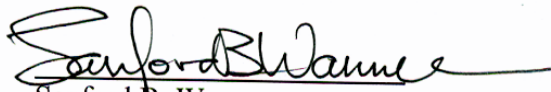
DATE: November 14, 2006
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Williamsburg Community Health Foundation Grant - \$100,000

The Williamsburg Community Health Foundation has awarded James City a grant in the amount of \$100,000. The funds are to be used to purchase items identified by the County's Emergency Preparedness Planning Group as priority needs. Items include generators for special-needs residents, a generator for the Tide Radio Station (FM 92.3), Reverse 911, laptops, video equipment for the Emergency Operations Center (EOC), and an electronic hurricane display board.

Staff recommends adoption of the attached resolution.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/cec
WmbgCommHlthFndGrnt.mem

Attachment

RESOLUTION

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT

WHEREAS, the Williamsburg Community Health Foundation has awarded a grant in the amount of \$100,000 to be used toward the efforts of the James City County Emergency Preparedness Planning Group; and

WHEREAS, the funds will be used to purchase generators for special-needs residents, a generator for the Tide Radio Station, 92.3, Reverse 911, laptops, video equipment for the Emergency Operations Center (EOC), and an electronic hurricane display board; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant expires on December 31, 2007, thus allowing any unspent funds as of June 30, 2007, to be carried forward to the James City County's next fiscal year.

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:

WCHF Emergency Preparedness	<u>\$100,000</u>
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Expenditure:

WCHF Emergency Preparedness	<u>\$100,000</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 14th day of November, 2006.

WmbgCommHlthFndGrnt.res


MEMORANDUM

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Appropriation of Funds for Radiological Planning


The Virginia Department of Emergency Management (VDEM) has advised that pass-down funds in the amount of \$25,000 have been awarded to the Emergency Management Division of the James City County Fire Department.

Funds will be used in accordance with Section 44-146.18:1 of the Code of Virginia for costs related to planning and response for public protective actions related to the Surry Nuclear Power Plant. The State and Local Radiological Emergency Preparedness program is accomplished in cooperation with a strictly regulated nuclear power plant program with oversight from the Nuclear Regulatory Commission and Federal Emergency Management Agency (FEMA).

Staff recommends that the attached resolution to accept the grant and appropriate the funds to the Special Projects/Grants Fund be adopted.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/cec
RadPlanFunds.mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDS FOR RADIOLOGICAL PLANNING

WHEREAS, James City County has received pass-down funding from the Virginia Department of Emergency Management (VDEM) in the amount of \$25,000; and

WHEREAS, the funds will allow for improvements to the Emergency Operations Center and development of plans and exercises to enhance preparedness to respond to and recover from potential radiological incidents.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the funds and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund:

Revenue:

VDEM-07 Radiological/Nuclear Pass-down Funds	<u>\$25,000</u>
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Expenditure:

VDEM-07 Radiological/Nuclear Pass-down Funds	<u>\$25,000</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 14th day of November, 2006.

RadPlanFunds.res

**SPECIAL USE PERMIT-23-06. Volunteer Fire Department Flea Market
Staff Report for the November 14, 2006, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

September 11, 2006, 7:00 p.m. (applicant deferred)

October 2, 2006, 7:00 p.m.

November 6, 2006, 7:00 p.m.

Board of Supervisors:

November 14, 2006, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Bill Apperson, James City-Bruton Volunteer Fire Department

Land Owner:

James City-Bruton Volunteer Fire Department

Proposal:

To construct a wood-framed flea market to sell produce and other goods on B-1 property.

Location:

3140 Forge Road

Tax Map/Parcel No.:

(12-3) (1-8)

Parcel Size:

.5 +/- acres

Zoning:

B-1, General Business

Comprehensive Plan:

Multi-Family Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the special use permit application with the attached conditions.

Staff Contact:

Jason Purse, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On November 6, 2006, the Planning Commission voted 7-0 to approve this application and the setback modification request.

Proposed Changes Made Since Planning Commission Meeting

No changes since the November 6 meeting. On October 2, the Planning Commission had recommended modifying Condition #5 to add "boats and wheeled vehicles" to the list of items which cannot be sold and adding Condition #6 specifying operating hours. These changes have been made.

PROJECT DESCRIPTION

Mr. Bill Apperson, on behalf of the James City-Bruton Volunteer Fire Department, has applied for a Special Use Permit (SUP) to allow for a flea market on approximately .5 acres of land on a parcel zoned B-1, General Business. The property is located on the north side of the corner of Forge and Richmond Roads. The flea market is to consist of a wood-framed 2,800-square-foot pole structure for vendors to park underneath and have their goods for sale under the cover of the structure. Proposed goods include vegetables, fruits, seafood, seasonal goods (pumpkins or other holiday decorations), and the like. Tenants will rent space from the Fire Department and will not be allowed to just pull up and use the facilities.

For this proposal the James City-Bruton Volunteer Fire Department needed to apply for a flea market based on the nature of what they wanted to sell. In the Zoning Ordinance the definition of a farmer's market limits saleable goods to only produce grown and sold by the same person. The Fire Department envisions people having fish, crabs, and other seafood at this market which would be prohibited by farmer's market standards. Flea markets provide the flexibility to sell other goods, but even though this application is for a flea market, the intent of the project is more closely related to a farmer's market.

PUBLIC IMPACTS

Environmental

Watershed: Ware Creek

Staff Comments: The Environmental Division has no comments at this time given the limited impact this project has; however, prior to final site plan approval, it must be demonstrated that the required 10 water-quality points have been obtained for the site or that the site is less than 10 percent impervious.

Public Utilities

Public utilities will not be utilized for this project. The Health Department also reviewed this proposal and offered no comments at this time. They did note that unprocessed produce did not require having water services available on-site. However, if prepackaged or processed food was sold, there would be requirements for on-site water and this could be determined at the site plan level.

Staff Comments: James City Service Authority (JCSA) staff does not have any comments as this project will not require any service.

Transportation

No improvements are proposed for this project other than conforming to VDOT standards for a commercial entrance along Forge Road. For safety reasons the entrance has been pushed back as far as possible to allow as much room for entering and exiting the property. The Institute of Transportation Engineers does not have any specific traffic generation figures for a flea market. Predictions for a "specialized retail center," the only generally comparable use for which trip generation rates are readily available, estimate trip generation to be approximately 19 AM and 14 PM peak hour weekday daily trips for this project. This estimate is based on 2,800 square feet of retail space. The total size will be between nine and 11 booths.

Twelve parking spaces are proposed. However, there are no specific Parking Ordinance requirements for flea markets or farmer's markets. Given the varying size and location of similar markets in the area, staff was not able to determine what would best serve this project. There is a condition on the SUP that triggers a parking study to take place after the market is open for 60 days. The Planning Director will evaluate the adequacy of parking and determine if additional parking will be required to serve the 11 proposed booths. If no other parking can be provided, then the number of booths will be required to be reduced based on the findings of the study. This will allow staff to determine parking requirements based on actual needs based on this project's specific characteristics.

2005 Traffic Counts (Richmond Road):

From Route 30 to Forge Road there were 9,966 trips. From Forge Road to Croaker Road there were 15,211 trips.

2026 Volume Projected: From Route 30 to Croaker Road there is anticipation of 24,000 trips, but it is listed in the OK category.

VDOT Comments: VDOT concurs with the Master Plan and Conditions as proposed, and notes that it appears that the location of the entrance as shown on the drawing is acceptable for the proposed scope of construction and activities of the flea market. However, construction plans showing details of the commercial entrance, geometric data, traffic control sign(s), site distances, and other related information should be provided before final site plan approval is given.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Moderate Density Residential (Page 121): Suggested land uses include townhouses, apartments, attached cluster housing, recreation areas, and may also include very limited commercial and community-oriented facilities generally intended to serve and support the residential community in which they are located.</p> <p>Staff Comment: Given the limited nature of this commercial development and that it will serve many of the farmers and other people in the northern part of the County, staff feels that it meets the intent of the limited commercial aspect of the description of Moderate Density Residential.</p>
Development Standards	<p><i>General Standard #1-Page 134:</i> Permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed.</p> <p><i>General Standard #5-Pages 134-35:</i> Minimize the impact of development proposals on overall mobility, especially on major roads by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances...Provide for safe, convenient, and inviting bicycle, pedestrian, and greenway connections to adjacent properties and developments in order to minimize such impacts and to provide adequate access between residential and nonresidential activity centers and among residential neighborhoods.</p> <p><i>Commercial & Industrial Standard #3:</i> Mitigate objectionable aspects of commercial or industrial uses through an approach including performance standards, buffering, and special setback regulations.</p> <p><i>Commercial & Industrial Standard #4:</i> Provide landscaped areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County.</p> <p>Staff Comment: Although the Comprehensive Plan suggests this area for Moderate Density Residential Development, the Toano Design Guidelines suggest the following language: "...encourage a mix of commercial and residential uses, but predominantly neighborhood commercial on the highway frontage." Because of this supplementation, the commercial aspect of this development is acceptable to this project.</p> <p>This project does not have direct access to Richmond Road, but does plan to have sidewalks along the frontage of the property. This meets the General Standards listed above. The requested lessened setbacks meet the requirements of the Toano Design Guidelines, however, this development does not plan on landscaping along the frontage of the parcel. This will require that a modification request be submitted with the site plan. The "market" and picnic tables and benches will serve as the dominant visual feature and provide the unique character discussed in the Comprehensive Plan. While this development does not meet the Commercial Standard #4, the very limited nature of this development does not require the visual screening that most commercial projects do, as the scale for this "market" is much smaller than other uses.</p>

Goals, strategies and actions	<i>Strategy #2-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.
	<p>Staff Comment: This project has a minimal impact on surrounding development given the nature of the project. Currently, there is very limited development along this block of Richmond Road.</p> <p>There are undeveloped parcels, as well as an antique toy store, along the strip of B-1 zoned parcels in this area of Toano. This limited commercial development will serve as a unique project that can help promote the historic agricultural nature of Toano. Currently along Forge Road there is a mix of farms and undeveloped parcels. Across Richmond Road there are industrial uses.</p>

Environment

Goals, strategies and actions	<i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.
	<p>Staff Comment: The proposed wood-framed structure will have minimal environmental impacts. The applicant has provided space for a possible Best Management Practice (BMP) area should the site plan dictate that one is necessary.</p>

Transportation

General	<p><i>Sidewalks and Bikeways-Pages 69-70:</i> Strongly recommends development of sidewalks and related pedestrian facilities to connect residential to nonresidential areas, as well as construction of bike facilities and ensuring all new facilities and future plans meet the public's desires and needs.</p> <p>Staff Comment: This project will meet all Ordinance requirements for sidewalks.</p>
Goals, strategies and actions	<p><i>Strategy #2-Page 80:</i> Continue to encourage landscaped roadways and roadway designs that enhance the County's image and reduce the visual impact of auto-related infrastructure.</p> <p>Staff Comment: The market structure will be the dominant visual feature of this development. The parking will be in the rear of the project. While there will be limited landscaping, there are possibilities of including a sitting area for the development that should enhance the visual quality of the project and allow for a more pedestrian-friendly area in Toano.</p>

Community Character

General	<p><i>Richmond Road Community Character Corridor-Pages 83-84:</i> 50-foot buffer requirement for commercial uses along this road. This also includes parking and other auto-related areas clearly as a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements complement and enhance the visual quality of the urban corridor.</p> <p><i>Toano Community Character Area points-Page 86:</i></p> <ul style="list-style-type: none"> • Building setbacks should be consistent with nearby historic character of the area. • Where possible, parking should be located to the rear of buildings. • Pedestrian and bicycle access and circulations should be promoted through the provision of sidewalks, bike racks, benches, etc. which help accomplish this goal. <p><i>Toano Community Character Area Study:</i> Page 4 suggests the following: 1) buildings in the transition area should be setback 15-25 feet from the right-of-way. 2) Predominant exterior materials should be of high quality, including wood, and brick.</p> <p>Staff Comment: As this project is located in the Toano Community Character Corridor, many of the suggestions for setbacks and buffers from the Design Guidelines need to be taken into account. The setbacks for businesses in this area are suggested to be 15-25 feet from the right-of-way. Staff feels this is more appropriate for this parcel than the 50-foot buffer stated in the Comprehensive Plan. Staff would also note that the project is proposing a sitting area</p>
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	<p>and open space for the parcel which is in line with the “open space” shown in this area of the Toano Design Guidelines.</p> <p>With the architectural features to be approved by the Planning Director, staff feels that the character of the project will be consistent with the Guidelines and the Comprehensive Plan as well.</p>
Goals, strategies and actions	<p><i>Goal #2-Page 95:</i> Enhance and preserve the County’s scenic, cultural, rural, farm, forestal, natural, and historic resources as being essential to the County’s rural and historic character, economic vitality, and overall quality of life.</p> <p><i>Strategy #3-Page 95:</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p>Staff Comment: Staff feels that the nature of this project and that it serves local farmers will benefit the unique character of the area as stated in <i>Goal #2</i>. With the addition of the sitting area and the wood-framed structure, staff also feels that the development along a Community Character Corridor will enhance the experience of residents and visitors as well.</p>

Comprehensive Plan Staff Comments

Overall, staff feels that this application, as proposed, is generally in compliance with the Comprehensive Plan. The proposed use is in scale with surrounding development, and the community market helps promote the historically agricultural nature of Toano. The limited nature of this project helps limit the impact it has on the community. Given the SUP Conditions attached to this project, including the architectural approval and the limitation of saleable goods, staff does not feel this market will have a detrimental impact on the character of the area. In fact, given the request for decreased setbacks and adherence to the Toano Design Guidelines through the provision for a sitting area, staff feels that this project will help to further the Guidelines and the overall character of the area.

SETBACK MODIFICATION REQUEST

With the approval of the Planning Commission, setbacks may be reduced to 25 feet along Community Character Corridors, down from the normal 50 feet required in Section 24-393 of the Zoning Ordinance if the Planning Commission determines that the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- a. The site is located on a Community Character Corridor or is designated a Community Character Areas on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Area.
- b. The adjacent properties have setbacks that are nonconforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.
- c. The applicant has offered extraordinary site design which better meets the Development Standards of the Comprehensive Plan.

Staff Comments: Staff feels that the setback modification request is in keeping with the requirements listed in the Zoning Ordinance. The setback also conforms to the Toano Community Character Area Design Guidelines which call for reduced setbacks in this area of Toano. On November 6, the Planning Commission recommended approval of the applicant’s setback modification request.

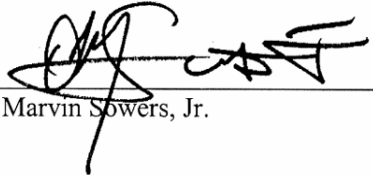
RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Of particular note are the project’s contributions toward promoting the historic agricultural characteristics of the

Toano Community and implementing open space recommendations in the Toano Sub-area Study. Staff recommends the Planning Commission recommend approval of the SUP application with the attached resolution.

Jason Purse

CONCUR:



O. Marvin Sowers, Jr.

JP/gb
Sup-23-06

ATTACHMENTS:

1. Unapproved Planning Commission Minutes from the October 2, 2006, meeting
2. Unapproved Planning Commission Minutes from the November 6, 2006, meeting
2. Resolution
3. Location Map
4. Master Plan
5. Architectural exhibit

RESOLUTION

CASE NO. SUP-23-06. VOLUNTEER FIRE DEPARTMENT FLEA MARKET

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. Bill Apperson has applied on behalf of the James City-Bruton Volunteer Fire Department for an SUP to allow for a flea market on approximately .5 acres of land on a parcel zoned B-1, General Business; and

WHEREAS, the proposed market site is shown on a conceptual layout, entitled "Volunteer Fire Department Flea Market" and dated August 2006; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. (12-3)(1-8); and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 6, 2006, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 23-06 as described herein with the following conditions:

1. The Property shall be developed generally as shown on the master plan entitled "Volunteer Fire Department Flea Market" and dated August 2006 (the "Master Plan"), with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. The main market structure shall consist of a wood-framed structure, similar to the structure shown in the photograph which is attached as exhibit "A," with design, materials, and colors to be approved by the Planning Director.
3. One freestanding sign shall be permitted on the site. The sign shall be ground-mounted and shall not exceed a cumulative size of 16 square feet in size and shall not be taller than six feet and approved by the Planning Director. The sign shall not be illuminated.
4. Any and all merchandise to be sold at the James City-Bruton Volunteer Fire Department Flea Market shall be sold underneath or behind (between the parking area and the structure) the wood-framed structure, designated as the "market" on the Master Plan. No merchandise shall be sold within 25 feet of the front or sides of the property or 50-feet from the rear of the property.
5. The following items may not be sold as a part of this "flea market": Antiques/statuary, books, carpet, coins, furniture, hardware/building supplies, automobile parts, home appliances, household items, paint, animals, shoes, sporting goods, upholstery, wearing apparel, used goods, boats, and wheeled vehicles.
6. Hours of operation for the market shall be limited to from dawn until dusk.

7. Parking shall only be on the areas designated as “parking area” on the Master Plan. Such parking areas shall be graveled or paved. All non-paved areas shall be flagged and shall be labeled with “No-parking” signs.
8. After the market has been open for 60 operating days, in coordination with the County, a parking analysis shall be performed to determine the adequacy of the parking area, which will require the approval of the Planning Director. If parking is deemed insufficient by the Planning Director, additional parking spaces shall be provided or the number of booths in the market shall be reduced based on the findings of the study.
9. The site plan shall include a landscaping plan in accordance with the County Ordinance, or shall include equivalent design features such as a combination of landscaping, picnic tables, benches, and a sitting area, with the design to be approved by the Planning Director.
10. Should new exterior lighting be installed for the flea market, such fixtures shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted to, and approved by, the Planning Director which indicates no glare outside the property lines. “Glare” shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the street or adjoining residentially designated property.
11. 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.
12. Upon notification from the County that a shared access to Forge Road becomes available, the applicant shall abandon the Property’s existing access to Forge Road and shall use only the shared access.
13. This SUP is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

Sup-23-06.res

**UNAPPROVED MINUTES OF THE OCTOBER 2, 2006 MEETING
OF THE PLANNING COMMISSION**

SUP-23-06 Volunteer Fire Department Flea Market

Mr. Purse presented the staff report stating that Mr. Bill Apperson, on behalf of the James City-Bruton Volunteer Fire Department, has applied for a Special Use Permit to allow for a flea market, on approximately .5 acres of land, on a parcel zoned B-1, General Business. The property is located on the north side of the corner of Forge and Richmond Road. The property can further be identified as Parcel No. (1-8) on the JCC Tax Map No. (12-3). The site is shown on the 2003 Comprehensive Plan Land Use Map as Moderate Density Residential. Recommended uses on property designated for Moderate Density Residential areas are townhouses, apartments, recreation areas, and may also include very limited commercial and community-oriented facilities. Staff found the proposal generally consistent with surrounding characteristics and the Comprehensive Plan and recommended approval.

Mr. Fraley asked for the locations and distances where setback modifications have been requested.

Mr. Purse indicated the locations on a display map.

Mr. Fraley asked about the parking requirement waiver for the rear of the parcel.

Mr. Purse said no request had been made. He stated that a determination of the parking requirement will be made during the Site Plan process.

Mr. Obadal asked if parking will be allowed up to the property line.

Mr. Purse said the minimum screening buffer is 10 feet from the property line.

Mr. Obadal asked if that was the location of the intended 35 foot buffer.

Mr. Purse said yes.

Mr. Obadal asked who would be responsible for granting the modification.

Mr. Purse said it would be the Planning Director.

Mr. Obadal asked if the structure would be an open building without walls.

Mr. Purse said yes.

Mr. Obadal expressed concerns about the types of items that would be allowed for sale.

Mr. Purse explained how the list of permitted items was created.

Mr. Obadal said there has been discussion about boats and automobiles being offered for sale and about limiting the hours of operations.

Mr. Purse stated that automobiles were not included in the list of permitted items and that Staff did not think such items would match with the intended use of the property. He said Staff could specifically restrict automobiles if the Commission desired.

Mr. Obadal asked that boats and automobile sales be restricted.

Mr. Purse stated that the applicant was present and agreed to the addition of a stipulation limiting the hours of operation to between dawn until dusk.

Mr. Fraley asked if the list of permitted items offered enough protections or if every undesirable item should be listed.

Mr. Purse stated that Staff felt the current list offered enough specificity. He also stated that items of particular concern could be excluded.

Mr. Billups asked about the criteria for excluding coins, books, and antiques.

Mr. Purse stated that the intent is for a farmer's market rather than a flea market.

Mr. Billups asked if there were any Health Department conditions for the sale of food items.

Mr. Purse stated that Department of Agriculture and Health Department approvals would be required during the site plan process.

Mr. Kennedy asked if the Volunteer Fire Department would be allowed to hold special fundraising events on the property under the proposal.

Mr. Purse answered no.

Ms. Hughes stated her concerns about the limited landscaping along Richmond and Forge Roads.

Mr. Purse said the landscape modifications do not effect the location or number of trees that are required according to the ordinance.

Ms. Hughes asked if the landscaping would be enhanced to look more attractive.

Mr. Purse said the applicant's intent is to have a pedestrian friendly landscape along the street.

Ms. Hughes asked if the reduced 10 foot buffer in the rear would be enhanced also as other applicants have been required to do.

Mr. Purse said it was not a condition. He said it could be added if the commission desired.

Ms. Hughes said she would like to see that included.

Mr. Fraley opened the public hearing.

Mr. Jesse Rowe, 117 Tom Taylor Road, stated that the Volunteer Fire Department receives most funds from donations. He stated that the intent is for a Farmer's Market where food will be purchased by the consumer and taken home to prepare. Mr. Rowe also stated that the location of the 10 foot reduced buffer is already heavily treed.

Mr. Fraley asked if the applicant would be comfortable restricting the sale of boats and automobiles and limiting the operation to daylight hours.

Mr. Rowe said he was.

Mr. Billups asked if the applicant anticipated a seasonal slowdown in September or October.

Mr. Rowe stated that he envisioned that farmers and waterman would sell their products so that he anticipated a 9 month operation.

Mr. Billups confirmed that space would be available for rent 12 months of the year.

Mr. Obadal asked how parking would be addressed if use on the adjacent property changed.

Mr. Rowe said he did not envision a lot of traffic.

Mr. Obadal asked if they would operate primarily on weekends.

Mr. Rowe said they would probably be busier on the weekends.

Mr. Billups asked how the operation would differ from the business across the street from the Pottery.

Mr. Rowe said he was not aware of what products the other business sold. He stated that this project would offer a more central location for people to gather to sell their products.

Mr. Kennedy stated his support of the Volunteer Fire Department and encouraged Commissioners to visit Fire Station #1.

Mr. Rowe stated that the Fall Fish Fry would be held in October.

Mr. Rich Krapf, 2404 Forge, represented the Friends of Forge Road and Toano and recommended approval. He urged Commissioners to require landscaping on Richmond and Forge Roads.

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

Mr. Fraley clarified that Commissioners are not being asked to consider the 10 foot reduced buffer at the rear of the site.

Mr. Purse said that was correct. He also stated that all Landscape Ordinance requirements would be met.

Ms. Jones motioned to approve the application and amended conditions.

Mr. Fraley clarified with the other Commissioners their recommendations restricting the sale of boats and automobiles and the hours of operation.

Mr. Billups asked if patrons would be allowed to use the convenience facilities across the street at the fire station.

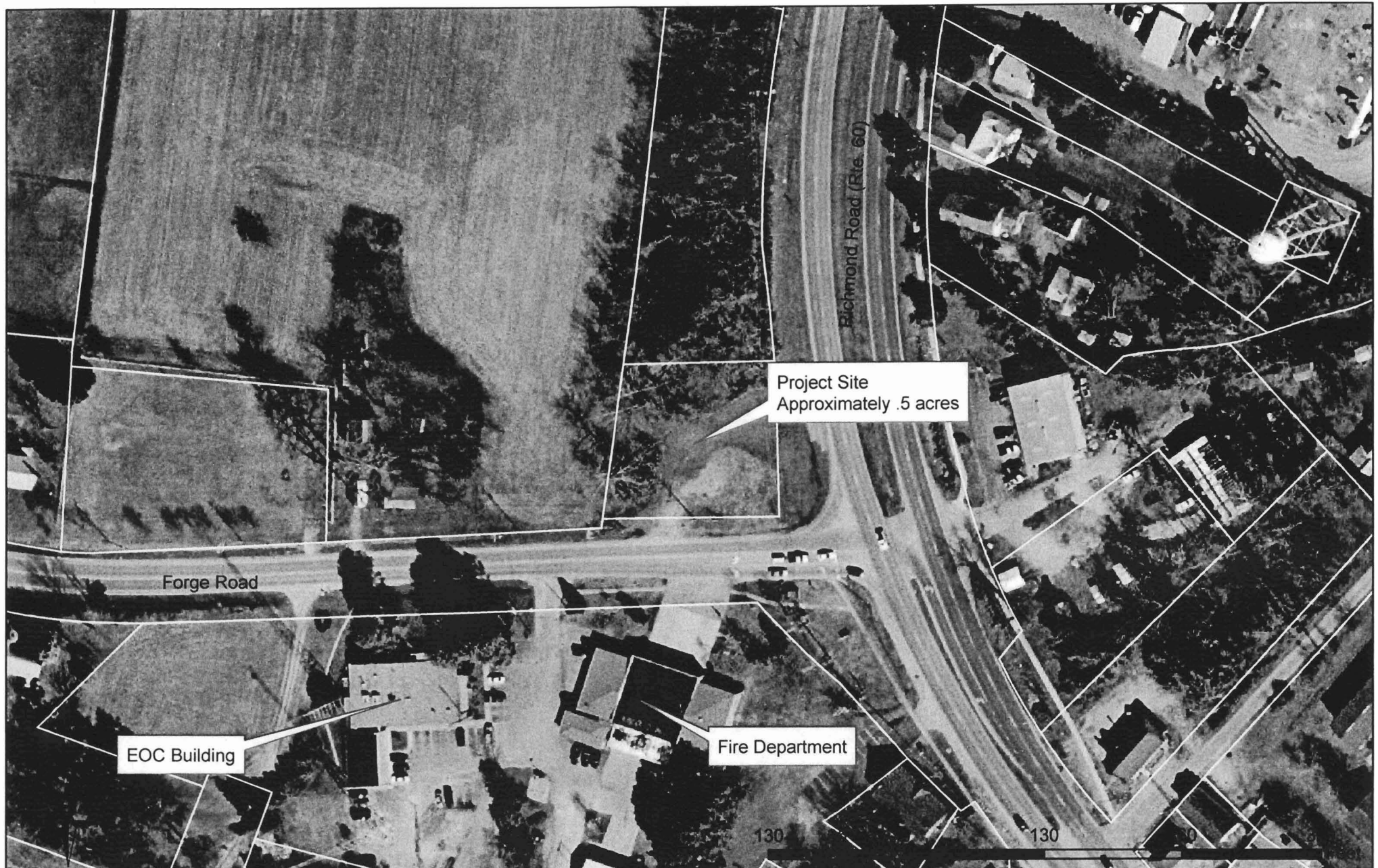
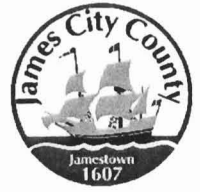
Mr. Purse said yes.

Ms. Hughes seconded the motion.

In a unanimous roll call vote approval was recommended (6-0). AYE: Hughes, Jones, Obadal, Fraley, Kennedy, Billups (6); NAY (0). (Hunt Absent).

SUP-23-06

Vol. Fire Dept. Flea Market



[illegible]

Project Address: 3140 Forge Road
Tax Map: 1230100008
Zoning: B-1, General Business

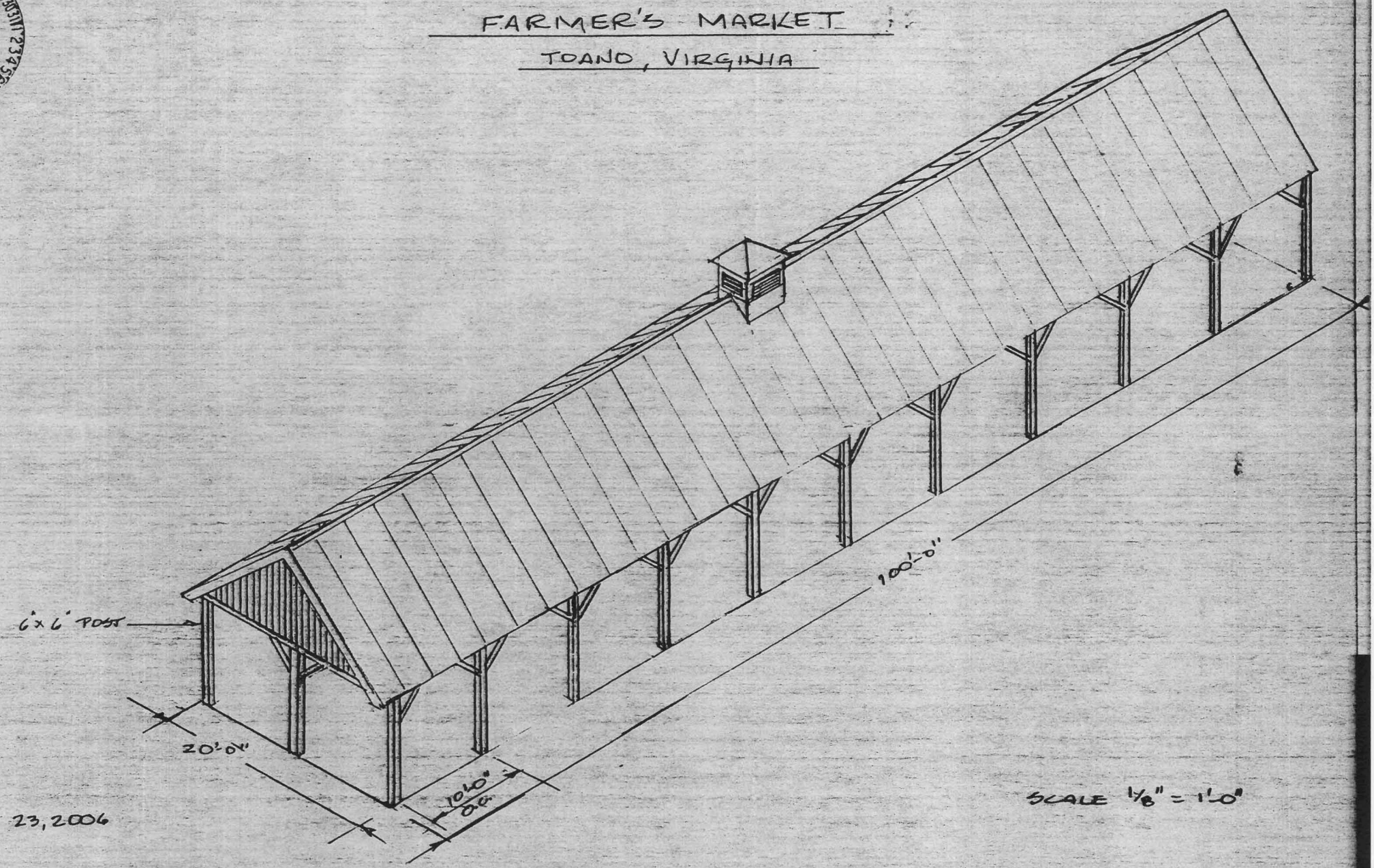
Note: This project will require an approved Site Plan before construction is permitted. When the Site Plan is created, the commercial entrance off of Forge Road should be shifted west as much as possible along the southern boundary of the property, per requirements of VDOT.

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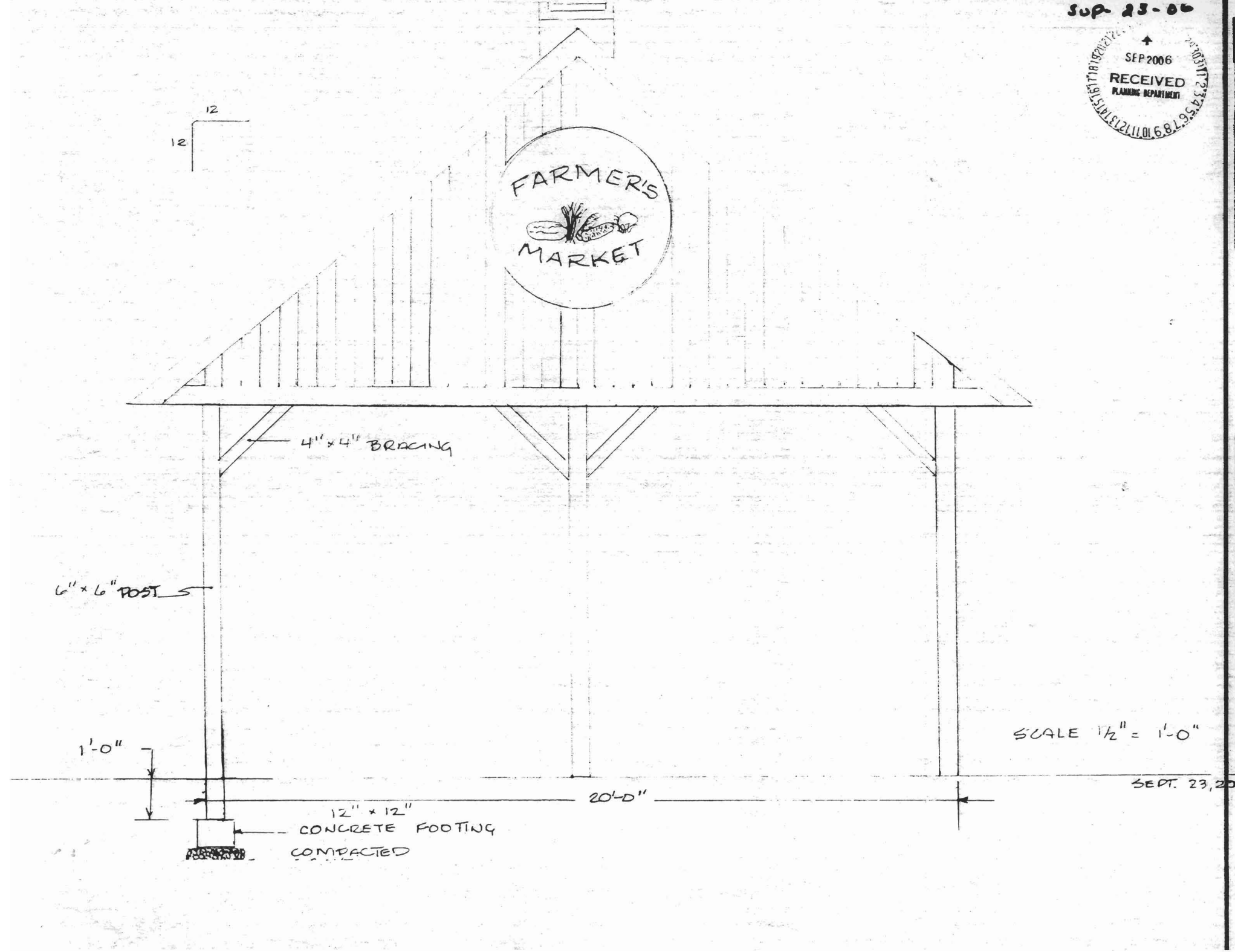
FARMER'S MARKET

TOANO, VIRGINIA



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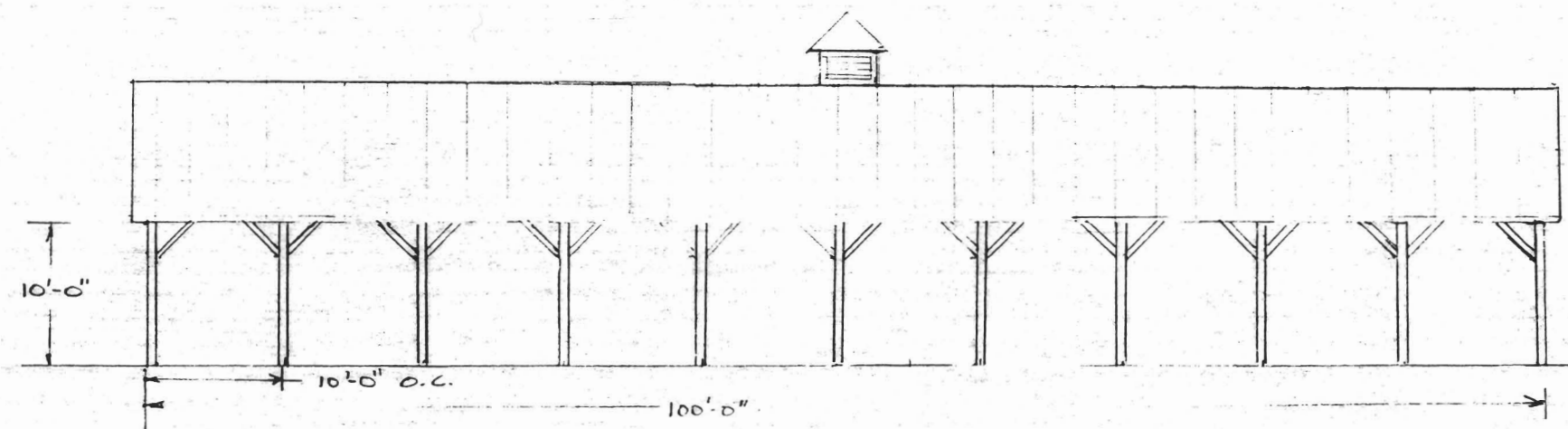


SUP 23-06



FARMERS MARKET

TOANO, VIRGINIA



SCALE 1/8" = 1'-0"

SEPT. 23. 06

SUBDIVISION 79-06, Lakewood/Marl Hills Well Lot Vacation

Staff Report for the November 14, 2006, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Board of Supervisors:

Building F Board Room; County Government Complex

November 14, 2006, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Larry M. Foster, James City Service Authority

Land Owner:

James City Service Authority

Proposal:

The applicant is proposing the attached ordinance of plat vacation to legally prepare the lot for inclusion in the two adjacent residential lots.

Location:

106A Ware Road

Tax Map/Parcel No.:

(47-4) (2-3A)

Parcel Size:

12,026 square feet; approximately .28 acres

Zoning:

R-1, General Residential

Comprehensive Plan:

Low-Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff recommends the Board of Supervisors adopt the attached ordinance vacating the Well Lot to legally prepare the lot for inclusion into the two adjacent residential lots.

Staff Contact:

Ellen Cook

Phone: 253-6685

PROJECT DESCRIPTION

Mr. Larry M. Foster of the James City Service Authority (JCSA) has submitted an application for Plat Vacation of the Well Lot at 106A Ware Road in the Lakewood (formerly Marl Hills) Subdivision. The existing 12,000-square-foot parcel can be further identified as Parcel No. (2-3A) on James City County Real Estate Tax Map No. (47-4). The property is currently owned by the JCSA and has been used as a well lot; the JCSA has already completed the process of demolishing the well facilities located on this lot as they are no longer needed to serve the Lakewood/Marl Hills neighborhood.

The property is located in R-1, Limited Residential District. The minimum lot size in R-1 for single-family detached units is 15,000 square feet. Since the lot does not meet the minimum lot-size requirements for the R-1 District, the JCSA proposes to divide the lot in two and undergo a boundary-line adjustment process that would transfer ownership of the halves to each of the two adjacent properties. The adjacent property owners are fully aware of and have agreed to this transfer, and the amount paid will be the market value as supplied to the JCSA by Real Estate Assessments. Vacating the Well Lot designation will legally prepare the lot for this transfer.

COMPREHENSIVE PLAN

Land Use Map Designation

This property is designated Low-Density Residential in the 2003 Comprehensive Plan. Low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. Residential development with gross density greater than one unit per acre and up to four units per acre may be considered if public benefits to the community are present.

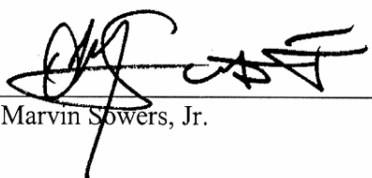
Staff finds this proposal consistent with the Comprehensive Plan since the subdivision of the Well Lot and its inclusion in the adjacent properties will not result in a nonconforming residential lot within the Lakewood/Marl Hills Subdivision.

RECOMMENDATION

Staff recommends the Board of Supervisors adopt the attached ordinance vacating the Well Lot to legally prepare the lot for inclusion into the two adjacent residential lots.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/gb
s-79-06.doc

ATTACHMENTS:

1. Location Map
2. Memo from Larry M. Foster
3. Ordinance of Plat Vacation

ORDINANCE NO. _____

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT
ENTITLED "MARL HILLS, SECTION I" AND MORE PARTICULARLY DESCRIBED AS
THE VACATION OF THE WORDS "WELL LOT"

WHEREAS, the James City Service Authority (the "JCSA") currently owns a parcel of property identified as JCC Real Estate Tax Map Parcel No. 4740200003A and known as 106A Ware Road (the "Property") which is designated as a "Well Lot" on a plat entitled "Marl Hills, Section I" (the "Plat"); and

WHEREAS, because the well located on the Property is no longer needed to serve the Lakewood/Marl Hills neighborhood, the JCSA has determined that it no longer needs the Property; and

WHEREAS, the Property may not be used for residential uses unless the words "Well Lot" are vacated from the Plat; and

WHEREAS, an application has been made by Mr. Larry M. Foster of the JCSA to vacate the words "Well Lot" from the Plat; and

WHEREAS, notice that the Board of Supervisors of James City County would consider such application has been given pursuant to Sections 15.2-2272 and 15.2-2204 of the Code of Virginia as amended; and

WHEREAS, the Board of Supervisors held a public hearing and considered such application on the 14th day of November 2006, pursuant to such notice and the Board of Supervisors was of the opinion that the vacation would not result in any inconvenience and is in the interest of the public welfare.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the words "Well Lot" shown on the Plat be so vacated.

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 14th day of November, 2006.

s-79-06.res

JCC-S-79-06

Lakewood/Marl Hills Well Lot Vacation



To: Board of Directors

From: Larry M. Foster, General Manager, and James City Service Authority

Date: June 27th, 2006

Subject: Property Disposal

This meeting has been advertised as a public hearing on the sale of the seven parcels of surplus property listed below. The property is available as the result of the demolition of the water or sewer facility that was previously located on the property.

Parcel Number	Address	Acres	Buildable
3110400030	107 Theodore Allen Drive	.229	yes
4730500006A	495 Neck-O-Land	.264	no
4540200083	106A Ware Road	.263	no
3910800005	120 Carriage Road	.663	yes
1640300011	125 Riverview Plantation Drive	.651	yes
311050089/a	220 Walker Drive	.97	yes

Staff recommends that the Board approve the attached Resolution authorizing the General Manager to sign the appropriate documents to transfer these parcels new owners. All parcels except those transferred to the Office of Housing and Community Development (OHCD) as described below will be sold at least 90% of the appraised value as established by the County's Office of Real Estate Assessment.

Assuming the Board authorizes the disposal of these parcels the OHCD has agreed to reimburse the JCSA the cost for the demolition of the facility in exchange for the property located at:

107 Theodore Allen Drive
220 Walker Drive
120 Carriage Road

Once transferred OHCD will arrange for the construction of affordable housing units on each of the parcels thru Habitat for Humanity and the Williamsburg Housing Authority. The only other parcel that a home can be constructed on is located in Riverview Plantation which will be disposed of at market price. The proceeds for this parcel will be used to offset the costs of upgrading the water system serving the neighborhood. Because the remaining parcels are not suitable for the construction of a home they will be offered to the adjoining property owners.

Larry M. Foster, General Manager

Resolution
Property Disposal

Whereas the staff of the James City Service Authority has determined that the parcels listed below are no longer needed, and

Parcel Number	Address	Acres	Buildable
3110400030	107 Theodore Allen Drive	.229	yes
4730500006A	495 Neck-O-Land	.264	no
4540200083	106A Ware Road	.263	no
3910800005	120 Carriage Road	.663	yes
1640300011	125 Riverview Plantation Drive	.651	yes
311050089/a	220 Walker Drive	.97	yes

Whereas; the Office of Housing and Community Development has agreed to reimburse the James City Service Authority the costs of the demolition of the buildings located 107 Theodore Allen Drive, 120 Carriage Road and 120 Walker Drive in exchange for the property, the parcels would then be transferred to Habitat for Humanity and the Williamsburg Housing Authority for the construction of Affordable Housing units, and

Whereas, the remaining parcels will be offered for sale for at least ninety percent of the market value as established by the Office of Real Estate Assessment.

Now therefore be it resolved that the Board of Directors hereby authorizes the General Manger to sign the appropriate documents necessary to dispose of the parcels as described above.

NOTICE OF PUBLIC HEARINGS

The Board of Directors of James City Service Authority will conduct a Public Hearings on Tuesday, June 27, 2006 at 7:00 p.m. in the County Government Center Board Room, 101-F Mounts Bay Road, James City County, Virginia, to consider a Resolution authorizing the sale of the surplus property described below:

Parcel Number	Address	Acres	Buildable
3110400030	107 Theodore Allen Drive	.229	yes
4730500006A	495 Neck-O-Land	.264	no
4540200083	106A Ware Road	.263	no
3910800005	120 Carriage Road	.663	yes
1640300011	125 Riverview Plantation Drive	.651	yes

311050089/a

220 Walker Drive

.97

yes

All interested persons are invited to attend the hearings. A copy of the plat is on file in the James City Service Authority's Office (Building E), and may be viewed during normal office hours at the County Government Center, 101 Mounts Bay Road, James City County, Virginia.

Persons requiring an accommodation in order to participate in the hearings should call 253-6728, County Administration, three days prior to the meeting.

SANFORD B. WANNER
County Administrator

**SPECIAL USE PERMIT-18-06. Stuckey's Redevelopment
Staff Report for the November 14, 2006, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

August 7, 2006, 7:00 p.m. (Applicant deferral)

September 11, 2006, 7:00 p.m. (Applicant deferral)

October 2, 2006, 7:00 p.m.

Board of Supervisors:

November 14, 2006, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Vernon Geddy, III

Land Owner:

Mr. Ray Souder and Mr. Paul Treolo

Proposal:

To redevelop an existing fuel and restaurant facility and allow the operation of a forty-seat restaurant, convenience store and motor vehicle fuel dispensing with eight fueling islands on the site.

Location:

9220 Old Stage Road

Tax Map/Parcel Nos.:

(4-4) (1-16)

Parcel Size:

2.76 acres

Zoning:

B-1, General Business

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the special use permit application with the attached conditions.

Staff Contact:

Jose Ribeiro, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On October 2, 2006, the Planning Commission voted 6-0, to approve this special use permit application. Further details on the Commission's recommendation are summarized in the next section.

Proposed Changes Made Since Planning Commission Meeting

Originally, the applicant requested a setback modification to the required 50-foot setback along the property's frontage on Old Stage Road/Barhamsville Road, a Community Character Corridor. However, prior to the October Planning Commission meeting, but after the Planning Commission staff report was written, the applicant modified the layout of the Master Plan eliminating the necessity for the setback modification

request. At the October 2 Commission meeting, the applicant requested the deletion of Condition No. 18, Sidewalks, in order to leave open the possibility for the applicant to request a sidewalk waiver as provided for under the Zoning Ordinance. The Planning Commission concurred and the condition has been deleted. The Commission also recommended that the applicant meet with citizens prior to the Board of Supervisors meeting to address the concerns they expressed during the public hearing. After the Planning Commission meeting, the Environmental Division Staff recommended a minor change in the language to Condition No. 6, Stormwater. The new language would make Condition No. 6 more clear and enable the Environmental Division to better review and enforce the development plan.

During its meeting, the Planning Commission discussed the importance of providing truck fueling facilities in James City County. The Planning Commission raised the issue that given the County's industries and the economic development goods, truck fueling facilities perhaps ought to be more available in the County. The Planning Commission requested that the Board of Supervisors be informed of its opinion of the importance of having fueling facilities in the County given the industries we have and hope to attract.

PROJECT DESCRIPTION

Mr. Vernon Geddy III, on behalf of 6430 Associates L.L.C, has applied for a Special Use Permit to allow for the redevelopment of an existing fuel station/restaurant facility known as "Stuckey's". Located at the southeast quadrant of the Route 30 interchange (Exit 227) on Interstate 64, Stuckey's initiated its commercial activities in 1984 as a business selling fuel, food and snacks to the motoring public until closing in 2004. This proposal plans to redevelop the site by refurbishing the existing 6,000 square foot, one-story brick building to accommodate a 40-seat restaurant, a convenience store, and an office/information center. Additionally, as part of the redevelopment proposal, the existing fuel bay area with canopy will be removed from its original location west of the building and be replaced by parking areas. A new and larger fuel bay area with canopy will be placed at the south side of the building near the entrance to the proposed convenience store.

The subject property is located on approximately 2.76 acres of land, on a parcel zoned B-1, General Business District. Neighboring parcels north of the site and directly across Interstate 64 are zoned Planned Unit Development Commercial (PUD-C). The two adjoining parcels located east and south of the site are property of 6430 Associates L.L.C and Zoned B-1. Parcels located west of the property are also zoned B-1. The 2003 Comprehensive Plan designates this parcel as Mixed-Use and it is located within the Stonehouse Mixed-Use area. This parcel fronts Route 30 and it is designated as a Community Character Corridor by the 2003 Comprehensive Plan, and therefore subject to special considerations.

PUBLIC IMPACTS

Environmental

Watershed: Ware Creek

Staff Comments: According to the Environmental Division, this site appears to fall under redevelopment criteria in accordance with 23-7(a)(2) and 23-9(b)(4), (5) and (8) of the County's Chesapeake Bay Preservation Ordinance. Based on impervious cover tabulations as provided on the concept plan (i.e. 12.8 percent reduction), this site will not be required to have a water quality component for stormwater management compliance purposes. However, if at any time a 10 percent or more reduction in impervious cover is not achieved, on-site BMP's may be necessary to meet redevelopment-water quality criteria. This will also need to be verified at the time of final plan of development.

The current concept plan shows use of two infiltration systems (gravel strip, grass filter strip and infiltration basins) that can be considered to be implementation of Low Impact Development (LID) on the site beyond basic regulatory requirements. One of the infiltration systems is located in the northeast corner of the site and the second is in the southeast corner of the site. The southeast infiltration system must not conflict with the existing septic drainfield as shown on the west part of Parcel A. Separations per the County BMP manual and the Virginia Stormwater Management Handbook; Minimum Standard &

Spec. 3.10 will apply at the time of plan of development. The design of the infiltration systems will need to meet current County BMP manual criteria for Group C Infiltration facilities, including Appendix E (geotechnical) requirements.

The County BMP manual designates vehicle fueling stations as “hotspot” activities. In general, infiltration BMPs are not to be used to control runoff from “hotspot” land uses. However, if it can be adequately shown during the plan of development that there is no stormwater contact with the fueling area (due to canopy) and a stormwater pollution prevention plan (special use permit condition No.11) is being implemented for capture and treatment of area within the fueling station areas, the LID-infiltration basins will be allowed as they would not be considered as primary water quality devices. Further, an erosion and sediment control plan, drainage plan and stormwater management plan (for quality control) will be necessary for the project at the time of final plan of development. Overall, the Environmental Division supports this Special Use Permit application.

Public Utilities

Public utilities will not be utilized for this project as this project is not currently served by public water and sewer.

Staff Comments: The applicant shall receive VDH approval verifying the existing source of water is acceptable and the existing septic tank and drainfield are functioning properly for this site (Special Use Permit Condition No. 03.)

Virginia Department of Health:

Staff Comments: The Virginia Department of Health overall supports this Special Use Permit application. The Department of Health Staff notes that there is need to increase septic system capacity to support the number of employees and visitors/customers. Initial septic system approval on this site was for a 40-seat restaurant and six employees. The proposed stormwater infiltration basin appears to be about seven feet from the existing septic distribution box and drainlines. This basin appears as if it will be directing significant volumes of storm water into the drainfield area, when what needs to happen is directing all surface water away from drainfield areas. Further evaluation of this will occur at the site plan stage.

Transportation

This site fronts Route 30, a minor arterial road with four lanes and an existing right turn lane at the site entrance. The site has access to Route 30 through a VDOT frontage road (F-287.) The ITE Trip Generation Manual projects a total of 4,947 trips per day generated by this redevelopment with 400 vehicles per hour during AM peak hour and 397 vehicles per hour during PM peak hour. This estimate is based on numbers calculated based on ITE estimates for a service station with 16 fueling positions, a 24 hour convenience market and high turn over sit down restaurant.

2005 Traffic Counts (Richmond Road): From Barnes Road (Route 601) to Barhamsville (Route 30)-Anderson’s Corner there were approximately 5,836 trips.

2026 Volume Projected (Barhamsville Road): From Interstate 64 to Route 60, 18,000 trips are projected. This route is listed in the OK category on the 2003 Comprehensive Plan.

VDOT: VDOT concurs with the traffic impact analysis submitted by the applicant, in that the development will have a minimal impact on the surrounding roadway network. No major improvements are proposed for this project; however, the existing right-and left-turn lanes must be upgraded to meet the current VDOT standards.

Staff Comments: Barhamsville Road has adequate capacity to handle the projected traffic. In addition, “no parking” signs have been posted to prevent parking along Barhamsville Road. Staff is also recommending a condition to prevent off-site parking (Special Use Permit Condition No. 17.)

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Mixed Use (Page 124): Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily from more intensive commercial, office, and limited industrial purposes.</p> <p>Stonehouse Mixed Use Area (Page 124): This property is located within the Stonehouse Mixed Use area. Future development for all of the Mixed Use Interchange quadrants should be developed in accordance with a binding master plan, where possible, which maintains the appropriate mixture of principal and secondary uses. Further, for lands within the vicinity of the Barhamsville Interchange, the principal suggested uses are light industrial and office/business park. Commercial development should be limited in scale, comprise a small percentage of the land area of the overall development, and be oriented towards support services that employees and residents in the Stonehouse Area can utilize</p> <p>Staff Comment: Staff believes that this proposed commercial redevelopment has the potential to bring some benefits to the County and more specifically, to the residents of the Stonehouse Mixed Use Area by providing commercial services and employment. Although the Comprehensive Plan suggests other primary land uses for this area, this commercial redevelopment appears to be in compliance with the secondary commercial uses suggested by the Comprehensive Plan as it is limited in scale and it has the potential to provide services. Although the Comprehensive Plan recognizes the desirability to develop the interchange quadrants under a binding Master Plan, Staff considers this proposal a redevelopment project.</p>
Development Standards	<p><i>Commercial & Industrial Standard #4-Page 13:</i> Provide landscaped areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County.</p> <p>Staff Comment: Given its redevelopment nature, this proposal will not increase its existing impervious coverage area, therefore minimizing any impacts to the natural environment that surrounds the property.</p>
Goals, strategies and actions	<p><i>Action #16-Page 140:</i> Identify target areas for infill, redevelopment, and rehabilitation within the PSA</p> <p>Staff Comment: Staff believes that the proposed redevelopment will positively impact the Stonehouse Mixed Use Area by rehabilitating a site that is currently sitting idle and bringing it to better economic potential.</p>

Environment

Goals, strategies and actions	<i>Strategy #2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment. <i>Action #8-Page 66:</i> Identify existing or potential sources of surface and groundwater pollution and take action to prevent or control the effect of the sources.
	Staff Comment: The proposed redevelopment will refurbish existing structures located on the site, therefore minimizing any adverse impacts on the natural and built environmental. Further, this redevelopment proposes a reduction of its impervious coverage of 15.6 percent As part of the special use permit conditions for this application, Condition Number 10, Spill Prevention and Control Plan, and Condition Number 11, Stormwater Pollution Prevention Plan, shall be prepared and submitted to the Environmental Division Director in order to address potential water pollution caused by fuel handling and/or containment.

Economic Development

General	<i>Actions#7(a)-Page 21:</i> Promote water conservation among new and existing business.
	Staff Comment: As part of the special use permit conditions for this application, Condition Number 4, Water Conservation, encourages strategies for water conservation for this proposed redevelopment.

Community Character Corridor

General	<i>Barhamsville Road-Community Character Corridor-Page 83-84:</i> <i>The Comprehensive Plan suggests a 50-foot buffer requirement for commercial uses along this road. Further, the Comprehensive Plan suggest the provision of enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the urban corridor.</i>
	Staff Comment: As part of the special use permit conditions for this application, Condition Number 2, Landscaping, will ensure enhanced landscaping treatment on the property, particularly in areas fronting Route 30 and areas designed for vehicular parking.

Staff Comments

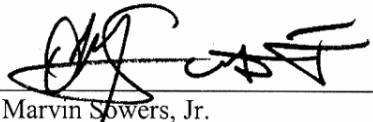
Overall, staff feels that this application, as proposed, is generally in compliance with the Comprehensive Plan. Staff believes that the proposed commercial redevelopment, although not a primary use as designated by the Comprehensive Plan for the Stonehouse Mixed Use Area, conforms to the requirements for commercial developments for this particular area. Further, given the nature of this proposal, staff believes that the redevelopment of the existing site will help improve the Stonehouse Mixed Use Area.

RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve this special use permit application with the attached resolution.

Jose Ribeiro, Planner

CONCUR:



O. Marvin Sowers, Jr.

JR/cec
SUP-18-06.

ATTACHMENTS:

1. Minutes from the October 2, 2006 Planning Commission meeting
2. Resolution
3. Location Map
4. Master Plan
5. Elevation
6. Traffic Impact Study

RESOLUTION

CASE NO. SUP-18-06. STUCKEY'S REDEVELOPMENT

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, Mr. Vernon Geddy, III has applied for a special use permit to redevelop an existing fuel and restaurant facility and allow the operation of a 40-seat restaurant, convenience store, an office/information center, and a motor vehicle fuel dispensing station on approximately 2.76 acres of land on a parcel zoned B-1, General Business; and
- WHEREAS, the proposed redevelopment site is shown on a conceptual lay out entitled " 6430 Assoc. LLC, Former Stuckey's Site" and dated June 2006; and
- WHEREAS, the property is located at 9220 Old Stage Road on property more specifically identified as Parcel Number (1-16) on the James City County Real Estate Tax Map Number (4-4); and
- WHEREAS, on October 2, 2006, the Planning Commission recommended approval of the application by a vote of 6-0; and
- WHEREAS, the Board of Supervisors of James City County, Virginia finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-18-06 as described herein with the following conditions:

1. Master Plan and Use: This Special Use Permit shall be valid for the "6430 Assoc. LLC Former Stuckey's Site" Master Plan, prepared by LandMark Design Group, and dated June 1, 2006, (the "Master Plan") and accessory uses thereto. The site shall only be used for a 40-seat restaurant, convenience store, an office/information center, and eight fueling islands as shown on Master Plan. The site shall not contain any shower or laundry facility, vehicle wash facilities or scales.
2. Landscaping: Prior to final site plan approval, a landscaping plan shall be approved by the Planning Director or his designee. The owner shall provide enhanced landscaping for the area along the property frontage on Old Stage and Barhamsville Roads, and along areas designated on the Master Plan for parking. Enhanced landscaping shall be defined as 125 percent of the Zoning Ordinance landscape size requirements. Should the applicant wish to pursue any removal or trimming of trees within VDOT right-of-way, the Planning Director shall be notified 30 days in advance of the applicant's contacting VDOT and at that time provide a plan for the tree removal or trimming.
3. Health Department Review: The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval. A capacity analysis of existing water lines and septic facilities to the site shall be

performed and the results of that analysis shall be submitted with the site plan application. The Planning Director shall approve the study, and its recommendations shall be incorporated into the site plan prior to site plan approval.

4. Water Conservation: 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 material including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. Erosion and Sediment Control: An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval.
6. Stormwater: The area beneath the fuel area canopy shall not drain directly into the infiltration BMPs for the facility. A spill containment structure such as an alternate BMP or a separation system to accept spills from any fueling area shall be shown on the site plan and shall be approved by the Environmental Director prior to final site plan approval.
7. Boundary Line Adjustment and Right-of-Way Vacation: Prior to final site plan approval, the variable width right-of-way for use by Parcels A, B, and C, located at the southern boundary of the parcel, shall be vacated, and adjustments made to the lot line such that the canopy and all fuel islands are located within the Building Setback Line. This condition excludes any structures granted a setback reduction by the Development Review Committee of the Planning Commission.
8. Existing Fueling Islands: Prior to obtaining any Certificate of Occupancy, the owner shall remove the existing gasoline and diesel pumps, canopy, and underground fuel tanks from the property.
9. Proposed Fueling Islands: There shall be no more than fourteen gasoline pumps and two low-pressure diesel pumps located on eight fueling islands on the property. The fueling islands shall be arranged in a configuration generally consistent with the "6430 Assoc. LLC Former Stuckey's Site" Master Plan, prepared by LandMark Design Group and dated June 1, 2006. None of the fueling pumps shall be of a design previously intended to refuel tractor trailers as determined by the Planning Director.
10. Spill Prevention and Control Plan: Prior to issuance of any Certificate of Occupancy, a spill containment plan which addresses the chemical handling and storage areas shall be submitted to the Environmental Director and Fire Department for review and approval.
11. Stormwater Pollution Prevention Plan: Prior to issuance of any Certificate of Occupancy, a stormwater pollution prevention plan shall be submitted to the Environmental Director for review and approval.
12. Architectural Review: All buildings on the site including outdoor covered areas such

as the pump island canopy shall be architecturally integrated by the use of similar materials, color and architectural detailing and shall be generally consistent with the rendering dated June 2, 2006, made by W.E.Bowman Construction, Inc. on file with the Planning Division ("the Rendering"). Prior to final site plan approval, the Planning Director shall review and approve the final architectural design, colors and materials of all structures on the site for consistency with the Rendering.

13. Fueling Island Canopies: The maximum height of the pump island canopy shall not exceed 20 feet from existing grade, as shown on the Master Plan. The clearance height of the canopy shall be clearly indicated on the structures.
14. Lighting: Any new exterior site or building lighting, including canopy lighting, shall have 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 are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
15. Signage: No more than one sign shall be allowed on the canopy provided, however one gas-pricing sign may be allowed on a monument type sign in the parking area or the columns of one of the canopies.
16. Overnight Vehicular Parking: No overnight vehicular parking shall be allowed on the property or on its premises.
17. Off-site Vehicular Parking: Fencing or other features shall be provided along both sides of the road designated as the access road as indicated on the Master Plan to prevent parking of motor vehicles. The location and design of the fence or other features shall be approved by the Planning Director.
18. Dumpsters: The dumpster pad(s) and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
19. Trash Removal: Trash cans shall be available for use by customers during all operating hours and the trash cans shall be emptied and cleaned on a daily basis.
20. Hours of Operation: Both the convenience store and gas station shall be allowed to operate 24 hours a day. The daily hours of operation for the restaurant shall be limited to the hours of 5:30 a.m. to 9:00 p.m.
21. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction.
22. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
November, 2006.

SUP-18-06.res

**APPROVED MINUTES OF THE OCTOBER 2, 2006 MEETING
OF THE PLANNING COMMISSION**

SUP-18-06 Stuckey's Redevelopment

Mr. Jose Ribeiro presented the staff report stating that Mr. Vernon M. Geddy, III has applied for a commercial Special Use Permit on the parcel located at 9220 Old Stage Rd, which is currently zoned B-1, General Business in order to operate a 40 seat restaurant, convenience store, and gas station with 14 gas and 2 diesel fueling pumps. The property is also known as parcel (1-16) on the JCC Tax Map (4-4). Mr. Geddy has filed for the Special Use Permit application as a requirement to operate a convenience store that dispenses fuel within the B-1 district. The site is designated as Mixed Use by the James City County Comprehensive Plan and is located along a Community Character Corridor.

Mr. Billups confirmed that the request for setback modification has been withdrawn.

Mr. Fraley stated that the applicant had submitted a revised plan that does not include the setback modification.

Mr. Obadal asked when the revised plan was received.

Mr. Ribeiro said it was received today at approximately 4:00 p.m..

Mr. Fraley opened the public hearing.

Mr. Vernon M. Geddy, III represented the applicant. He outlined the proposal to rehabilitate and renovate the Stuckey's site. Mr. Geddy showed pictures of the site currently. He detailed the LID (Low Impact Design) features and stated the impervious surface cover would be reduced.

Mr. Fraley clarified that if a sidewalk waiver request is made at a later date it would require DRC and Planning Commission approval.

Mr. Kennedy asked for an explanation of the restriction on pumps that could service tractor-trailers. He asked if such fueling stations had been previously proposed.

Mr. Geddy said the original proposal did include pumps to service 18-wheelers.

Mr. Kennedy asked why they were removed from the proposal.

Mr. Geddy stated that it was staff's opinion that the pumps would classify the operation as a truck stop which is not a permitted use in the zoning district.

Mr. Kennedy asked if tractor-trailer fueling pumps existed there in the past.

Mr. Geddy said there had been a diesel pump where the trucks had fueled in the past however; this proposal had been for pumps specifically designed for tractor-trailers.

Mr. Kennedy stated that James City County has a lot of trucking businesses. He stated that the location is ideal for them to refuel their trucks. Mr. Kennedy said he had previously stated his concerns to Mr. Horne that the County embraces the industry but that they have to refuel in nearby localities.

Mr. Obadal asked if there was a home across the street from the site.

Mr. Geddy said he thought it belonged to Mr. Sam Hazelwood who supports the application.

Mr. Obadal said he was concerned with the numbers of pumps but that he felt it was within the applicants' right to have them. He asked what was being done to improve the character of the area in addition to adding the restaurant.

Mr. Geddy stated that the applicant proposed enhanced landscaping in buffer areas, renovation of the building, repainting of the blue roof, and removing 15% of impervious cover.

Mr. Obadal asked about the location of the BMPs(Best Management Practices).

Mr. Geddy showed the locations on a display map.

Mr. Obadal asked if one of them had been relocated to accommodate the gas pumps.

Mr. Geddy said the plan was conceptual and that the final location may be adjusted some during the site plan process.

Mr. Obadal asked if the Environmental Division had reviewed the plan.

Mr. Geddy stated that they had reviewed previous submittals showing the layout of the pumps.

Mr. Obadal stated that he was concerned that Environmental had not approved the current layout.

Mr. Geddy said that previous submittals showed the pumps and BMP in even closer proximity.

Mr. Fraley stated that Ms. Hughes would have additional comments on that during the public hearing.

Ms. Hughes thanked the applicant for responding to the Commissioners concerns about the location of the stormwater facilities in the buffer area, and for the proposed reduction in impervious cover. She stated that citizens had expressed concerns that the late submission of plans did not allow them time to review them.

Mr. Billups asked what brand of fuel the applicant would be selling given the proximity to the Shell station across the street.

The applicant said that although they have not signed a contract it would be a major oil company. He said it would not be with Shell as long as the one remained across the street.

Mr. Billups asked if the mature trees along the front of the property would be maintained.

Mr. Geddy said yes.

Mr. Billups asked if there was a problem with standing water at the site.

The applicant said the only problem was potholes that they would repair.

Mr. Billups asked if there was a gully at the rear of the property.

The applicant said there are many protected areas along the rear of the site and that they would not be disturbing any of them.

Mr. Fraley said he was pleased with the architectural review provided for in the application. He also explained that there were mitigating circumstances that resulted in late submissions of plans.

Mr. Fraley opened the public hearing

Ms. Caroline Lott, 9804 Loblolly Court, requested deferral until citizens have had a chance to review the latest revision. She also stated her concerns about another fuel station within a mile radius of one another.

Ms. Linda Rice, 2394 Forge Road, expressed the need for various neighborhood associations to work together to make sure that the rural quality of the area is maintained. She talked about the importance of the consideration being given to the type of landscaping used and a reduction in grassy areas. She was also concerned about the amount of impervious cover that will remain. Ms. Rice stated that she would like to see some mention of green building in future proposals and urged developers to consider accommodations for alternative fuel vehicles.

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

Ms. Jones asked how the granting of a sidewalk waiver would impact the long-term plan for the area.

Mr. Fraley explained that the applicant was not requesting a waiver because the ordinance requires one. He explained that the applicant is requesting that the requirement to install sidewalks be removed from the SUP conditions in order to preserve their right to request a waiver in the future.

Ms. Jones expressed her appreciation for the applicant's efforts for removing the need for a setback reduction. She stated her agreement with Mr. Kennedy on the need to provide refueling pumps for trucks. She stated her support for the project.

Mr. Fraley stated that a truck stop would not be consistent with the zoning. He also explained that the delay in submittal of revised plans included change in staff responsibility of the proposal and the applicant's cooperation in responding to concerns of Staff and Commissioners. He gave his reasons for supporting the project.

Mr. Kennedy recommended the applicant meet with concerned citizens and staff prior to the Board of Supervisors meeting. He clarified his comments on trucks and fuel. Mr. Kennedy said he was not suggesting a traditional truck stop just the ability for them to refuel. He asked that the Board of Supervisors look at the number of trucking firms in James City County and consider providing opportunities for them to refuel here. Mr. Kennedy stated his concern that more time be allowed to review submitted plans and Planning Commission packets. He stated his support for the application and the need for conservation and green building efforts.

Ms. Hughes stated her agreement with Mr. Kennedy's comments. She stated that her concerns regarding location of the LID facilities had been eased by the Environmental staff. She also said water conservation measures have been included in the conditions.

Mr. Billups stated that he too agreed with Mr. Kennedy on including the possibility for fueling trucks. He said the applicant might want to include those changes prior to the Board of Supervisors meeting. Mr. Billups questioned the need for and location of the sidewalk.

Mr. Obadal asked if the Commission was being asked to consider placement of truck fueling pumps at the site.

Mr. Fraley said they were not. He said that those were comments from Mr. Kennedy and Mr. Billups.

Mr. Obadal thanked Mr. Fraley for negotiating the removal of the setback modification request prior to the Planning Commission Meeting. He stated the need for a deadline for submitting revised proposals. Mr. Obadal also asked Ms. Rice for an outline from the meeting she attended earlier in the day regarding environmental issues.

Mr. Fraley said that receiving last minute submittals occurs for different reasons. He stated that Commissioners have the option of deferring the public hearing. He also stated the applicant's request to remove the condition requiring sidewalks. Mr. Fraley asked staff to include in the staff report forwarded to the Board of Supervisors a statement about the Planning Commission's opinion that it is important to have fueling sites in the County given the industries we have and the economic development implications.

Mr. Kennedy asked staff to investigate including proffers or conditions requiring applicants to install sidewalks in off – site areas where they are necessary, when it is determined that sidewalks are not desirable for the application under consideration. .

The Commissioners agreed to the removal of the sidewalk condition.

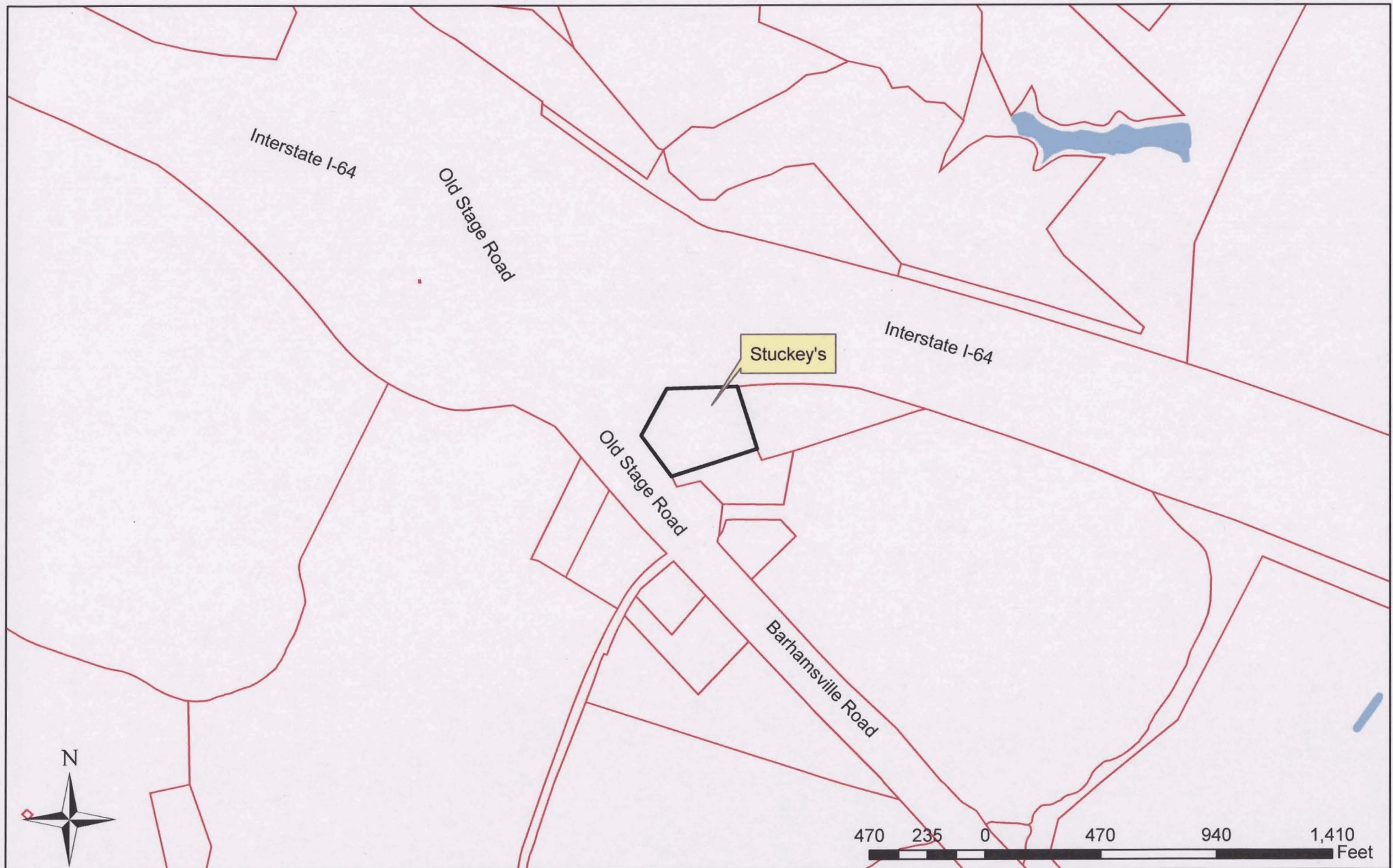
Mr. Kennedy motioned to approve the application and amended conditions.

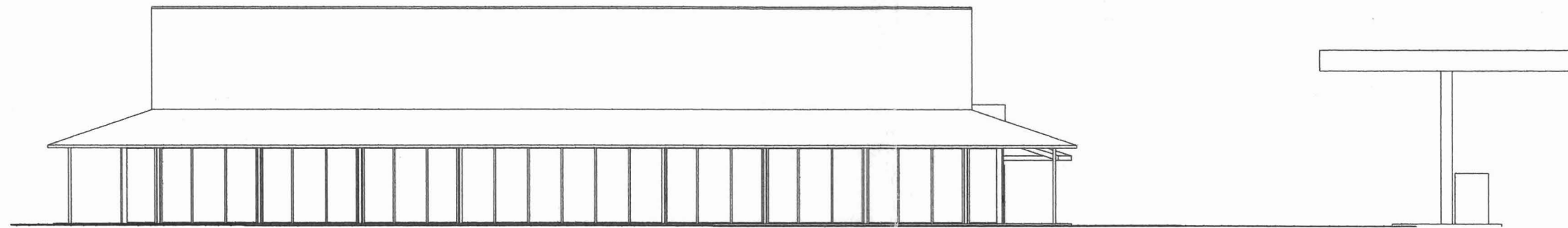
Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval.
AYE: (Obadal, Jones, Hughes, Fraley, Kennedy, Billups (6); NAY: (0). (Hunt Absent)

JCC-SUP-18-06

Stuckey's Redevelopment





1 FRONT ELEVATION
1/16" = 1'-0"



2 SIDE ELEVATION
1/16" = 1'-0"



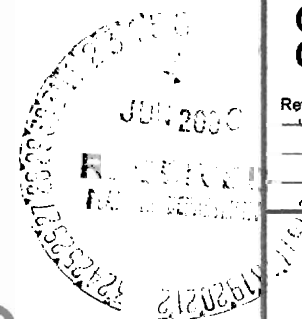
STUCKEY'S
TOANO, VA.

SCHEMATIC
ELEVATIONS

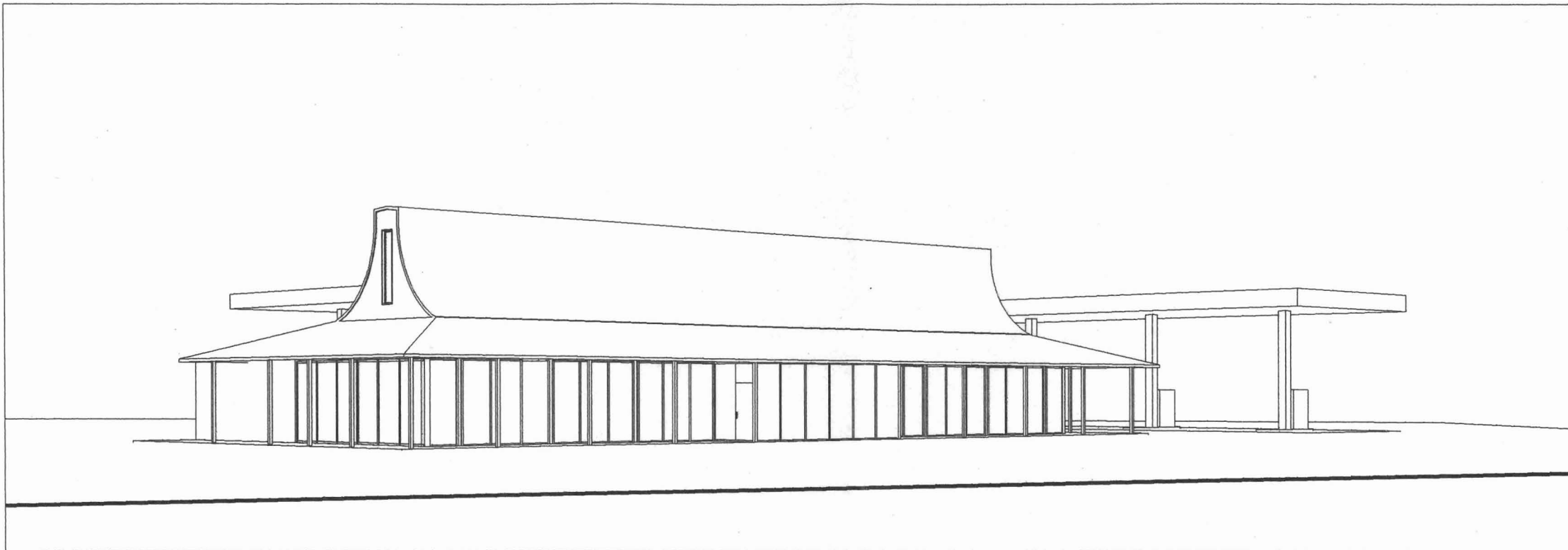
JUNE 2, 2006
Progress Drawings

Revision

A2.01
1/16" = 1'-0"



Sup-18-06



① VIEW GETTING OFF I-64 E



② VIEW FROM BARHAMSVILLE RD



1 VIEW FROM ENTRY DRIVE



STUCKEY'S
TOANO, VA.

**SCHEMATIC
PERSPECTIVE**

JUNE 2, 2006
Progress Drawings

Revisions

A2.03

M E M O R A N D U M

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Abandonment of Portions of the Right-of-Way for Route 603 (Mooretown Road), Sections 1 and 2

Attached is a resolution abandoning portions of the right-of-way for Route 603 (Mooretown Road). The portion of the right-of-way to be abandoned begins at Station 155+00 and proceeds east approximately .38 miles to Station 173+58. Attached is a copy of a plat showing the old right-of-way portion to be abandoned and the new alignment for Mooretown Road.

Mooretown Road is part of the Virginia Department of Transportation's secondary road system. A new alignment of Mooretown Road has been constructed. The new road will serve the same citizens as the old road. The old right-of-way for Mooretown Road is no longer needed for the traveling public. Upon abandonment of the old right-of-way, fee simple interest in the abandoned right-of-way will automatically transfer to the abutting property owners.

Staff recommends adoption of the attached resolution abandoning the old right-of-way for Mooretown Road.

Jennifer C. Lyttle

CONCUR:

Leo P. Rogers

JCL/nb
AbandonRt603.mem

Attachments

RESOLUTION

ABANDONMENT OF PORTIONS OF THE RIGHT-OF-WAY FOR ROUTE 603

(MOORETOWN ROAD), SECTIONS 1 AND 2

WHEREAS, the Virginia Department of Transportation (VDOT) has provided the James City County Board of Supervisors a sketch dated April 20, 2004, and revised May 22, 2006, entitled "Changes in the Primary and Secondary Systems Due to Relocation and Construction on Route 603" which depicts required changes in the Secondary System of State Highways as a result of VDOT Projects 0603-099-127, M501 and 0603-099-171, C501, which resulted in the reconstruction and relocation of a portion of State Route 603, Mooretown Road, which sketch is hereby incorporated herein by reference; and

WHEREAS, the new road serves the same citizens as those portions of the old road identified to be abandoned and those segments no longer serve a public need.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby abandons from the Secondary System of State Highways those portions of Route 603 identified as Sections 1 and 2, pursuant to Sections 33.1-155 and 33.1-151 of the Code of Virginia.

BE IT FURTHER RESOLVED that this Board orders 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

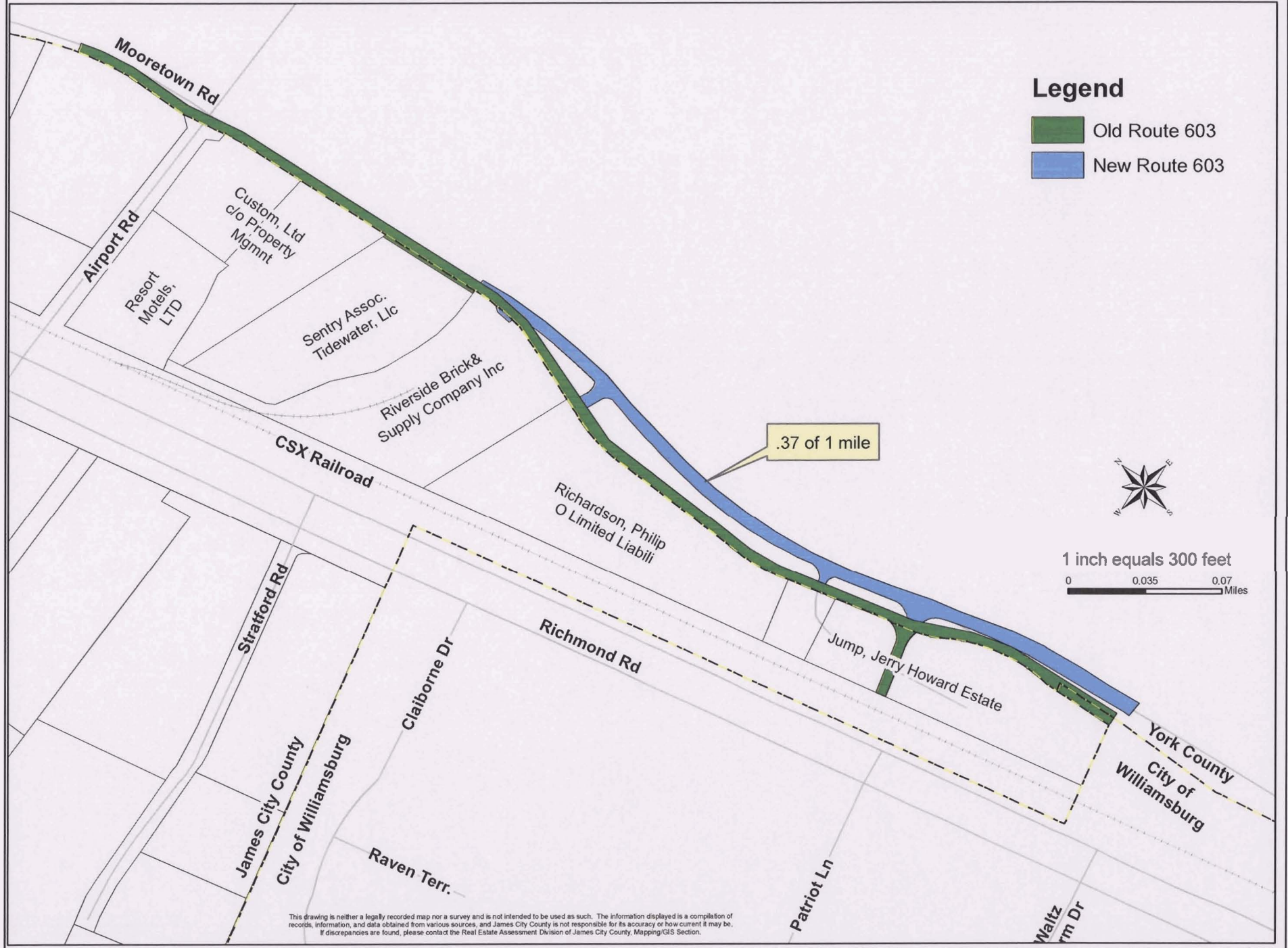
ATTEST:

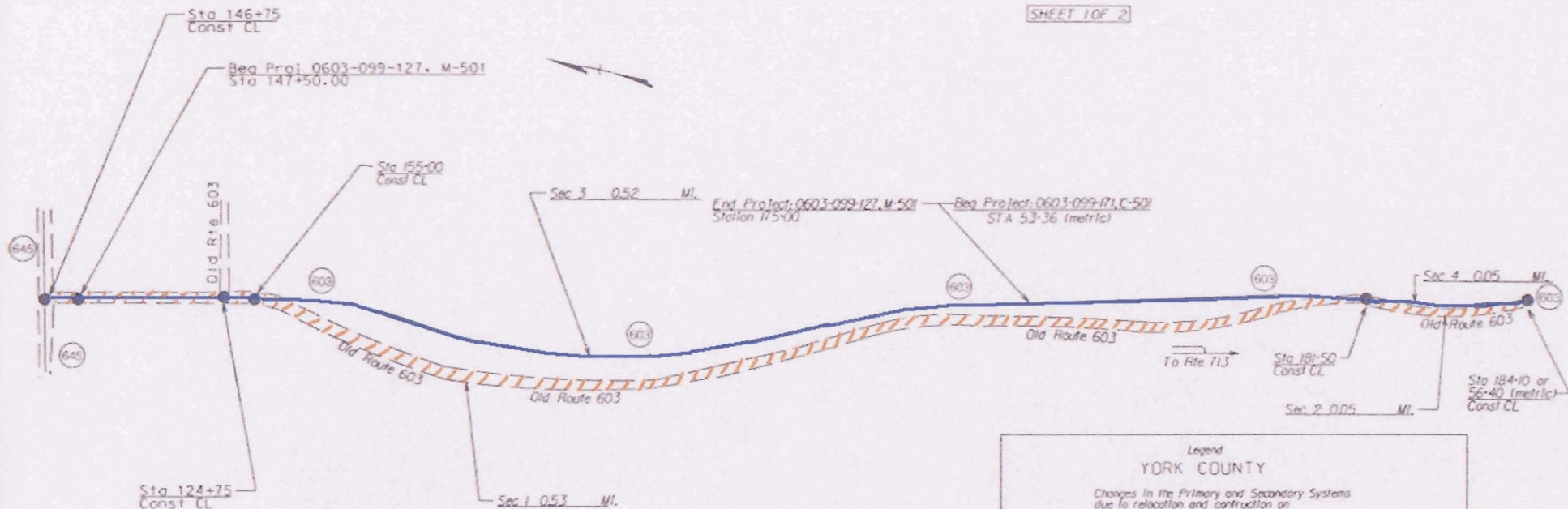
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

AbandonRt603.res

James City County - Real Estate Assessment Division - Mapping/GIS Section





Using the DACSS application please submit form AM-4.2 for each roadway segment and the entire project including the mileage and the pavement types, reflecting post-construction conditions.

Legend

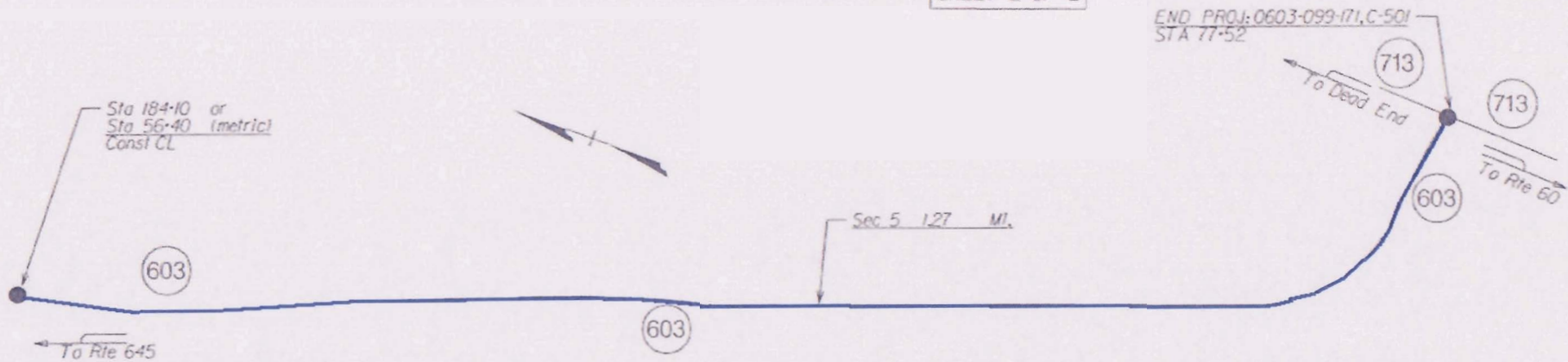
YORK COUNTY

Changes in the Primary and Secondary Systems due to relocation and construction on

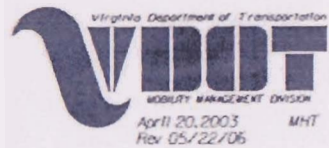
Route 603, Projects: 0603-099-127, M-501, 0603-099-171, C-501

- Section of Secondary Road location to be abandoned (3.3J-155)
- Section of Secondary Road location to be discontinued (3.3J-150)
- Section of new location to be added to the Secondary System (3.3J-229)
- Connection to be added to the Secondary System (3.3J-229)
- Section of old location to be renumbered

SHEET 2 OF 2



Note: Project Using Metric Scale. Please convert Sectional Lengths to Mileage Units when submitting Form TE-SISW-1



Legend

YORK COUNTY

Changes in the Primary and Secondary Systems
 due to relocation and construction on
 Route 603, Project 0603-099-171, C-501

- Section of Secondary Road location to be abandoned (33J-155)
- Section of Secondary Road location to be discontinued (33J-150)
- Section of new location to be added to the Secondary System (33J-229)
- Connection to be added to the Secondary System (33J-229)
- Section of old location to be renumbered

M E M O R A N D U M

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: Leo P. Rogers, County Attorney
SUBJECT: Approving the County's 2007 Legislative Program

Attached for your consideration is a resolution approving James City County's 2007 Legislative Program. Also attached is the 2007 Legislative Program. The Program was revised at the October 24, 2006, Board Work Session through the comments of Board members and the County's legislative delegation.

Staff recommends adoption of the attached resolution.

Leo P. Rogers

LPR/cec
07LegisProg.mem

Attachments

RESOLUTION

APPROVING THE COUNTY'S 2007 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2007 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2007 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2007 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

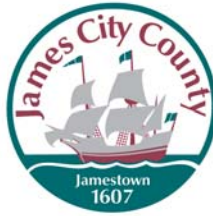
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

07LegisProg.res



JAMES CITY COUNTY 2007 LEGISLATIVE PROGRAM

Part I. Legislation to be Introduced on Behalf of the County

1-1. FEE CHARGED TO LOCALITIES FOR SERVICES BY COURT AND SHERIFF

Amend Virginia Code Section 17.1-266 to provide that, in addition to the Commonwealth, localities are exempt from paying fees for services rendered by a clerk or other court officer for cases, whether in a court of record or a court not of record, where the locality is a party to a case in its own court system or any other jurisdiction where the localities have a reciprocal waiver of fees agreement. In addition, sheriffs shall have the authority to grant a written waiver to the sheriff's fees for any locality where the locality is a party to a case.

1-2. LOCAL CIGARETTE TAX

Amend Virginia Code Title 58.1, Taxation, Chapter 38, Miscellaneous Taxes, Article 7, Cigarette Tax, to add James City County to the list of localities authorized to impose a tax upon the sale or use of cigarettes.

1-3. INCREASE CERTAIN REPRESENTATION OF CERTAIN LOCALITIES ON THE HAMPTON ROADS SANITATION DISTRICT (HRSD) COMMISSION

Amend Chapter 66 of the Acts of the Assembly of 1960 to increase the number of representatives on the HRSD Commission by adding four new commissioners who are elected officials of localities within the HRSD service area. Two of these new commissioners shall be officials representing localities south of the James River and two shall represent localities north of the James River. At least one member from each division shall represent a locality in which a HRSD wastewater treatment facility is located.

1-4. AUTHORIZE LOCALITIES TO PROVIDE A REAL PROPERTY TAX EXEMPTION FOR LOW-INCOME RESIDENTS

Amend Article 2, Exemptions for Elderly and Handicapped, of Chapter 32, Real Property Tax, of Title 58.1, Taxation, of the Code of Virginia to add authority for local governments to provide a real property tax exemption for low-income residents.

1-5. DELETE STATE CODE REQUIREMENT THAT LOCALITIES ADOPT AN ORDINANCE FOR EACH HOME OWNERSHIP GRANT

Amend Virginia Code Section 15.2-958.2 to delete the requirement for adopting an ordinance for each home ownership grant. Localities are already required to adopt an ordinance to implement an employee home ownership grant program.

1-6. AUTHORIZE JAMES CITY COUNTY TO CONSTRUCT, REPAIR, AND MAINTAIN DAMS AND RELATED FACILITIES AS PART OF A SERVICE DISTRICT

Amend Virginia Code Section 15.2-2403 to add subsection 14 to allow James City County to form a service district for the purpose of constructing, repairing, and maintaining dams and related facilities.

1-7. AMEND JAMES CITY COUNTY CHARTER TO ESTABLISH THE DEPARTMENT OF GENERAL SERVICES AND DELETE A PHRASE

Amend the James City County Charter to add Section 6.12, Department of General Services, and to delete the phrase “and the chief of police” from Section 6.2 to be consistent with a prior Charter amendment authorizing the County Administrator to appoint the chief of police.

1-8. AMEND JAMES CITY COUNTY CHARTER TO AUTHORIZE PHOTO-MONITORING SYSTEMS

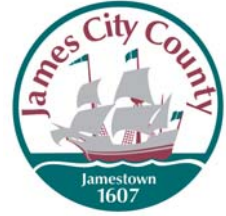
Amend the James City County Charter to add Section 2.5 to specifically authorize James City County to use photo-imaging systems to impose penalties upon drivers who run red lights.

1-9. MAKE CONSUMER UTILITY TAX LESS REGRESSIVE

Study how consumer utility taxes can be made less regressive to consumers while remaining revenue-neutral for the Commonwealth and localities.

1-10. STUDY THE POSSIBILITY OF CREATING CLASSES OF REAL PROPERTY, SUCH AS RESIDENTIAL, AGRICULTURAL AND COMMERCIAL, FOR SEPARATE TAX TREATMENT

**JAMES CITY COUNTY
2007 LEGISLATIVE PROGRAM**



Part II. Position/Legislation to be supported by the County

2-1. FUNDING FOR THE COMMEMORATION OF THE 400TH ANNIVERSARY OF JAMESTOWN

James City County supports continued State funding for transportation, planning, and marketing the 2007 quadricentennial commemoration of the founding of Jamestown.

2-2. STATE FUNDING FOR TOURISM

James City County urges the General Assembly to increase funding for the Virginia Tourism Corporation ("VTC") to promote tourism in Virginia generally, and the Historic Triangle in particular.

2-3. AUTHORITY TO FUND TRANSPORTATION NEEDS IN HAMPTON ROADS

James City County supports legislation to authorize localities in Hampton Roads to charge user fees and otherwise collect additional revenue which shall be dedicated to regional transportation improvements that will mitigate congestion.

2-4. TRANSPORTATION FUNDING

James City County calls upon the Governor and the General Assembly to make transportation the primary focus of the 2007 Session of the General Assembly. The Commonwealth is experiencing disinvestment in its transportation infrastructure. Absent a major infusion of new and sustained investment in transportation, a congestion and mobility crisis may strangle economic growth and profoundly and negatively affect the quality of life of all our citizens.

2-5. DEREGULATION OF ELECTRICAL UTILITY RATES

James City County urges the General Assembly to continue with the cost-of-service pricing method for electrical service rather than move to market based pricing which is scheduled to begin on January 1, 2011.

2-6. BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING

James City County urges the General Assembly to provide sufficient funding to Community Services Boards to adequately implement mental health, mental retardation, and substance abuse treatment programs. Additional State funding is needed to: 1) adequately fund the mental retardation waiver program; 2) provide services to children with serious emotional disorders (yet not eligible for CSA funding); and 3) cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

2-7. ADEQUATE FUNDING FOR STAFFING REGIONAL JAILS

James City County urges the General Assembly to provide adequate funding for additional jail officer positions in regional jails which are required to meet the staffing standards established by the Commonwealth.

2-8. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the request of the Library of Virginia for \$2.1 million for the funding of “Find it Virginia,” a statewide electronic database that provides a collection of full text reference works and magazine and newspaper articles for public libraries, K-12 and Community Colleges.

2-9. STATE FUNDING FOR STANDARDS OF QUALITY AND SCHOOL CAPITAL PROJECTS

As recommended by the Williamsburg/James City County School Board, James City County supports improved State funding to implement the Standards of Quality requirements and to provide additional funding for school capital improvement projects, and additional funding for Pre-K initiatives.

2-10. THE DILLON RULE

James City County supports legislation consistent with that which exists in the majority of states, to provide counties, cities and towns greater local autonomy over matters within the purview of local governments.

2-11. EMINENT DOMAIN

James City County opposes legislation which restricts local authority to avoid and abate blighted conditions through redevelopment or to exercise condemnation authority for proper public purposes such as schools, parks, roads, utilities, stormwater management, and other public purposes set out in the Virginia Code.

2-12. [SURCHARGES ON LOCAL SERVICES OR TOURISM](#)

James City County opposes the imposition of a state fee, tax or surcharge on local services, such as the provision of water, sewer, or solid waste collection or disposal. James City County also opposes the imposition of a state fee, tax or surcharge on tourism.

2-13. [RESTRICTION ON IMPOSING REAL ESTATE TAXES](#)

James City County opposes any legislation restricting local taxing authority to establish real estate tax rates or place artificial limits on the assessment of real property at its fair market value.

2-14. [E-911 SERVICES](#)

James City County supports legislation requiring that personal communication technologies such as Voice Over Internet Protocol be required to use software to identify the origin of any call made to an E-911 system.

2-15. [SUBDIVISION STREET STANDARDS](#)

Local governments should have authority to modify standards for subdivision street pavement and right-of-way widths that are beneficial to good planning; public safety; and the well-being of the residents of new subdivisions, without diminishing State funding for street maintenance payments.

2-16. [AFFORDABLE HOUSING: ZONING INCENTIVES FOR IN-FILL DEVELOPMENT AND REDEVELOPMENT](#)

The Virginia Code provisions on zoning authority should continue to ensure that local governments have a full range of authority to promote affordable housing, including enabling legislation to give localities the power to facilitate in-fill development, redevelopment and mixing of uses in redevelopment projects. Therefore, the Virginia Code must not be changed to limit local governments' authority to enact land use regulations for the benefits of all citizens of a locality.

2-17. [MANUFACTURED HOUSING BY RIGHT](#)

Local governments should retain the authority to plan for the appropriate mix of residential structures in their communities and should retain full authority to regulate the placement of manufactured homes, without State intervention.

2-18. BY- RIGHT CLUSTERING OF SINGLE FAMILY DWELLINGS

James City County urges the General Assembly to modify Virginia Code Section 15.2-2286.1, added in 2006, to make clustering an optional land use tool for local governments, allow for legislative rather than by-right approval of clusters, and delete any reference to what type or how much land a locality should make available for cluster development.

2-19. STUDY OF ADULT AND JUVENILE GROUP HOMES

James City County urges the General Assembly to support a State and local study of the status of adult and juvenile group homes, including licensure and regulatory requirements and responsibilities for such homes; how the concentration of such homes in particular neighborhoods and localities affect neighborhood dynamics and service responsibilities of affected localities, and workable regulatory alternatives that could result in greater dispersal of homes and greater integration of consumers into the community as a whole, which is the intention of the State in complying with the *Olmstead* decision.

2-20. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE AND THE VIRGINIA ASSOCIATION OF COUNTIES

James City County supports the legislative programs of the Virginia Municipal League and the Virginia Association of Counties.

2-21. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT

James City County urges the Commonwealth to provide mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions. In addition, the State must address service access issues that require parents to surrender custody or courts to take youth into the juvenile justice system in order to access mental health and/or substance abuse services. The State requiring these services be provided without allocating funding constitutes an unfunded mandate.

2-22. AUTHORIZING LOCALITIES TO EXEMPT A PORTION OF REAL PROPERTY TAX ASSESSMENTS ON CERTAIN RESIDENTIAL OR AGRICULTURAL PROPERTY.

James City County supports legislation authorizing localities to exempt up to \$100,000 or twenty percent (20%) of the assessed value of residential or agricultural property that is continuously occupied as the sole residential dwelling of the owner.

2-23. AUTHORIZING LOCALITIES TO PROVIDE A HOMESTEAD EXEMPTION FOR REAL ESTATE TAXES

James City County supports a Constitutional amendment granting localities the authority to establish a homestead exemption for real estate taxes.

MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: John E. McDonald, Manager, Financial and Management Services

SUBJECT: Joint Resolution to Amend the Restated Contract for the Joint Operations of Schools - City of Williamsburg and County of James City

The County is proposing to borrow funds for a portion of the costs of four school projects (8th and 9th elementary schools, 4th middle school and an expansion at Stonehouse Elementary School). The County is unable to generate these funds by selling General Obligation (G.O.) bonds and is seeking instead to borrow the money using lease revenue financing executed through the County's Economic Development Authority.

Currently the G.O. bond ratings for the County are Aa2 (Moody's), AA (S&P), and AA+ (Fitch). Lease Revenue Financing is relatively common for Virginia localities and generally rated at one step lower than the locality's bond rating for G.O. issues. One step lower would still result in ratings in the AA range from all three agencies.

There are two conditions, however, that are usually necessary to merit only a one-step reduction.

The first condition is that the borrowing must be for a capital investment to provide a necessary public service – a condition that new school construction meets.

The second condition is that the property to be constructed with bond proceeds needs to be pledged as security for the lender. State law allows the equity in a school building to be pledged in a lease revenue financing by the locality even if the School Board owns the school – so that is not a problem. What was identified as a barrier to a County pledge of the asset is the equity position of the City. That is created under the current School Contract by payments toward the construction of a school.

The attached agreement is an amendment to the existing contract. The City gives up an equity interest in the three newest schools and any capital contributions are reflected as increases in equity in Warhill High School or any other current school buildings, at the City's option. If approved, with an effective date of November 1, 2006, the agreement will allow the County to pledge the properties as security for the borrowings.

The amendment to the contract is an addition to the Termination clause – City and County equity positions really have no meaning for WJCC Schools unless the City and County cease to operate a joint system. The pledge of property has no impact unless the County, over the next 20 years, cannot pay interest and principal on the bonds.

Should the City and County not agree to the amendment, the cost of the borrowing for the four school projects will increase. Bond ratings for an unsecured borrowing would drop into the A rating category, still a good credit but with a higher interest cost.

The amendment to the School contract was reviewed and approved by both the County's bond counsel and financial advisors. The City of Williamsburg should have acted to approve the amendment on Thursday, November 9.

Joint Resolution to Amend the Restated Contract for the Joint Operations of Schools - City of
Williamsburg and County of James City
November 14, 2006
Page 2

Staff recommends approval of the attached joint resolution.

John E. McDonald

CONCUR:



Sanford B. Wanner

JEM/cec
AmndSchContr.mem

Attachment

RESOLUTION

JOINT RESOLUTION TO AMEND THE RESTATED

CONTRACT FOR THE JOINT OPERATIONS OF SCHOOLS

CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY

WHEREAS, the City of Williamsburg (City) and James City County (County) have operated a joint school division since 1952 under a contract between the two localities; and

WHEREAS, this contract is periodically amended and restated, most recently through an amendment commencing July 1, 2002; and

WHEREAS, the County desires to finance most of the County's share of the costs of three new schools by issuing lease revenue bonds in such a manner as would permit the strongest possible security and, by extension, the lowest cost of borrowing; and

WHEREAS, an amendment to the school contract is proposed that would designate City capital contributions attributed to the construction of three new schools - Matoaka Elementary School and the currently unnamed fourth middle school and ninth elementary school - as increases in the City's equity position in Warhill High School or any other existing school(s) chosen by the City.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Williamsburg hereby authorizes the Mayor and Clerk, and the Board of Supervisors of James City County hereby authorizes its Chairman and Clerk to execute an amendment to the current contract for the joint operation of schools, with an effective date of November 1, 2006, as follows:

Under Section 3 – Termination, adding paragraph 3, as follows:

“Incorporated by special amendment, the City's capital contributions made under the provisions of this contract attributed to the construction of Matoaka Elementary School and the unnamed fourth middle and ninth elementary schools shall be considered as an increase in the City's equity position in Warhill High School or any other currently operating school buildings chosen by the City. The City relinquishes all equity interest in Matoaka Elementary School and the unnamed fourth middle and ninth elementary schools effective November 1, 2006.”

IN WITNESS WHEREOF, pursuant to resolution duly adopted, the City of Williamsburg, on this _____ day of _____, 2006; the County of James City on the 14th day of November, 2006.

CITY OF WILLIAMSBURG

By _____
Mayor

ATTEST:

Clerk

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

AmndSchContr.res

MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: John E. McDonald, Manager of Financial and Management Services

SUBJECT: Resolution Authorizing Lease Revenue Financing for School Construction

The County's financial advisors, with staff agreement, have determined that current interest rates are so favorable that the County should proceed to lock in the cost of capital for the construction and equipping of two new elementary schools, including Matoaka Elementary School, one new middle school, and additional classrooms at Stonehouse Elementary School.

The projected borrowing includes the following:

Matoaka Elementary School	\$ 23,300,000
New Elementary School	26,500,000
New Middle School	44,400,000
Stonehouse Elementary School Addition	<u>1,200,000</u>
	\$ 95,400,000
Possible Reserve Requirement	10,000,000
Costs of Issuance	<u>600,000</u>
Maximum Borrowing	<u>\$106,000,000</u>

Lease financing is a financing option that does not create debt under the Virginia Constitution and is a method of financing used previously for the infrastructure for Thomas Nelson Community College, Warhill High School, and the community sports stadium. Under current plans to meet an August 2009 opening, design should begin in April 2007 for the new middle school and August 2007 for the new elementary school.

Under this financing plan, the Economic Development Authority (EDA) of James City County would issue its lease revenue bonds to finance the school construction, issuance costs and to fund any required reserves associated with the financing. The completed schools would be leased by the EDA to the Williamsburg-James City County School Board. Funds budgeted by the County in debt service would need to be appropriated on an annual basis to pay interest and principal on the bonds. The County is responsible for paying off the financing, not the EDA nor the Schools, and the County would be accountable in the event of a default.

As components of the lease financing, several transactions must occur. These are referenced in the financing documents and have been prepared by Steve Johnson of Troutman Saunders, the County's bond counsel:

- (a) Ground Lease, dated as of December 1, 2006 (the "Ground Lease"), between the School Board and the Authority conveying to the Authority interests in certain real property;
- (b) Lease Agreement, dated as of December 1, 2006 (the "Lease"), between the Authority and the School Board conveying to the School Board a leasehold interest in the Project;
- (c) Indenture of Trust, dated as of December 1, 2006 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), pursuant to which the Bonds are to be issued;

Resolution Authorizing Lease Revenue Financing for School Construction

November 14, 2006

Page 2

- (d) Assignment of Rents and Leases, dated as of December 1, 2006 (the "Assignment"), between the Authority and the Trustee, assigning to the Trustee certain of the Authority's rights under the Ground Lease and the Lease;
- (e) Preliminary Official Statement with respect to the offering and sale of the Bonds (the "Preliminary Official Statement");
- (f) Notice of Sale pursuant to which the Bonds will be advertised for sale; and
- (g) Continuing Disclosure Certificate, dated as of December 1, 2006 (the "Continuing Disclosure Certificate"), pursuant to which the County agrees to undertake certain continuing disclosure obligations with respect to the Bonds.

The resolution authorizes the Chairman and/or the Vice Chairman to execute whatever is necessary on behalf of the Board of Supervisors to complete the financing as long as the interest costs do not exceed 5.5 percent. Separate actions by the School Board on November 14, 2006, and the EDA on November 16, 2006, should complete the legislative acts needed to complete the financing although appropriations of the proceeds of the financing will come back to the Board in the FY 2008 and FY 2009 budgets.

Staff anticipates that the interest costs will not exceed 4.7 percent and agrees with the analysts at Davenport that it would be prudent to lock in the cost of capital for these four projects while interest rates are at historic lows.

Davenport and Company is attempting to sell these bonds without borrowing and escrowing a bond escrow fund but the resolution, attached, allows that if the pricing makes it more attractive.

Staff recommends approval of the attached resolution.

John E. McDonald

CONCUR:



Sanford B. Wanner

JEM/cec
LeaseRevFin.mem

Attachments

RESOLUTION

AUTHORIZING LEASE REVENUE FINANCING FOR SCHOOL CONSTRUCTION

WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board of Supervisors") has determined that James City County, Virginia (the "County") has an immediate need for the construction and equipping of two new elementary schools and one new middle school and the renovation of Stonehouse Elementary School (collectively, the "Project"); and

WHEREAS, there has been presented to the Board of Supervisors a plan for the lease financing of the Project which would not create debt of the County for purposes of the Virginia Constitution; and

WHEREAS, pursuant to such financing plan, the Economic Development Authority of James City County, Virginia (the "Authority") would issue its lease revenue bonds in an amount not to exceed \$106,000,000 (the "Bonds") to finance the Project, portions of which would be leased by the Authority to the Williamsburg-James City County School Board (the "School Board"), and to finance other related costs and to fund any required reserves associated with the issuance of the Bonds; and

WHEREAS, there have been presented to this meeting preliminary drafts of the following documents (collectively, the "Documents") in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- (a) Ground Lease, dated as of December 1, 2006 (the "Ground Lease"), between the School Board and the Authority conveying to the Authority interests in certain real property;
- (b) Lease Agreement, dated as of December 1, 2006 (the "Lease"), between the Authority and the School Board conveying to the School Board a leasehold interest in portions of the Project;
- (c) Indenture of Trust, dated as of December 1, 2006 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), pursuant to which the Bonds are to be issued;
- (d) Assignment of Rents and Leases, dated as of December 1, 2006 (the "Assignment"), between the Authority and the Trustee, assigning to the Trustee certain of the Authority's rights under the Ground Lease and the Lease;
- (e) Leasehold Deed of Trust, dated as of December 1, 2006 (the "Deed of Trust"), from the Authority to the deed of trust trustees thereunder for the benefit of the Trustee;
- (f) Preliminary Official Statement with respect to the offering and sale of the Bonds (the "Preliminary Official Statement");
- (g) Notice of Sale pursuant to which the Bonds will be advertised for sale; and

- (h) Continuing Disclosure Certificate, dated as of December 1, 2006 (the “Continuing Disclosure Certificate”), pursuant to which the County agrees to undertake certain continuing disclosure obligations with respect to the Bonds.

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

1. The Board of Supervisors hereby finds and determines that it is in the best interests of the County to proceed with the lease financing of the Project.
2. The Bonds to be issued by the Authority shall have such terms as are approved by the Authority in a duly adopted resolution; ***provided***, that the Bonds (a) shall have a true or “Canadian” interest cost not to exceed 5.50 percent per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98 percent nor more than 108 percent of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty (20) years; (d) shall be issued in an aggregate amount not to exceed \$106,000,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after ten and one-half years (or such shorter period as deemed advisable in the sale of the Bonds), with a redemption premium no greater than two percent (2.00 percent) of the principal amount of the Bonds to be optionally redeemed.
3. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions, and changes as may be subsequently approved by the Chairman or Vice Chairman of the Board of Supervisors, which approval shall be evidenced conclusively by the execution and delivery of the Documents to which the County is a party by such Chairman or Vice Chairman.
4. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to execute the Continuing Disclosure Certificate, the Preliminary Official Statement, and the final Official Statement relating to the Bonds.
5. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to acknowledge and consent, if necessary, to the provisions of the Indenture, the Ground Lease, the Lease, the Deed of Trust, and the Assignment.
6. The appropriate officers and agents of the County are hereby authorized and directed to prepare, and the Chairman and Vice Chairman of the Board of Supervisors are each authorized and directed to execute, the Preliminary Official Statement with respect to the issuance and sale of the Bonds, with such supplements as either the Chairman or Vice Chairman may consider necessary or desirable in connection therewith. The Chairman and Vice Chairman of the Board of Supervisors are each authorized, on behalf of the County, to deliver the Preliminary Official Statement to Davenport & Company LLC (the “Financial Advisor”) and to deem the Preliminary Official Statement to be in final form as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of certain pricing and other information allowed to be omitted pursuant to such Rule 15c2-12.

The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County, except for the omission of such pricing and other information. The use and distribution of the Preliminary Official Statement are hereby authorized.

The appropriate officers and agents of the County are hereby authorized and directed to assist with the preparation of a final Official Statement, appropriately dated, in the form of the Preliminary Official Statement, with appropriate completions, insertions, omissions, and changes as shall be necessary to accurately describe, among other things, the Bonds, the security therefor, and the Documents. The Chairman and the Vice Chairman of the Board of Supervisors, either of whom may act, are each authorized and directed to execute and deliver the final Official Statement on behalf of the County. The use and distribution of such final Official Statement are hereby approved.

7. The Board of Supervisors hereby selects and designates U.S. Bank National Association as Trustee and Troutman Sanders LLP as Bond Counsel with respect to the Bonds, and the Authority is hereby requested to designate them as such.
8. The County Administrator, the Manager of Financial and Management Services, and their respective staffs are authorized to take such actions as shall be necessary or appropriate to obtain a commitment or commitments for municipal bond insurance or other credit enhancement to secure the Bonds, if the County Administrator and the Manager of Financial and Management Services, in consultation with the Financial Advisor, determine that the receipt of such municipal bond insurance or other credit enhancement would be beneficial to the County in connection with the sale of the Bonds. All changes to the Documents and the Official Statement that are necessary to reflect the bond insurance or other credit enhancement and the requirements of the bond insurer or credit enhancement provider are hereby approved.
9. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds.
10. All acts of the Chairman and Vice Chairman of the Board of Supervisors and other officers of the County, regardless of whether such acts occurred prior to or occur after the adoption of this Resolution, that are in conformity with the purposes and intent of this Resolution and in furtherance of the plan of financing, the issuance and sale of the Bonds, and the undertaking of the Project, are hereby approved and ratified.
11. The Project is hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Project will continue to be essential to the operation of the County during the term of the Lease. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its

intent to make annual appropriations in future fiscal years in amounts sufficient to permit the School Board to make all payments under the Lease and hereby recommends that future Boards of Supervisors do likewise during the term of the Lease. If the County exercises its right not to appropriate money to the School Board for rent payments under the Lease, the County understands that the Trustee may terminate the Lease or otherwise exclude the School Board from possession of the Project to the extent provided in the Lease.

12. This Resolution shall take effect immediately.

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 14th day of November, 2006.

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CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia at a meeting duly called and held on November 14, 2006, during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
Bruce C. Goodson, Chairman	_____	_____
John J. McGlennon, Vice Chairman	_____	_____
Jay T. Harrison, Sr.	_____	_____
M. Anderson Bradshaw	_____	_____
James O. Icenhour, Jr.	_____	_____

WITNESS my signature as Clerk of the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

Clerk, Board of Supervisors of
James City County, Virginia

(SEAL)

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MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: John E. McDonald, Manager of Financial and Management Services

SUBJECT: Resolution Authorizing the Issuance and Sale of General Obligation Bonds, Series 2006, of the County of James City, Virginia, and Providing for the Form, Details and Payment Thereof

At a special election held on November 8, 2005, County voters approved two referenda authorizing the issuance of general obligation bonds to finance (1) \$15,000,000 of the cost of improvements to parks, greenways, trail, and recreational facilities; and (2) \$20,000,000 of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County.

Staff and our financial advisors, Davenport & Company, recommend that the Board issue and sell general obligation bonds at a competitive sale to finance the \$15,000,000 for parks and recreation, and \$6,500,000 of the \$20,000,000 approved for greenspace.

The four recreation projects – Warhill sports fields, Freedom Park interpretive structures, Chickahominy Riverfront Park improvements, and greenways are on-going. Together with what has previously been appropriated for Greenspace and the Purchase of Development Rights Program, the proposed borrowing for those programs should allow for the County to proceed with what is in the immediate future. When the need arises, and fiscal planning dictates that the proceeds can be spent within the three years allowed under Federal arbitrage regulations, the remaining \$13,500,000 will be borrowed.

The attached resolution authorizes the Board Chairman and the County Administrator to prepare and execute, on behalf of the County, the necessary financial documentation required to issue the bonds as long as the interest rate does not exceed 5.5 percent. Our expectations are to achieve an interest rate lower than 4.5 percent.

Staff recommends the approval of the attached resolution.

John E. McDonald

CONCUR:



Sanford B. Wanner

Attachment

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

GENERAL OBLIGATION SCHOOL BONDS, SERIES 2006,

OF THE COUNTY OF JAMES CITY, VIRGINIA,

AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, at a special election held on November 8, 2005, the qualified voters of the County of James City, Virginia (the "County") approved two referenda, authorizing the issuance of general obligation bonds to finance (1) \$15,000,000 of the cost of improvements to parks, greenways, trail and recreational facilities (the "Parks Project"), and (2) \$20,000,000 of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and will preserve agricultural, forestall, or environmentally sensitive lands in the County (the "Greenspace Project", and together with the Parks Project, the "Project").

WHEREAS, the County's Board of Supervisors (the "Board") determines that it now may be in the best interests of the County to issue and sell general obligation bonds to finance all of the Parks Project and \$6,500,000 of the \$20,000,000 approved for the Greenspace Project. The Board determines that it would be advantageous to the County to sell such bonds in a competitive sale.

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

Section 1. **Authorization, Issuance and Sale.** There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation bonds of the County in the principal amount not to exceed \$21,500,000 to finance the costs of the Project and to pay the costs incurred in connection with issuing such bonds. The Board hereby elects to issue such bonds under the provisions of the Act.

Section 2. **Bond Details.** Such bonds shall be designated "General Obligation Bonds, Series 2006" (the "Bonds"), shall be dated the date of their issuance, shall be in registered form, shall be in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4 and Section 9, the Bonds shall mature in installments, or shall have mandatory sinking fund installments, on each June 15 ending no later than the year 2037. Subject to Section 9, interest on the Bonds shall be payable on June 15, 2007, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"), and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or "Canadian"

interest cost not to exceed 5.50% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% nor more than 108% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty (20) years; (d) shall be issued in an aggregate amount not to exceed \$21,500,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after ten and one-half years (or such shorter period as deemed advisable in the sale of the Bonds in accordance with Section 4(e)), with a redemption premium no greater than two percent (2.00%) of the principal amount of the Bonds to be optionally redeemed.

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

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before June 15, 2007, in which case it will bear interest from its dated date, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

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

Depository” shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository’s participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository’s participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

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

Section 4. Redemption Provisions.

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

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

- (c) Bonds Selected for Redemption. If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator or the Chairman of the Board in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of any maturity are called for redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.
- (d) Notice of Redemption. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the Securities Depository as the registered owner of the Bonds or, if the book-entry system is

discontinued, by registered or certified mail to the registered owners of the Bonds to be redeemed.

- (e) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), (1) to determine the dates on which and redemption prices at which the Bonds may be optionally redeemed, and (2) to determine whether the issuance of any term bonds would be beneficial to the County.

Section 5. **Execution and Authentication.** The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

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

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

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

expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

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

Section 9.

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

Section 10.

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

of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

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

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

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

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

obligations under this Section 11 and the Continuing Disclosure Agreement.

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

Section 13. **Arbitrage Covenants.**

- (a) **No Composite Issue.** The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”).
- (b) **No Arbitrage Bonds.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

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

Section 15. **Limitation on Private Use; No Federal Guaranty.** The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or

more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; ***provided***, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

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

Section 16. **Discharge upon Payment of Bonds.** The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 13 and 15 until the date the Bonds are paid in full.

Section 17. **Other Actions.** All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and a Blanket Issuer Letter of Representations to the Securities Depository, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

Section 18. **Limitation of Liability of Officials of the County.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall

incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 19. **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bonds.

Section 20. **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.

Section 21. **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

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 14th day of November, 2006.

BondSeries06.res

EXHIBIT A

REGISTERED
No. R-__

REGISTERED
\$ _____

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY

GENERAL OBLIGATION BOND, SERIES 2006

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
_____%	June 15, 20__	December __, 2006	470293 ____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The County of James City, Virginia (the "County"), for value received, promises to pay, upon surrender hereof, to the Registered Owner stated above, or registered assigns or legal representative, the Principal Amount stated above on the Maturity Date stated above, subject to prior redemption as hereinafter provided, and to pay interest hereon at the Interest Rate per year stated above from the Dated Date stated above on June 15, 2007, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"). Principal, premium, if any, and interest are payable in lawful money of the United States of America through U.S. Bank National Association, Richmond, Virginia, as registrar and paying agent (the "Registrar").

Interest shall be payable by check or draft mailed to the Registered Owner, determined as of the close of business on the first day of the month in which each the Interest Payment Date occurs, at its address as it appears on the registration books kept for that purpose at the designated corporate trust office of the Registrar. Principal shall be payable upon presentation and surrender of this bond to the Registrar. If this bond is held by or for The Depository Trust Company or other entity acting as a securities depository (the "Securities Depository"), all payments of principal, redemption premium, if any, and interest shall be paid by wire transfer pursuant to the most recent wire instructions received by the Registrar from such Securities Depository and all redemptions or prepayments of principal may be made without presentation of this bond to the Registrar if such Securities Depository makes a notation on its records.

This bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless this bond is (a) authenticated before June 15, 2007, in which case it shall bear interest from the Dated Date stated above or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it shall bear interest from such Interest Payment Date; *provided*, that if at the time of authentication of this bond interest is in default, this bond shall bear interest from the date to which interest has been paid. Interest shall be calculated on the basis of a 360-day year with twelve 30-day months.

In case the date of maturity or redemption of the principal of this bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at

the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date.

This bond is one of an issue of \$21,500,000 General Obligation Bonds, Series 2006 (the "Bonds"), of like date and tenor, except as to number, denomination, rate of interest, privilege of redemption, and maturity, and is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, as amended. The Bonds were authorized by a resolution adopted by the Board of Supervisors of the County (the "Board") on November 14, 2006 (the "Resolution"). The County shall use the proceeds of the Bonds to finance a portion of the cost of improvements to parks, greenways, trail and recreational facilities, and the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and will preserve agricultural, forestall, or environmentally sensitive lands in the County and to pay the costs incurred in connection with issuing the Bonds.

Bonds maturing on or before June 15, 2016 are not subject to optional redemption prior to maturity. Bonds maturing on or after June 15, 2017, are subject to redemption prior to maturity at the option of the County on or after June 15, 2016, in whole or in part (in integral multiples of \$5,000) at any time upon payment of one hundred percent of the principal amount of the Bonds to be redeemed, plus interest accrued and unpaid to the redemption date.

[The Bonds maturing on June 15, 20__ are subject to mandatory sinking fund redemption by the County, upon payment of a redemption price of 100% of the principal amount of the Bonds to be redeemed, plus accrued interest to the redemption date, on June 15 in the years and amounts set forth below:

Year

Amount

-- final maturity

The Resolution provides for a credit against the mandatory sinking fund redemption of such Bonds in the amount of Bonds of the same maturity that have been previously redeemed or purchased and canceled or surrendered for cancellation and have not been applied previously as such a credit.]

If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of a particular maturity are called for redemption, the Bonds to be redeemed shall be selected by the Securities Depository pursuant to its rules and procedures or, if the book entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the Securities Depository or its nominee as the

Registered Owner of the Bonds or, if the book-entry system is discontinued, by registered or certified mail to the Registered Owners of the Bonds to be redeemed.

The full faith and credit of the County are irrevocably pledged for the payment of the principal of, premium, if any, and interest on this bond.

All acts, conditions, and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist, or be performed precedent to and in the issuance of the Bonds have happened, exist, and have been performed, and the issuance of the Bonds, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

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IN WITNESS WHEREOF, the Board of Supervisors of the County of James City, Virginia, has caused this bond to be issued in the name of the County of James City, Virginia, to be signed by its Chairman or Vice Chairman, its seal to be affixed hereto and attested by the signature of its Clerk or Deputy Clerk and this Bond to be dated the Dated Date stated above.

(SEAL)

ATTEST:

Clerk, Board of Supervisors
of the County of James City, Virginia

Chairman, Board of Supervisors
of the County of James City, Virginia

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds described in the within mentioned Resolution.

AUTHENTICATION DATE: _____

U.S. BANK NATIONAL ASSOCIATION, as
Registrar

By _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sell(s), assign(s), and transfer(s) unto

(Please print or type name and address, including postal zip code, of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF TRANSFEREE:

the within bond and all rights thereunder, hereby irrevocably constituting and appointing _____
_____ Attorney, to
transfer said bond on the books kept for the registration thereof, with full power of substitution in the
premises.

Dated: _____

Signature Guaranteed

NOTICE: Signature(s) must be guaranteed
by an institution which is a participant in the
Securities Transfer Agent's Medallion
Program ("STAMP") or similar program.

(Signature of Registered Owner)

NOTICE: The signature above must
correspond with the name of the Registered
Owner as it appears on the front of this bond
in every particular, without alteration
or enlargement or any change whatsoever.

**CERTIFICATE OF THE CLERK OF THE
BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA**

The undersigned Clerk of the Board of Supervisors of the County of James City, Virginia, certifies that:

1. A regular meeting of the Board of Supervisors of the County of James City, Virginia, was held on November 14, 2006, at the time and place established by the Board for such meetings, at which the following members were present and absent:

PRESENT/ABSENT:

Bruce C. Goodson	____/____
John J. McGlennon	____/____
Jay T. Harrison, Sr.	____/____
M. Anderson Bradshaw	____/____
James O. Icenhour, Jr.	____/____

2. A resolution entitled "Resolution Authorizing the Issuance and Sale of General Obligation Bonds, Series 2006, of the County of James City, Virginia, and Providing for the Form, Details and Payment Thereof" was adopted by a majority of all members of the Board by a roll call vote, the ayes and nays being recorded in the minutes of the meeting as shown below:

MEMBER

VOTE

Bruce C. Goodson
John J. McGlennon
Jay T. Harrison, Sr.
M. Anderson Bradshaw
James O. Icenhour, Jr.

3. Attached hereto is a true and correct copy of the foregoing resolution as adopted on November 14, 2006. This resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on the date hereof.

WITNESS my signature and the seal of the Board of Supervisors of the County of James City, Virginia, this ____ day of November, 2006.

(SEAL)

Clerk, Board of Supervisors
of the County of James City, Virginia

Obligbonds06_att

MEMORANDUM

DATE: November 14, 2006
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Financial and Management Services
SUBJECT: Budget Amendment - Schools

The General Assembly recently adjusted its budget to increase State Basic Aid to schools and decrease, by the same amount, estimates of collections of State sales taxes for education. The result for the County is that the budgeted revenue for State sales taxes, a number published during the State budget process, is estimated to be \$438,826 too high.

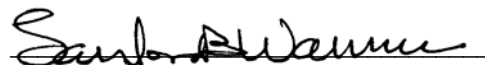
The attached resolution reduces estimated State sales taxes for education by \$438,826 and reduces the contribution to the Williamsburg-James City County Schools by the same amount. The schools will not be impacted by this reduction as they will realize \$438,826 in additional Basic Aid.

The original State estimates of sales tax collections were also overestimated for Fiscal Year 2008. The State will use the FY 08 budget process to correct those estimates and those adjustments will also need to be made during the FY 08 budget process for the County.

Staff recommends approval of the attached resolution.

John E. McDonald

CONCUR:


Sanford B. Wanner

JMD/nb
BudgtAmdnt_Schls.mem

Attachment

RESOLUTION

BUDGET AMENDMENT - SCHOOLS

WHEREAS, the Board of Supervisors of James City County has received revised estimates of State sales tax collections for FY 2007; and

WHEREAS, these revised estimates are \$438,826 lower than the State estimates used by County to prepare a balanced budget for FY 2007; and

WHEREAS, the State has provided additional funding in the form of a \$438,826 increase in payments of State Basic Aid to the Williamsburg-James City County (WJCC) Schools, an attempt to make the change revenue neutral for local school divisions; and

WHEREAS, a reduction in the County's contribution to the WJCC Schools in FY 2007 will be offset by increased State revenue in the same amount.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes an amendment to the budget for the year ending June 30, 2007, and reduces both the estimated State Sales Collections and the local contribution to the Williamsburg-James City County Schools by \$438,826.

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 14th day of November, 2006.

BudgtAmdnt_Schls.res

MEMORANDUM

DATE: November 14, 2006

TO: The Board of Supervisors

FROM: Larry Foster, General Manager, James City Service Authority
John T. P. Horne, Development Manager

SUBJECT: Consideration of the request for a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance for property located at 1805 Forge Road

Summary Facts

Applicant: Mr. Vernon Geddy, Geddy, Harris, Franck, and Hickman, LLP
Land Owner: Cowles Family Limited Partnership

Location: 1805 Forge Road

Tax Map/Parcel No.: (20-1)(1-1)

Parcel Size: 433 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

Reason for Board of Supervisors Review

Mr. Vernon Geddy has requested a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance. Section 19-57 (a) requires the following: *If public water is not available, the subdivider of any major subdivision shall construct a central water system including distribution lines, storage, and supply facilities within the subdivision.* Per Section 19-57 (b), the General Manager of the James City Service Authority has the authority to waive this requirement subject to reasonable conditions.

Discussion

The Planning Division has received a conceptual layout plan for 1805 Forge Road, referred to as The Preserve at Uncle's Neck, consisting of approximately 433 acres and which proposes up to 35 lots ranging in size from three to ten acres. These lots would have shared access to Forge Road via a single entrance road. The proposed development provides for approximately 190 acres of open space, 55 percent of the developable site area, which would be subjected to a conservation easement and managed pursuant to a wildlife management plan developed in conjunction with the Virginia Department of Game and Inland Fisheries.

This site is designated as Rural Lands on the 2003 James City County Comprehensive Plan. The conceptual layout is generally consistent with the Rural Land Use Standards as outlined in the Plan. In general, the proposed locations for residential lots are significantly offset from the Forge Road corridor, leaving a significant buffer to minimize the visual impacts of the development from the road and preserve rural scenic vistas. No lots front directly onto Forge Road, thus limiting the number of street and driveway intersections

along the main road and minimizing necessary intrusions to the road buffer. The conceptual plan also provides for a screened area in excess of 1,000 feet between the road and the development. Furthermore, the proposed provision of permanent open space totaling greater than half of the site's developable area ensures that large undivided blocks of existing woodland and wildlife habitat are preserved. The preservation of significant open space also serves to reduce the net density of the proposed development to approximately 9.9 acres per dwelling unit, which is generally less than the density likely achieved through by-right subdivision and supports the preferred rural land development pattern of encouraging very low density developments.

The applicant has stated that the waiver to the central water system requirement would provide financial flexibility to the applicant so that a large area of permanent open space can be preserved as opposed to the potential platting of additional lots to compensate for the expense of a central water system.

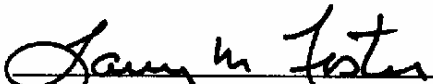
The General Manager of the James City Service Authority has determined that the central water system waiver would be acceptable for this proposal based on the overall size of the parcel in question. Based on the number and size of lots, individual wells do not appear to have any adverse impacts on the groundwater system. In addition, the developer has agreed to certain conditions to further limit any impacts of the waiver including submission of a water conservation plan, limits on allowed per lot turf area, and provisions for property owners to pay for the installation of a public central water system in the unlikely event that it is necessary.

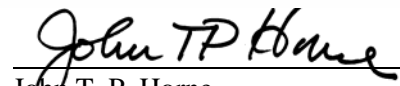
Development Management staff has reviewed the conceptual plan and proposed conditions. Based on comments by staff, conditions have been included to address wildlife habitat, septic system design, Resource Protection Area (RPA) education, limitations on piers and water access, primary building separation, and intermittent stream buffers. In staff's opinion, these conditions will result in significant environmental protection above that achievable with a by-right subdivision.

Planning staff also notes that, based on the preliminary conceptual plan submitted by the developer, it appears that the subdivision application will require approval by the Development Review Committee based on the length of the proposed cul-de-sac access road being greater than 1,000 feet. If submitted, the subdivision application will also be subject to review by the Planning Division.

Staff Recommendation

Staff recommends that the Board of Supervisors authorize the General Manager of the James City Service Authority to grant the requested waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance subject to the attached conditions.


Larry M. Foster


John T. P. Horne

LMF/cec
ForgeRdWaterWaiver.mem

Attachments:

1. Location Map
2. Conceptual Layout: The Preserve at Uncle's Neck
3. Resolution

RESOLUTION

CONSIDERATION OF THE REQUEST FOR A WAIVER TO SECTION 19-57, WATER

FACILITIES, OF THE JAMES CITY COUNTY SUBDIVISION ORDINANCE FOR PROPERTY

LOCATED AT 1805 FORGE ROAD

WHEREAS, the Board of Supervisors of James City County has adopted Section 19-57, Water Facilities, of the James City County Subdivision Ordinance which requires major subdivisions to construct a central water system to serve the subdivision; and

WHEREAS, the requirement for a central water system may be waived by the James City Service Authority Manager; and

WHEREAS, that waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider; and

WHEREAS, Mr. Vernon Geddy has requested a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance; and

WHEREAS, the lot layout and provision of open space are shown on the plan prepared by AES Consulting Engineers, dated July 21, 2006, and entitled "Conceptual Layout The Preserve at Uncle's Neck;" and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (21-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the General Manager of the James City Service Authority to grant the waiver request as described herein with the following conditions:

1. The property shall be subdivided and developed generally in accordance with the Conceptual Plan attached hereto, with only changes thereto based on final field verified topography, environmental constraints and conditions of the wildlife management plan. There shall be no more than 35 lots on the property. At least 55 percent of the property shall be preserved as open space and subjected to a conservation easement. The open space shall be subjected to a conservation easement and shall be actively managed pursuant to a wildlife management plan developed in conjunction with the Virginia Department of Game and Inland Fisheries. The restrictive covenants for the subdivision shall require implementation and funding of the management plan by the homeowners association.
2. The restrictive covenants for the subdivision shall contain the following provisions and shall be subject to the approval of the County Attorney prior to approval and recordation of the final subdivision plat:

- a. Private Wells. Each lot in the Preserve at Uncle's Neck is served by an individual private well. The owner of each lot shall be responsible for the installation, maintenance, and if required, replacement of its well. If at a future date the homeowners association of the Preserve at Uncle's Neck by vote as prescribed in the By-Laws for a special assessment determines that installation of a central public water system is required, then each lot owner agrees to be assessed its pro-rata share of all cost of design, permitting and construction of said system. In addition, each lot owner agrees at its expense to connect to said system including payment of any required connection fees to the system operator and to pay consumption charges.
- b. Septic Systems. On lots approved by the Health Department for traditional septic drain fields, the drain fields shall be set back at least 200 feet from the Chickahominy River and Uncle's Neck Creek. On all lots the Health Department determines require an alternative septic system, an advanced secondary treatment sewage treatment system with discharge into a drain field shall be utilized. Any traditional septic drain field that fails shall be replaced by an advanced secondary treatment sewage treatment system with discharge into a drain field.
- c. Covenants Committee. The restrictive covenants shall establish a covenants committee with the authority and responsibility to enforce the restrictive covenants and approve all site, building, and pier plans.
- d. Limits on Irrigation. The restrictive covenants shall provide no more than 8,000 square feet of any lot may be irrigated. The association shall develop and implement a water conservation plan. The plan shall be reviewed and approved by the James City Service Authority prior to final subdivision plat approval.
- e. Resource Protection Area (RPA) Education. The association shall at least every three years hold an RPA educational session at its annual meeting on the restrictions, rights, and responsibilities of lot owners whose lots contain RPA areas on the protection of the RPA, and shall provide written educational materials provided by the County Environmental Division to lot purchasers with the association's disclosure package.
- f. Limitations on Piers and Water Access. Lots located in the area now shown on the Conceptual Plan as lots 1-5 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 6 and 7 shall utilize a shared water access/pier to be located on lot 7. Lots in the area now shown on the Conceptual Plan as lots 20-22 shall utilize a single shared water access/pier. The lot in the area now shown on the Conceptual Plan as lot 25 shall utilize a shared water access/pier with either lot in the area now shown as lot 24 or lot 26. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. The shared access/piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals.

- g. Building Separation. There shall be at least 100 feet of separation between all dwelling units on the Property, which requirement shall be reflected on the subdivision plat of the Property. The James City County Fire Chief may grant variances to the 100-foot separation requirement upon written request from the property owner and a finding that such a reduction will not endanger the health, safety, or welfare of the citizens of the County and/or is otherwise mitigated by alternate means of fire suppression including, but not limited to, automatic sprinkler systems. Reasonable conditions may be placed upon any variance granted by the James City County Fire Chief.
 - h. Intermittent Stream Buffer. There shall be a 50-foot buffer adjacent to all intermittent streams on the Property.
3. This authorization to grant the waiver is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

ForgeRdWaterWaiver.res

The Preserve at Uncle's Neck

Request for Waiver to Central Water System

Tax Map (20-1)(1-1)

