

AGENDA

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

May 22, 2007

7:00 P.M.

	<u>Page</u>
A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Katoria Wright, an eighth-grade student at James Blair Middle School	
D. PRESENTATION - Tapestry Hanging from Ipswich, England depicting the <i>Godspeed</i>	
E. HIGHWAY MATTERS	
F. PUBLIC COMMENT	
G. CONSENT CALENDAR	
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2. Dedication of a Street in Grove Hill Estates, Section Three	27
3. Dedication of Streets in Scott's Pond, Section One-C	31
4. Dedication of Streets in Settler's Mill, Section 6	35
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6. Appointment of Assistant Fire Marshal, Authorization of Fire Prevention Powers and Authorization of Police Powers	45
<i>Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations</i>	
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H. PUBLIC HEARING	
1. Resolution Approving the Powers Granted to the Hampton Roads Transportation Authority	53

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I. BOARD CONSIDERATION

1. Case No. ZO-1-07. Mixed Use District Amendment 57

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.
 - a. Thomas Nelson Community College Board
 - b. Board of Zoning Appeals
2. Consideration of the acquisition of a parcel of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

N. ADJOURNMENT - until June 12, 2007, at 7 p.m.

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF MAY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE - Sherlanda Buskey, an eighth-grade student at James Blair Middle School led the Board and citizens in the Pledge of Allegiance.

Mr. McGlennon recognized Jack Fraley of the Planning Commission in attendance.

D. PRESENTATIONS

1. May Is Bike Month

Ms. Debbie Post, Parks and Recreation Health and Wellness Coordinator, and Ron Grossman, Vice President of Williamsburg Area Bicyclists, presented Mr. McGlennon with a gubernatorial proclamation designating May as Bike Month and a tee-shirt for each of the Board members.

Mr. McGlennon presented Mr. Grossman and Ms. Post with a Board resolution recognizing May as Bike Month in James City County.

2. Public Safety Update for Anniversary Weekend

Fire Chief Tal Luton and Police Chief Emmett Harmon gave a brief outline of public safety initiatives for Anniversary Weekend.

Chief Harmon stated that a public safety plan was in place and he felt that the public safety officers were prepared. He commented on traffic and parking for the Anniversary Weekend events. He noted the County's website has a "splash" page with public information directly related to Anniversary Weekend.

Chief Luton noted that the public safety of the County, aside from the Anniversary Weekend events, would maintain its service level. He commented that there were other events going on including the Michelob Ultra Open LPGA tournament, but assured citizens that the County's level of public safety and emergency response would remain the same.

Mr. McGlennon thanked Chief Luton and Chief Harmon for the update.

3. Presentation on the new James City County Historical Map, "Discover Our New World"

Mr. Ned Cheely, Parks and Recreation Director, presented the newly completed James City County Historical Map. Mr. Cheely explained that the map is a 2007 Legacy Project that highlighted historically significant sites throughout the County and a time line. Mr. Cheely thanked staff for their efforts to produce the map and thanked Ms. Martha McCartney for her contribution of historical research. He presented Mr. McGlennon with a framed copy of the map in honor of the 400th Anniversary.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, noted a trust fund at SunTrust Bank for Chief Warrant Officer (CWO) Ward; commented on gun control; affordable housing in the Roberts District; traffic and potholes on Route 60 East; unmaintained property on Indian Circle; upkeep of Jamestown Road and Route 60; and development on Route 60 East impeding emergency response vehicles.

Mr. McGlennon thanked Mr. Oyer for bringing attention to the trust fund for CWO Ward and noted that the County's flags would be at half-mast for CWO Ward after the designated period set aside for the victims of the Virginia Tech shootings.

F. CONSENT CALENDAR

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

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

1. Minutes –

- a. April 12, 2007, Budget Work Session
- b. April 16, 2007, Budget Work Session
- c. April 17, 2007, Budget Work Session
- d. April 24, 2007, Regular Meeting

2. May Is Bike Month

RESOLUTION

MAY IS BIKE MONTH

WHEREAS, for more than a century, the bicycle has played an important role in the lives of Americans; and

WHEREAS, today, millions of Americans engage in bicycling because it is an environmentally sound form of transportation, an excellent form of fitness, and provides quality family recreation; and

WHEREAS, James City County offers many bicycling opportunities for transportation, recreation, and exercise through beautiful scenery, parks, area attractions, and historic sites; and

WHEREAS, Bike Month is designed to increase awareness about bicycling opportunities through activities such as bike-to-work days and family rides.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize May 2007 as Bike Month in James City County, Virginia, and call this observance to the attention of its citizens.

3. Dedication of a Street in Greensprings West, Phase 3

RESOLUTION

DEDICATION OF A STREET IN GREENSPRINGS WEST, PHASE 3

WHEREAS, the street 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 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, 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 street described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to Section 33.1-229 of the Code of Virginia and the Department's Subdivision Street Requirements.

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

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

4. Dedication of a Street in Ironbound Village, Phase 1

RESOLUTION

DEDICATION OF A STREET IN IRONBOUND VILLAGE, PHASE 1

WHEREAS, the street 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 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, 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 street 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. Dedication of Streets in Wellington, Sections 2 and 4

RESOLUTION

DEDICATION OF STREETS IN WELLINGTON, SECTIONS 2 & 4

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

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

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

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

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and

any necessary easements for cuts, fills, and drainage.

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

6. Grant Award - Commonwealth Attorney - Virginia Domestic Violence Victim Fund - \$40,000

RESOLUTION

GRANT AWARD - COMMONWEALTH ATTORNEY -

VIRGINIA DOMESTIC VIOLENCE VICTIM FUND - \$40,000

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$40,000 grant from the Virginia Domestic Violence Victim Fund through the State Department of Criminal Justice Services (DCJS); and

WHEREAS, this grant would help fund the personnel costs of two positions in the prosecution of misdemeanors and felonies involving domestic violence, sexual abuse, stalking, and family abuse through December 31, 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund through December 31, 2007, for the purposes described above:

Revenue:

DCJS Domestic Violence Grant	<u>\$40,000</u>
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Expenditure:

Domestic Violence Prosecutor Personnel Costs	<u>\$40,000</u>
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7. Grant Award - TRIAD Crime Prevention for Seniors - \$2,750

RESOLUTION

TRIAD CRIME PREVENTION FOR SENIORS GRANT AWARD - \$2,750

WHEREAS, James City County has been awarded a TRIAD Crime Prevention for Seniors Grant award in the amount of \$2,750 through Virginia's Office of the Attorney General to be used to enhance the County's TRIAD program; and

WHEREAS, the purpose of TRIAD is to reduce criminal victimization of older citizens, enhance the delivery of law enforcement services, and improve their quality of life; and

WHEREAS, these funds will be used to purchase safety equipment for the elderly and to provide supplies and promotional materials to enhance the safety of the elderly; and

WHEREAS, the grant requires matching funds of \$250, and these funds are available in the County's Special Projects/Grants Fund.

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

Revenues:

OAG – TRIAD Crime Prevention for Seniors Grant	\$2,500
JCC Special Projects/Grants Fund	<u>250</u>
Total	<u>\$2,750</u>

Expenditure:

OAG – TRIAD Crime Prevention for Seniors Grant	<u>\$2,750</u>
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8. Appropriation of Funds - Virginia Department of Health - “Bike Smart, Virginia!” Project Grant Award - \$500

RESOLUTION

APPROPRIATION OF FUNDS -VIRGINIA DEPARTMENT OF HEALTH -

“BIKE SMART, VIRGINIA!” PROJECT GRANT AWARD - \$500

WHEREAS, the James City County Police Department has been awarded a “Bike Smart, Virginia!” Project Grant award in the amount of \$500 through the Virginia Department of Health (VDH); and

WHEREAS, the funds are to be used for the purchase of youth bicycle helmets for distribution at Bike Rodeos and other Community Service Unit events where bicycle safety education is conducted; and

WHEREAS, there are no matching funds required of this grant; and

WHEREAS, the grant period is from April 1 through May 30, 2007.

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

Revenue:

VDH - Bike Smart Virginia	<u>\$500</u>
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Expenditure:

VDH - Bike Smart Virginia	<u>\$500</u>
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9. Appropriation of Funds - Virginia Department of Health - Cities Readiness Initiative - \$6,569

RESOLUTION

APPROPRIATION OF FUNDS BY THE VIRGINIA DEPARTMENT OF HEALTH

CITIES READINESS INITIATIVE - \$6,569

WHEREAS, James City County has been awarded an appropriation from the Virginia Department of Health (VDH) Cities Readiness Initiative in the amount of \$6,569 to enhance the planning capabilities of the Emergency Operations Center (EOC) staff to respond to potential emergencies or disasters such as a pandemic; and

WHEREAS, these funds will cover the purchase of advanced technology equipment essential in the operation of the County's EOC during a significant event.

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

Revenue:

VDH Cities Readiness Initiative (024-073-3000)	<u>\$6,569</u>
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Expenditure:

VDH Cities Readiness Initiative – EOC Technology (024-306-3000)	<u>\$6,569</u>
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10. Appropriation of Funds - Virginia Community College System - \$247,957

RESOLUTION

APPROPRIATION - VIRGINIA COMMUNITY COLLEGE SYSTEM - \$247,957

WHEREAS, the County and Virginia Community College System (VCCS) agreed that the County would perform a variety of activities to be reimbursed from VCCS as part of the site improvements for Phase I - Historical Thomas Nelson Community College (TNCC) for the following:

Environmental Services to Mitigate 0.38 Acres	\$ 89,400
Construct Additional 50 Parking Spaces	60,000
Site Clearing for 4.3 Acres	<u>98,557</u>
Total	<u>\$247,957</u>

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 below:
FY 2007 Special Projects/Grant Fund:

Revenue:

State Funds - VCCS	<u>\$247,957</u>
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Expenditure:

VCCS/TNCC Site Improvements	<u>\$247,957</u>
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11. Contract Award - Community Center Emergency Generator

RESOLUTION

CONTRACT AWARD – COMMUNITY CENTER EMERGENCY GENERATOR

WHEREAS, a Request for Proposals to furnish and install a permanent 750kW emergency generator at the James City/Williamsburg Community Center was publicly advertised and staff reviewed proposals from five firms interested in performing work; and

WHEREAS, upon evaluating the proposals, staff determined that Carter Machinery, Inc. was most fully qualified and submitted the proposal that best suited the County's needs as presented in the Request for Proposals.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the contract in the amount of \$250,000 for this project to Carter Machinery, Inc.

12. Award of Bid - Fire Stations 3 and 4 Renovations - \$116,520

RESOLUTION

AWARD OF BID - FIRE STATIONS 3 AND 4 RENOVATIONS - \$116,520

WHEREAS, the plans and specifications have been advertised and competitively bid for renovations to Fire Stations 3 and 4; and

WHEREAS, three firms submitted bids, with David A. Nice Builders, Inc. submitting the lowest responsive, and responsible bid at \$116, 520; and

WHEREAS, budgeted funds are available and David A. Nice Builders, Inc. has been determined to be capable of performing the work associated with the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract to David A. Nice Builders, Inc. in the amount of \$116,520.

13. Accelerated Implementation - Two New Financial and Management Services Positions Approved in the FY 2008 Budget

RESOLUTION

ACCELERATED IMPLEMENTATION -

TWO NEW FINANCIAL AND MANAGEMENT SERVICES POSITIONS

APPROVED IN FY 2008 BUDGET

- WHEREAS, the Board of Supervisors has approved a budget for the fiscal year beginning on July 1, 2007, and within that budget two new permanent full-time positions, a GIS Technician and a Web Interactive Designer; and
- WHEREAS, staff has requested that the Board authorize the accelerated implementation of those two positions with the plan that the employees might be hired before July 1, 2007; and
- WHEREAS, should the Board authorize these additional positions in May 2007, no adjustment to the adopted budget for the current fiscal year is necessary.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accelerates the effective date of the Board's previous approval of two permanent full-time positions, a GIS Technician and Web Interactive Designer, from July 1, 2007 to May 9, 2007.

14. Unnamed Shared Driveway Change to "Hollow Pointe Drive"

RESOLUTION

UNNAMED SHARED DRIVEWAY CHANGE TO "HOLLOW POINTE DRIVE"

- WHEREAS, Ms. Jackie Falls owns a parcel of property in James City County located at 4939 Fenton Mill Road and further identified as Parcel No. (3-1) on James City County Real Estate Tax Map No. (24-2) (the "Property"); and
- WHEREAS, the Property, along with five other parcels, accesses Fenton Mill Road via an unnamed shared driveway (the "Shared Driveway"); and
- WHEREAS, Section 19-54(b) of the James City County Subdivision Ordinance provides for street names to be changed upon approval by the Board of Supervisors; and
- WHEREAS, on behalf of herself and the other five property owners along the Shared Driveway, Ms. Falls has requested that the Board of Supervisors name the Shared Driveway, "Hollow Pointe Drive"; and
- WHEREAS, the proposed street name has been discussed with the Fire Department, Police Department, Planning Division, Williamsburg Post Office, and Real Estate Assessment and these agencies have found it acceptable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve naming the shared driveway located adjacent to Parcel Nos. (3-1), (2-7), (3-3), (3-2), and (2-6) on James City County Real Estate Tax Map No. (24-2) to "Hollow Pointe Drive."

15. Appointment - 2007 County Fair Committee

RESOLUTION

APPOINTMENT - 2007 COUNTY FAIR COMMITTEE

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

WHEREAS, the 2007 County Fair will be held Friday, June 22, and Saturday, June 23.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2007 James City County Fair Committee for the term of June 22, 2007, through June 23, 2007.

16. Crossroads Community Youth Home - Land Lease and Funding Support

RESOLUTION

CROSSROADS COMMUNITY YOUTH HOME –

LAND LEASE AND FUNDING SUPPORT

WHEREAS, the Crossroads Community Youth Home is a residential group home which is owned by the Counties of York, James City and Gloucester and the City of Williamsburg as tenants-in-common; and

WHEREAS, that facility is greatly in need of replacement and the owner localities have developed plans for an 18 bed co-ed facility which would serve as many as 48 youth per year, giving shelter, counseling, and life skills as a result of the implementation of this project and have worked to secure approvals and to undertake the necessary financial planning to achieve this objective; and

WHEREAS, the Virginia General Assembly has approved an exception by name for this project from the moratorium on construction of residential facilities for juveniles and has subsequently approved the state share of funding for this project; and

WHEREAS, the four local government owners have for several years banked funds toward their shares; various grants have been received or submitted to further defray local costs and proceeds from the sale of the existing facility would be applied toward the construction costs, with the balance of those costs to be shared by local government owners according to population percentages; and

WHEREAS, in 2005, in order to make available a site for planning and approvals for the construction of a new facility and for pursuit of the State share of funding, the City of Williamsburg made available three acres located on Mooretown Road in the County of York and offered the

owner localities a long-term lease agreement for \$180,000 with 50 percent to be borne by the Commonwealth; and

WHEREAS, at that time the land lease agreement was reviewed and approved as to form by the local government attorneys of each of the owner localities and;

WHEREAS, it is also necessary to make arrangements for the sale of the existing facility in anticipation that the proceeds will applied to the costs of construction: and

WHEREAS, construction bids have been solicited and received, and determined that this project is financially viable.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby directed and authorized to execute a land lease agreement with the City of Williamsburg, related contracts, or other documents, subject to approval as to form by the County Attorney.

BE IT STILL FURTHER RESOLVED that staff are hereby directed to identify a suitable buyer and to prepare for the Board's consideration and approval all details of a proposed sale of the existing facility.

G. PUBLIC HEARINGS

1. Temporary Classroom Trailers (continued from April 24, 2007)

- a. SUP-06-07. Lafayette High School Temporary Classroom Trailers
- b. SUP-07-07. Jamestown High School Temporary Classroom Trailers
- c. SUP-08-07. D. J. Montague Elementary School Temporary Classroom Trailers
- d. SUP-09-07. Clara Byrd Baker Elementary School Temporary Classroom Trailer
- e. SUP-10-07. Rawls Byrd Elementary School Temporary Classroom Trailer
- f. SUP-11-07. Stonehouse Elementary School Temporary Classroom Trailers

Mr. Jose Ribeiro, Planner, stated Mr. Bruce Abbott, on behalf of the Williamsburg-James City County Public Schools (WJCC Schools), has applied for six Special Use Permits (SUPs) to extend the expiration date for a total of 22 existing classroom trailers located at Lafayette and Jamestown High Schools, D. J. Montague, Clara Byrd Baker, Rawls Byrd, and Stonehouse Elementary Schools. Additionally, a total of ten existing classroom trailers are scheduled to be removed from Lafayette High School, D. J. Montague, Clara Byrd Baker, and Stonehouse Elementary Schools by July 2007. Table 1 below summarizes the overall number of existing classroom trailers and trailers to be removed from the schools as indicated by these six SUP applications.

Staff found the proposals, with the attached conditions, to be compatible with surrounding land uses and the Comprehensive Plan.

Staff recommended the James City County Board of Supervisors approve each of these SUP applications with the conditions listed in the resolution.

Mr. McGlennon noted that Dr. Robert Becker from WJCC Schools was present.

Mr. Icenhour asked if the trailers for the Center for Educational Opportunities (CEO) would come forward for a different SUP when plans for the program were finalized.

Mr. Ribeiro stated that he was unaware what would happen with the trailers, but the SUP conditions

coincided with what was planned for the CEO program.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Icenhour thanked Dr. Becker for his help with this matter. He commented that he had spoken with members of the School Board regarding efficient use of space inside the schools and noted that an important factor was to reevaluate the direction of the programs in the trailers, which was the responsibility of the School Board. He commented that trailers were a temporary solution and should be identified for a specific use until the needs could be met. He said he felt that there should be an initiative immediately to address the school budget for the upcoming year.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw commented that this issue was being addressed as a land use case, but the Board would like to work with the School Board to take a look at Pre-K and make a plan for the future. He stated as a School Liaison Committee member, he would strive to look into these issues promptly.

Mr. Harrison stated that building and program designs need to be addressed along with new school needs in order to eliminate the need for temporary classroom trailers.

Mr. McGlennon state that as a School Liaison Committee member he aimed to make the community feel confident that these issues would be addressed.

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

RESOLUTION

CASE NO. SUP-06-07. LAFAYETTE HIGH SCHOOL

CASE NO. SUP-07-07. JAMESTOWN HIGH SCHOOL

CASE NO. SUP-08-07. D. J. MONTAGUE ELEMENTARY SCHOOL

CASE NO. SUP-09-07. CLARA BYRD BAKER ELEMENTARY SCHOOL

CASE NO. SUP-10-07. RAWLS BYRD ELEMENTARY SCHOOL

CASE NO. SUP-11-07. STONEHOUSE ELEMENTARY SCHOOL

TEMPORARY CLASSROOM TRAILERS

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

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

WHEREAS, the Williamsburg-James City County School Board has applied for an SUP to extend the permit period for four existing temporary classroom trailers at Lafayette High School on property owned and developed by the applicant located at 4460 Longhill Road, and further identified as Parcel No. (1-1) on James City County Tax Map No. (32-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a SUP to extend the permit period for two existing temporary classroom trailers at Jamestown High School on property owned and developed by the applicant located at 3751 John Tyler Highway, and further identified as Parcel No. (1-2D) on James City County Tax Map No. (46-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a SUP to extend the permit period for three existing temporary classroom trailers at D. J. Montague Elementary School on property owned and developed by the applicant located at 5380 Centerville Road, and further identified as Parcel No. (1-49) on James City County Tax Map No. (31-3); and

WHEREAS, the Williamsburg-James City County School Board has applied for a SUP to extend the permit period for three existing temporary classroom trailers at Clara Byrd Baker Elementary School on property owned and developed by the applicant located at 3131 Ironbound Road and further identified as Parcel No. (1-58) on James City County Tax Map No. (47-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a SUP to extend the permit period for one existing temporary classroom trailer at Rawls Byrd Elementary School on property owned and developed by the applicant located at 112 Laurel Lane, and further identified as Parcel No. (6-171A) on James City County Tax Map No. (48-1); and

WHEREAS, the Williamsburg-James City County School Board has applied for a SUP to extend the permit period for five existing temporary classroom trailers at Stonehouse Elementary School on property owned and developed by the applicant located at 3651 Rochambeau Drive and further identified as Parcel No. (1-20) on James City County Tax Map No. (13-1).

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

1. The conditions listed below replace and supersede the conditions of approval for the following previously approved temporary classroom trailers SUPs: SUP-03-04, SUP-04-04, SUP-06-04, SUP-07-04, SUP-08-04, SUP-15-04, SUP-08-05, SUP-09-05, SUP-11-5, SUP-12-05, SUP-13-05, SUP-06-06, SUP-07-06, SUP-08-06, SUP-09-06, SUP-11-06, and SUP-12-06.
2. At the Lafayette High School site two classroom trailers shall have permits extended until July 1, 2008, two classroom trailers shall have permits extended until July 1, 2009, and five classroom trailers shall have permits valid until July 1, 2007.
3. At the Jamestown High School site two classroom trailers shall have permits extended until July 1, 2008, and four classroom trailers shall have their permits valid until July 1, 2007.
4. At the D. J. Montague Elementary School site three classroom trailers shall have permits extended until July 1, 2009, and two classroom trailers shall have permits valid until July 1, 2007.

5. At the Clara Byrd Baker Elementary School site three classroom trailers shall have permits extended until July 1, 2009, and two classroom trailers shall have permits valid until July 1, 2007.
6. At the Rawls Byrd Elementary School site one classroom trailer shall have a permit extended until July 1, 2009.
7. At the Stonehouse Elementary School site five classroom trailers shall have permits extended until July 1, 2009, and one classroom trailer shall have a permit valid until July 1, 2007.
8. These SUPs are not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. Z-8-06/SUP-36-06/MP-9-06. Williamsburg Pottery Factory

Mr. Jason Purse, Planner, stated Mr. Vernon Geddy, III, has applied on behalf of Williamsburg Pottery Factory, Inc., to rezone an 18.86-acre parcel located at 6692 Richmond Road from M-1, Limited Business Industrial, and A-1, General Agricultural, to M-1, Limited Business Industrial, with proffers, in addition to a commercial SUP. The rezoning proposes redevelopment of the existing property to include 161,000 square feet for a new retail shopping center; there is currently 173,014 square feet of retail development located on the site. The property is also known as Parcel No. (1-24) on the James City County Real Estate Tax Map No. (24-3). Mr. Purse stated the site is shown as Mixed-Use, Lightfoot Area on the 2003 Comprehensive Plan Land Use Map.

Regarding the redevelopment project and the design limitations of the parcel shape and size, staff feels that the applicant is providing the best overall design given the type of uses and intensity. The project also is a significant visual improvement over existing site conditions.

At its meeting on April 4, 2007, the Planning Commission voted 7-0 to recommend approval of the application.

Staff recommended the Board of Supervisors approve the Rezoning and SUP applications with the attached proffers and condition.

Mr. Icenhour asked about the discrepancy on the parking spaces, as the applicant has provided the number of spaces required for an outlet mall, which was significantly more than what was required for a planned shopping center.

Mr. Purse stated the calculations for an outlet mall and general retail are the same, but the number for a planned shopping center was less.

Mr. Icenhour asked if the development should be classified as an outlet mall.

Mr. Purse stated according to the zoning ordinance definition, the development was considered a planned shopping center.

Mr. Icenhour asked what tenants would be in the shopping center.

Mr. Purse stated that he was unaware at this time.

Mr. Icenhour asked how the staff determines the difference between an outlet mall and planned shopping center.

Mr. Purse stated these were defined in the zoning ordinance.

Mr. Icenhour asked the difference between the two designations.

Mr. Purse stated the definition of a planned shopping center was two or more stores using a shared parking lot and required four parking spaces per thousand square feet. He stated an outlet mall required more parking - 2.5 spaces per thousand square feet. He explained that the designation of a facility as a planned shopping center versus an outlet mall was the Zoning Administrator's determination.

Mr. McGlennon asked the implications of the miscalculation for parking.

Mr. Purse stated the plan provided for one space per 100 square feet and the applicant has not changed the number of parking spaces.

Mr. McGlennon asked if the development required more than the requested amount of parking.

Mr. Purse stated the applicant could reduce the parking.

Mr. McGlennon asked what flexibility the applicant has to change this and the oversight the County has over these changes.

Mr. Purse stated staff required at least one parking space per 250 square feet of retail space.

Mr. McGlennon stated if they reduced parking spaces, they could increase buffer along Route 60.

Mr. Purse stated that was correct, but that would need to be discussed with the applicant. He stated this could be suggested by the Board.

Mr. McGlennon asked if there would be a connection between this shopping center and the older Pottery property.

Mr. Purse responded that there would be a connection.

Mr. McGlennon stated this would not be a connection through the signalized intersection.

Mr. Purse stated this was correct. He noted that the applicant was required to have a minimum buffer and if they want to increase the buffer, it could be done at the Development Review Committee (DRC) level.

Mr. McGlennon stated the proposed buffer was 37 feet in width on average, which was currently roughly nine feet – a substantial improvement, though it does not meet the 50-foot buffer requirement.

Mr. Bradshaw stated that the buffer would be more than previously developed properties on the west side of Route 60.

Mr. Bradshaw asked for confirmation that there was nothing in the ordinance that provided a maximum number of parking spaces and if the applicant chose to reduce parking, this could possibly reduce impervious cover.

Mr. Purse stated this was correct.

Mr. McGlennon opened the public hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, gave a brief overview of the proposed redevelopment and highlighted the efforts by the applicant to increase the current Community Character Corridor buffer, mitigate traffic, stormwater management on the property and LID methods, and maintenance of landscaping.

Mr. Bradshaw asked Mr. Geddy if the number used for parking spaces was so large because of requirement or because of need.

Mr. Geddy stated that the applicant wanted to have enough parking but keep impervious cover low. He stated that five spaces per 1,000 square feet was a good balance and stated that due to uncertainties, the applicant was happy to work with staff and the DRC to modify this number as necessary.

Mr. Bradshaw stated he was happy with the idea of balancing the parking needs versus decreased impervious cover and buffer enhancement.

Mr. McGlennon stated that in this case there was additional parking within close proximity within the same property.

Mr. Icenhour asked if the anchor store being a food store was a driving need for parking.

Mr. Geddy stated this was one reason, but also it was the importance of the location of the spaces that presented the most need as spaces designated for the larger shopping areas were over 1,000 feet away in some instances.

Mr. Icenhour stated he understood that and asked about the importance of parking for the food store.

Mr. Rich Costello, AES Consulting Engineers, stated the traditional need for parking at a food store was usually about five spaces per 1,000 square feet, but in a shopping center this number was not as critical. He explained that the applicant knew that there would be a restaurant and 25 percent of the retail space would be outlet stores which require more parking. He stated that historically the Pottery has needed five spaces per 1,000 square feet though it has only been required to have four spaces per 1,000 square feet.

Mr. Icenhour stated the factor that dissimilates a planned shopping center from an outlet mall would be a food store and efforts should be made to keep impervious surface to a minimum and meet the needs to serve the retail stores.

Mr. Icenhour asked about the timeframe for moving an existing traffic signal up one position to serve the shopping center.

Mr. Geddy stated the part of the property that would be served by the relocated traffic light would be developed last.

Mr. Icenhour asked the sequence of installing the traffic signals.

Mr. Geddy stated the shared traffic signal with Colonial Heritage depended on VDOT warrant. He noted that a portion of the project would be developed first and the signal would come about first. He stated the other traffic light would be moved during Phase II of the development.

Mr. Icenhour asked if the first phase would be open when the second light had not moved yet.

Mr. Geddy stated this was correct.

Mr. Icenhour asked if there was a need for two traffic signals at build out.

Mr. Geddy stated that due to other safety reasons there was a desire to move the second traffic signal.

Mr. McGlennon asked if the utilities were all underground as shown in the renderings.

Mr. Costello stated he was reasonably sure that the power lines would come behind the shopping center underground, and then go back to the street with two lines in the last section. He stated that it was more likely for new power lines to be run underground.

Mr. McGlennon stated this was disappointing and asked if there was objection to underground lines from the applicant.

Mr. Costello stated he was not aware of any objection, aside from easement issues due to high voltage and inability to landscape over the power lines.

2. Mr. Tom Wishart, 4759 Winterberry Court, stated he lived in Colonial Heritage across Route 60 from the Pottery Factory, and the residents had invited Mr. Geddy to the facility to meet with the homeowners and show the project. He stated the 41 individuals who participated liked and approved the project, none of the 400 residents objected to the project, and all of those he has communicated with have indicated they were in favor of this redevelopment. He recommended approval by the Board.

3. Mr. Jack Fraley, Planning Commissioner, 104 Thorpe's Parish, complimented the applicant's responsiveness to requests and commented that the Planning Commission aggressively urges redevelopment projects to increase a buffer. He stated 37 feet for the buffer width was an average number and at some points it was only 20 feet wide. He stated the Planning Commission was concerned with impervious cover and noted that the soils were not suitable for pervious pavers. He stated the parking provided was in excess of the higher requirement and if the food store was an issue, there was a recommendation to reduce parking at the opposite end to reduce impervious cover and increase buffer. He stated that he urged the Board to encourage that. He commented on the transportation study and stated staff has brought in-house expertise into larger projects.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Goodson made a motion to adopt the SUP resolution and complimented the applicant on the redevelopment of this area and increasing the buffer, even though part of the land and investment was being given up for this concern. He stated additional redevelopments along Route 60 would come forward and if each of those projects was held to the buffer requirement, those redevelopments may not take place. He thanked the applicant for working with staff and the Planning Commission to improve the project.

Mr. Bradshaw made a motion to adopt the rezoning and master plan resolutions. Mr. Bradshaw thanked the applicant for redeveloping the area and improving the corridor along Route 60.

Mr. Icenhour stated he felt the applicant has been responsive to staff and the neighboring properties. He stated this was an improvement and the process for redevelopments will become integral to the quality of developments along Route 60.

Mr. Harrison thanked the applicant for reinvesting in the area.

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

RESOLUTION

CASE NO. SUP-36-06. WILLIAMSBURG POTTERY FACTORY

- 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. Vernon Geddy has applied for an SUP to allow for the development of a shopping center with commercial square footage over 10,000 square feet, as well as a traffic generation rate which is over 100 peak-hour trips; and
- WHEREAS, the proposed project is shown on a Master Plan prepared by AES, entitled "The Promenade at the Williamsburg Pottery," dated March 19, 2007; and
- WHEREAS, the property is located on land zoned M-1, Limited Business Industrial, and can be further identified as James City County Real Estate Tax Map No. 2430100024; and
- WHEREAS, the Planning Commission, following its public hearing on April 4, 2007, voted 7 to 0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-36-06 as described herein with the following conditions:

1. If the Virginia Department of Transportation warrants the need for a traffic signal at the Colonial Heritage crossover, as shown on the Binding Master Plan, the warranted traffic signal shall be installed prior to the issuance of certificates of occupancy for 120,000 square feet of buildings located on the property, as shown on the Binding Master Plan.

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

RESOLUTION

CASE NO. Z-08-06/MP-9-06. WILLIAMSBURG POTTERY FACTORY

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a public hearing scheduled on Zoning Case No. Z-08-06/MP-9-06 for rezoning 18.86 acres from M-1, Limited Business Industrial, and A-1, General Agricultural, to M-1, Limited Business Industrial, with proffers; and
- WHEREAS, the proposed project is shown on a Master Plan prepared by AES, entitled "The Promenade at the Williamsburg Pottery," dated March 19, 2007; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on April 4, 2007, recommended approval, by a vote of 7 to 0; and

WHEREAS, the property is located at 6692 Richmond Road and can be further identified as James City County Real Estate Tax Map No. 2430100024.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-08-06/MP-9-06 and accept the voluntary proffers.

3. Case No. Z-1-07. Sheldon Rezoning

Mr. Luke Vinciguerra, Planner, stated Mr. Howard Sheldon is requesting a rezoning of his property from B-1, General Business, to R-1, Limited Residential, to build a single-family house on the lot for his son. The property is located at 3425 Old Stage Road and can be identified on James City County Real Estate Tax Map No. (12-2) as Parcel No. (1-11B), consisting of 1.29 acres. The current zoning is B-1, General Business, and the property is located inside the PSA, designated as Low-Density Residential on the Comprehensive Plan. Adjacent parcels in this area of Old Stage Road are also zoned General Business and many have single-family detached houses on them. The area is designated low-density residential on the Comprehensive Plan and the current conditions on the ground reflect the designation, though the current zoning doesn't reflect it. Mr. Sheldon applied for the rezoning after he was unable to receive a mortgage for a new house because of the current zoning. Single-family detached housing is not a permitted use in B-1.

Staff found the proposal to be consistent with the Land Use policies of the Comprehensive Plan and the Comprehensive Plan Land Use Map designation.

Staff recommended approval of the application.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. McGlennon stated this was an unusual situation where the property is zoned B-1 but there was single-family detached housing on the adjacent properties and noted that staff has spoken with property owners to rezone the surrounding areas.

Mr. Vinciguerra stated this was correct and noted that some property owners have expressed interest in rezoning.

Mr. McGlennon asked if the surrounding property owners were contacted regarding rezoning their properties.

Mr. Vinciguerra said he contacted all those in the area via letter or telephone call.

Mr. Icenhour asked if the property on the other surrounding properties had houses.

Mr. Vinciguerra said that several others had houses on them, including the property on one side of the applicant's property.

Mr. Bradshaw made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. Z-1-07. SHELDON REZONING

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-1-07; and

WHEREAS, Mr. Howard Sheldon has applied to rezone his property located at 3425 Old Stage Road, further identified as James City County Real Estate Tax Map No. 122010011B (the "Property") from B-1, General Business, to R-1, Limited Residential, so that he may build a single-family house on the Property; and

WHEREAS, the Property is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on April 4, 2007, the Planning Commission recommended approval of the application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-1-07 as described herein.

4. Case No. AFD-2-86-2. Croaker Agricultural and Forestal District - Ballard Addition

Mr. Jason Purse, Planner, stated Mr. Thomas Ballard has applied to add 21.13 acres in two land parcels to the Croaker Agricultural and Forestal District. The parcels are located at 5325 and 5375 Riverview Road, further identified on James City County Real Estate Tax Map as Parcel Nos.: 1530100032 and 1530100035a. He stated the land was zoned General Agricultural and designated by the Comprehensive Plan as Rural Lands. Mr. Purse stated the two parcels were surrounded on the west and south by other parcels located in the Croaker Agricultural and Forestal District (AFD).

Staff found these properties were added to the Croaker AFD in 1993; however, the properties were not renewed as a part of the 1994 Croaker AFD District renewal process due to a clerical error made by the staff at that time. The owner of the properties wishes to include these parcels in the AFD program, as he desires to leave the properties undeveloped and benefit from the tax breaks he receives as a part of the land use taxation. Mr. Ballard currently has another property totaling 53.170 acres enrolled in the Croaker AFD.

At its March 19, 2007, meeting, the AFD Advisory Committee concurred with staff and voted 8-0 to recommend approval of the Croaker AFD addition.

On April 4, 2007, the Planning Commission concurred with staff and voted 7-0 to recommend approval of the addition to the Croaker AFD.

Staff recommended approval of the ordinance.

Mr. Bradshaw asked if the property owner would suffer rollback taxes due to the time it was not included in the AFD.

Mr. Purse stated this was correct.

Mr. McGlennon stated that since the parcel was not part of the AFD, it was taxed during that time.

Mr. Purse stated the Commissioner of Revenue's Office and staff would make sure that the applicant would not suffer due to the staff oversight.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Bradshaw made a motion to approve the ordinance.

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

5. ZO-1-07. Mixed Use District Amendment

Ms. Ellen Cook, Senior Planner, stated staff has proposed an amendment to the Mixed Use District section of the Zoning Ordinance which requires all Mixed Use properties to apply for a setback waiver and stated that the Planning Commission has recommended that Mixed Use-zoned districts that are not designated as Mixed Use on the Comp Plan, would be under increased scrutiny by the planning director. She noted that other amendments were to add several descriptive references within sections. Ms. Cook explained that in the proposed ordinance, the Planning Commission remained the body of approval for these applications, and right-of-way was required along external streets and arterial streets internally. Ms. Cook stated the Planning Commission recommended approval of the ordinance. Staff recommended approval of the amended ordinance that changes “planning director or designee” to read “planning director” on page three of the ordinance. Ms. Cook stated there was also an alternate resolution designating the Board as the principle body of approval.

Mr. Goodson asked that this amendment would bring all MU zoned land under same rules for setbacks.

Ms. Cook stated that this amendment allowed for all MU zoned areas have the opportunity to request a setback regardless of Comprehensive Plan designation.

Mr. Goodson stated this would not increase density, but would clarify the ordinance.

Ms. Cook stated this was correct.

Mr. Goodson stated the Board would approve that for any rezoning and where the Comprehensive Plan allows for Mixed Use, and this was currently reviewed by the DRC, but staff recommended the Planning Commission review the requests.

Ms. Cook stated the DRC would review the development plans and report its recommendation to the Planning Commission.

Mr. McGlennon stated that this was the current practice.

Ms. Cook stated this was correct.

Mr. Icenhour asked when the original ordinance was adopted.

Mr. Horne stated this was adopted prior to 1994.

Mr. Icenhour asked the rationale behind how the ordinance was previously written.

Ms. Cook stated there may have been a distinction put in place in instances when there were not adjoining properties that were designated as Mixed Use.

Mr. Horne clarified that Ms. Cook has interpreted the language of the ordinance rather than a rationale that may have come into play.

Mr. Icenhour stated he was uncomfortable with not knowing why the ordinance was previously written in this way relating to setbacks.

Mr. Icenhour stated New Town was the only experience where the County has had applications for setback waivers. He asked for examples of where setback waivers were requested so he could evaluate the impact. He commented that in a Mixed Use zone there was a set density that may vary according to developable land, and waivers to setbacks may have an effect on localized density.

Mr. Harrison stated there was a setback waiver granted for Ironbound Village.

Mr. Sowers stated there was also a pending request from the candle factory.

Mr. Horne stated virtually all new Mixed Use districts would go through the rezoning process and at that time issues could be addressed relating to net density area, including streetscape quality, building height, or setbacks in relation to potential density problems.

Mr. McGlennon stated this was a relatively new issue and stated the ordinance amendment would revise some inflexibility in the ordinance. He stated the overall density of the parcel would be controlled by rezoning of the parcel, and density variation within the parcel was desirable. Mr. McGlennon expressed his concern for maintaining all the proper values designated on master plans that come forward and stressed careful consideration, explicit directives, and scrutiny of each project during the rezoning stage with more explicitness and need to follow through on requirements. Mr. McGlennon stated the ordinance amendment was intended to address predictable circumstances and make the process move more smoothly.

Mr. Goodson asked that Mr. Fraley share the comments of the Planning Commission.

Mr. Fraley stated there was no change in the process, which required an applicant to make a request for a setback modification, and then the request would go to the Planning Director which evaluates the request based on three criteria for mixed use districts in mixed use designated areas according to the Comprehensive Plan. Mr. Fraley explained that if the request met these three criteria, it would go to the DRC for action, which would then make a recommendation to the Planning Commission. Mr. Fraley said with the ordinance amendments, the process remains the same, adding two more criteria that a request for modification must meet for mixed use districts outside mixed use designated areas, in order to address a need to fit in with the surrounding community. Mr. Fraley stated the Policy Committee recommended approval by a vote of 3-1 and the Planning Commission recommended approval by a vote of 4-3. He explained that one Planning Commissioner had concerns about why the ordinance was written the way it was, one Planning Commissioner did not want to change the ordinance except based on the Comprehensive Plan, and another Planning Commissioner had undisclosed reasons for a negative vote.

Mr. Icenhour stated he asked staff to prepare an alternative resolution which would designate the Board as the primary body responsible for setback modifications and asked for Board input.

Mr. Goodson stated the setbacks come into play during the design part of the project and may slow down the process by weeks during the approval process.

Mr. Horne stated this kind of request would not be a public hearing, but rather it would be a consideration.

Mr. Goodson asked if there was required notification for this consideration.

Mr. Horne stated he did not believe so.

Mr. Goodson stated he was not an expert on design and stated the Planning Commission usually handles these issues.

Mr. McGlennon opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, stated he felt this was in relation to Mr. Brown's property on Jamestown Road and said density should be based on developable property.

Mr. McGlennon stated this matter had to do with setbacks for buildings in mixed use districts.

As no one else wished to speak to this matter.

Mr. Goodson stated that this would decrease the process.

Mr. McGlennon stated this does not pose any serious concern, but he was willing to think about it further and asked if there was a problem with deferring the consideration of the ordinance. He said he was not willing to wait for the Comprehensive Plan process to be completed for this ordinance to be modified. He noted that he was encouraged that people were looking into mixed use development more, and he wanted to make this an option that is available, but he did not believe that it would be detrimental to defer consideration.

Mr. Harrison said there was a future case where this ordinance would be applied.

Mr. Wanner stated the ordinance would be considered before that application came forward.

Mr. McGlennon stated he received information from the James City County Concerned Citizens dealing with the issue.

Mr. McGlennon closed the public hearing and deferred action on the ordinance until May 22, 2007.

Mr. Icenhour stated he would take the time to get a better history of the ordinance and the effects of the amendment.

Mr. Harrison stated he felt comfortable if the applications came back before the Board if there were drastic changes in the development plans.

6. An Ordinance To Amend And Reordain Chapter 2, Administration, of the Code of the County of James City, Virginia, by Amending Article II, Magisterial District, Election Districts and Election Precincts, by Amending Section 2-4, Election Precincts and Polling Places Established; and Section 2-
5, Election District Boundaries

Mr. Stan Gorrell, Chair of the Electoral Board, stated the Electoral Board recommended splitting the Stonehouse B and Powhatan B voting precincts to decrease crowding during voting at their respective polling places. He stated the Electoral Board met on April 17, 2007, and developed recommendations for the split. He indicated that the ordinance with changes effective August 15, 2007, needed to be forwarded to the Department of Justice. Mr. Gorrell stated there was a minimum of 60 days required for approval by the Department of Justice and there was a voter notification requirement with a minimum 15 days before the next general election. He stated the target date for voter notification by the General Registrar was September 1, 2007, 66 days prior to the next election. He said the Electoral Board has been planning for additional precincts, additional voting systems, and equipment for all voting precincts to be on board by the next election. Mr. Gorrell explained the split of the precincts: Powhatan B, originally 4,400 voters polling at the

Christian Life Center on Longhill Road was split, to have Powhatan B consist of 1,300 voters polling at the Christian Life Center and Powhatan D consisting of 3,100 voters polling at Warhill High School; and Stonehouse B, originally 4,900 registered voters polling at Norge Elementary School, was split to have Stonehouse B consist of 2,700 voters polling at Norge Elementary School, and Stonehouse C consisting of 2,200 voters polling at Stonehouse Elementary School.

Mr. Gorrell recommended approval of the ordinance.

Mr. Bradshaw asked that Mr. Gorrell outline the different ways the voters would be notified.

Mr. Gorrell stated new registration cards would be mailed out, TV ads would run, and there would be other various ways to notify voters.

Mr. Icenhour stated the difference in voter ratio of the split for Powhatan B was significant and asked if the facility would be able to handle the numbers. He asked what potential growth there was for each of the new precincts.

Mr. Gorrell stated the facility, Powhatan D, is basically built out, and when the new facilities come online next to Warhill High School, the Electoral Board wants to try to keep disruption to a minimum. He stated there was a need for redistricting by 2011, and with this split, voters would be accommodated without disruption of service.

Mr. Bradshaw stated this answered why a precinct was split rather than the entire district, as in a few years the entire district would be realigned.

Mr. Bradshaw asked that the map be updated to reflect the proper location of Stonehouse Elementary School.

Mr. Wanner stated Warhill High School is located on Opportunity Way, rather than Centerville Road.

Mr. McGlennon asked if there was discussion about relocating Powhatan B to Lafayette High School.

Mr. Gorrell stated that they left Lafayette High School in that precinct in case the polling place needed to be relocated to that site.

Mr. Bradshaw thanked Mr. Gorrell for the Electoral Board's efforts in improving the voting process.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Icenhour made a motion to approve the ordinance.

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

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on Route 60 buffers and inability to hear speakers at the podium.

Mr. McGlennon stated the acoustics would be examined prior to the next Board meeting.

Mr. Wanner noted there were hearing assistance devices available.

2. Mr. Fraley stated, in reference to Mr. Oyer's comment regarding buffers for developments on Route 60 East, the Planning Commission recommended approval of the development that removed the picnic tables from the buffer and increased landscaping and the buffer on the property. He noted that he was participating in a mapping project after writing an opinion article on the use of mapping for environmental efforts. He stated he was working with the Williamsburg Land Conservancy to develop a layered map for various land use and environmental information about areas of the County.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner noted there was a very successful visit by Queen Elizabeth II to James City County on May 4, 2007, and thanked the Jamestown-Yorktown Foundation and its Executive Director Phil Emerson who provided an opportunity for citizens and staff to view the Queen during her visit to Jamestown Settlement. Mr. Wanner noted that the upcoming weekend, May 11-13, 2007, was Anniversary Weekend, and the County has undergone 18 months of planning and six years of beautification and improvements to enhance this experience for citizens and visitors. He stated the President has accepted an invitation to attend on Sunday, May 13, 2007, and there were still opportunities for citizens to get tickets to the venue. Mr. Wanner indicated there was no parking on-site and each attendee who drives a car to the event must park at one of the satellite parking locations and take a shuttle to the venues. He stated that though citizens can walk or bike to the venues, a ticket is still needed for entry. He clarified that a single ticket admits a guest to Jamestown Settlement, Historic Jamestowne, and Anniversary Park.

Mr. Wanner stated that following a closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Thomas Nelson Community College Board and the Williamsburg Regional Library Board of Trustees; and Section 2.2-3711 (A)(3) of the Code of Virginia for the consideration of the acquisition of a parcel of property for public use, the Board would adjourn to 4 p.m. on Tuesday, May 22, 2007, for a Work Session followed by a regular meeting.

J. BOARD REQUESTS AND DIRECTIVES - None

K. CLOSED SESSION

At 9:14 p.m., Mr. Bradshaw made a motion to go into closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Thomas Nelson Community College Board and the Williamsburg Regional Library Board of Trustees; and Section 2.2-3711 (A)(3) of the Code of Virginia for the consideration of the acquisition of a parcel of property for public use.

At 9:35 p.m., Mr. McGlennon reconvened the Board into open session.

Mr. Bradshaw made a motion to adopt the closed session resolution.

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

Mr. Bradshaw made a motion to appoint Sue Mellen to the Williamsburg Regional Library Board of Trustees effective July 1, 2007, for a four-year term to expire on June 30, 2011.

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

No action was taken on the consideration of an appointment to the Thomas Nelson Community College Board.

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

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

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

At 9:36 p.m., Mr. McGlennon adjourned the Board until 4 p.m. on May 22, 2007.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: May 22, 2007

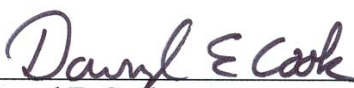
TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director

SUBJECT: Dedication of a Street in Grove Hill Estates, Section Three

Attached is a resolution requesting acceptance of a certain street in Grove Hill Estates, Section Three, into the State Secondary Highway System. This street has been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.



Darryl E. Cook

DEC/gb
GroveHill.mem

Attachments

RESOLUTION

DEDICATION OF A STREET IN GROVE HILL ESTATES, SECTION THREE

WHEREAS, the street described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on the 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, 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 street 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.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

GroveHilll.res

In the County of James City

By resolution of the governing body adopted May 22, 2007

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

A Copy Testee Signed (County Official): _____

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

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Grove Hill Estates, Section Three

Type of Change: **Addition**

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

Reason for Change: **New subdivision street**
Pursuant to Code of Virginia **§33.1-229**

Route Number and/or Street Name

Matthew Court, State Route Number 1026

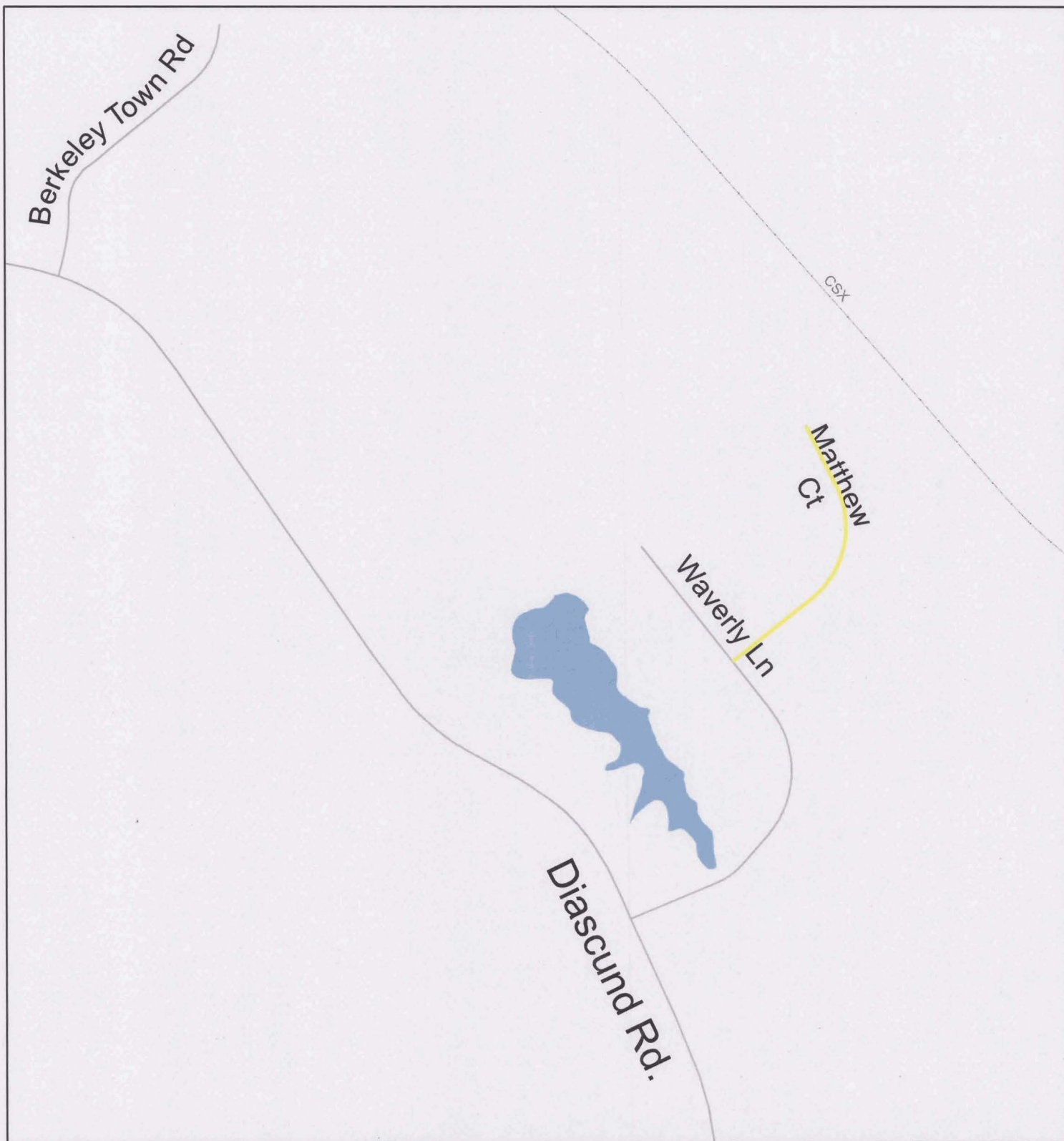
Description: **From:** Route 1025 (Waverly Lane)

To: Cul de sac

A distance of: 0.22 miles.

Right of Way Record: Filed on 6/29/2000 in the Land Records Office, with a width of 50 feet.

Recordation Reference: Doc. #000012642, Plat Book 77. Page 99



DEDICATION OF A STREET IN GROVE HILL ESTATES, SECTION THREE



Streets Being
Dedicated

1 inch equals 500 feet

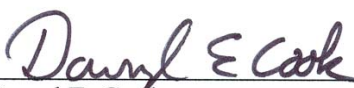


MEMORANDUM

DATE: May 22, 2007
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Streets in Scott's Pond, Section One - C

Attached is a resolution requesting acceptance of certain streets in Scott's Pond – Section One - C, into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.



Darryl E. Cook

DEC/gb
ScottsPond.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN SCOTT'S POND, SECTION ONE - C

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

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

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

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

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

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

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

ScottsPond.res

In the County of James City

By resolution of the governing body adopted May 22, 2007

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

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Scott's Pond, Section One-c

Type of Change: **Addition**

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

Reason for Change: **New subdivision street**

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

Street Name and/or Route Number

► **East Grace Court, State Route Number 1722**

Old Route Number: 0

- From: Route 1567 (Scott's Pond Drive)
To: Route 1723 (Staunton Court), a distance of: 0.08 miles.

Recordation Reference: Doc. #020023404, Plat Book 88, Page 1 & 2

► **East Grace Court, State Route Number 1722**

Old Route Number: 0

- From: Route 1723 (Staunton Court)
To: Cul de sac, a distance of: 0.04 miles.

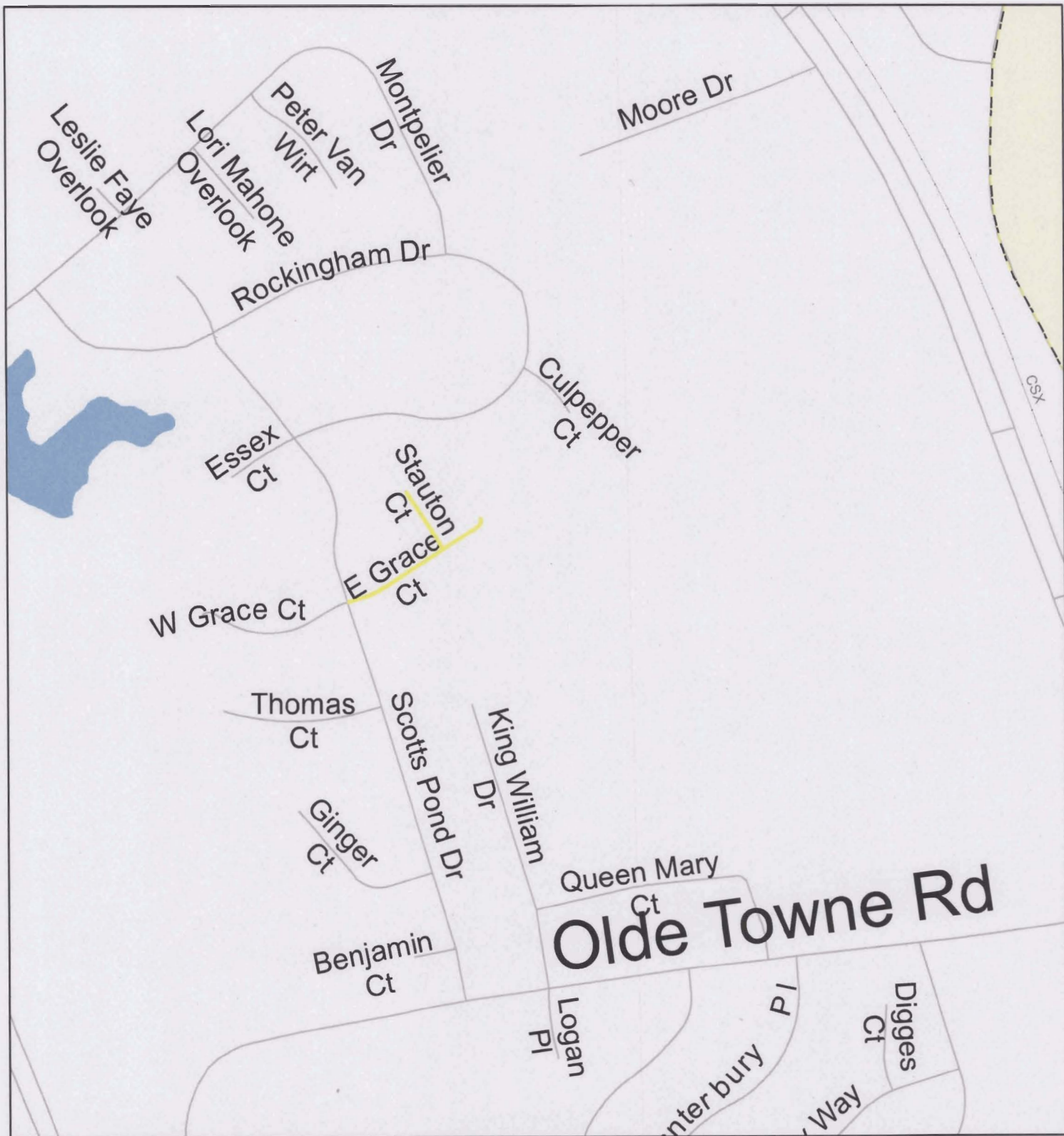
Recordation Reference: Doc. #020023404, Plat Book 88, Page 1 & 2

► **Staunton Court, State Route Number 1723**

Old Route Number: 0

- From: Route 1722 (East Grace Court)
To: Cul de sac, a distance of: 0.05 miles.

Recordation Reference: Doc. #020023404, Plat Book 88, Page 1 & 2



DEDICATION OF STREETS IN SCOTTS POND, SECTION ONE-C



Streets Being
Dedicated

1 inch equals 500 feet



MEMORANDUM

DATE: May 22, 2007
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Streets in Settler's Mill, Section 6

Attached is a resolution requesting acceptance of certain streets in Settler's Mill, Section 6, into the State Secondary Highway System. These streets have been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.



Darryl E. Cook

DEC/gb
SettlersMill.mem

Attachments

RESOLUTION

DEDICATION OF STREETS IN SETTLER'S MILL, SECTION 6

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.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

SettlersMill.res

In the County of James City

By resolution of the governing body adopted May 22, 2007

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

A Copy Testee Signed (County Official): _____

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

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Settlers Mill, Section 6

Type of Change: **Addition**

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

Reason for Change: **New subdivision street**

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

Route Number and/or Street Name

Mill Stream Way, State Route Number 1695

Description: **From:** Rt 1699 (Stone Path)

To: Rt 1687 (Laurel Keep)

A distance of: 0.08 miles.

Right of Way Record: Filed on 5/18/1999 in the Land Records Office, with a width of 50'.

Recordation Reference: Plat book 73, pages 13-15

Mill Stream Way, State Route Number 1695

Description: **From:** Rt 1687 (Laurel Keep)

To: Cul-de-sac

A distance of: 0.15 miles.

Right of Way Record: Filed on 5/18/1999 in the Land Records Office, with a width of 50'.

Recordation Reference: Plat book 73, pages 13-15

Stone Path, State Route Number 1699

Description: **From:** Rt 1695 (Mill Stream Way)

To: Cul-de-sac

A distance of: 0.07 miles.

Right of Way Record: Filed on 5/18/1999 in the Land Records Office, with a width of 50'.

Recordation Reference: Plat book 73, pages 13-15

Laurel Keep, State Route Number 1687

Description: **From:** Rt 1695 (Mill Stream Way)

To: Cul-de-sac

A distance of: 0.05 miles.

Right of Way Record: Filed on 5/18/1999 in the Land Records Office, with a width of 50'.

Recordation Reference: Plat book 73, pages 13-15

Report of Changes in the Secondary System of State Highways

Mill Stream Way, State Route Number 1695

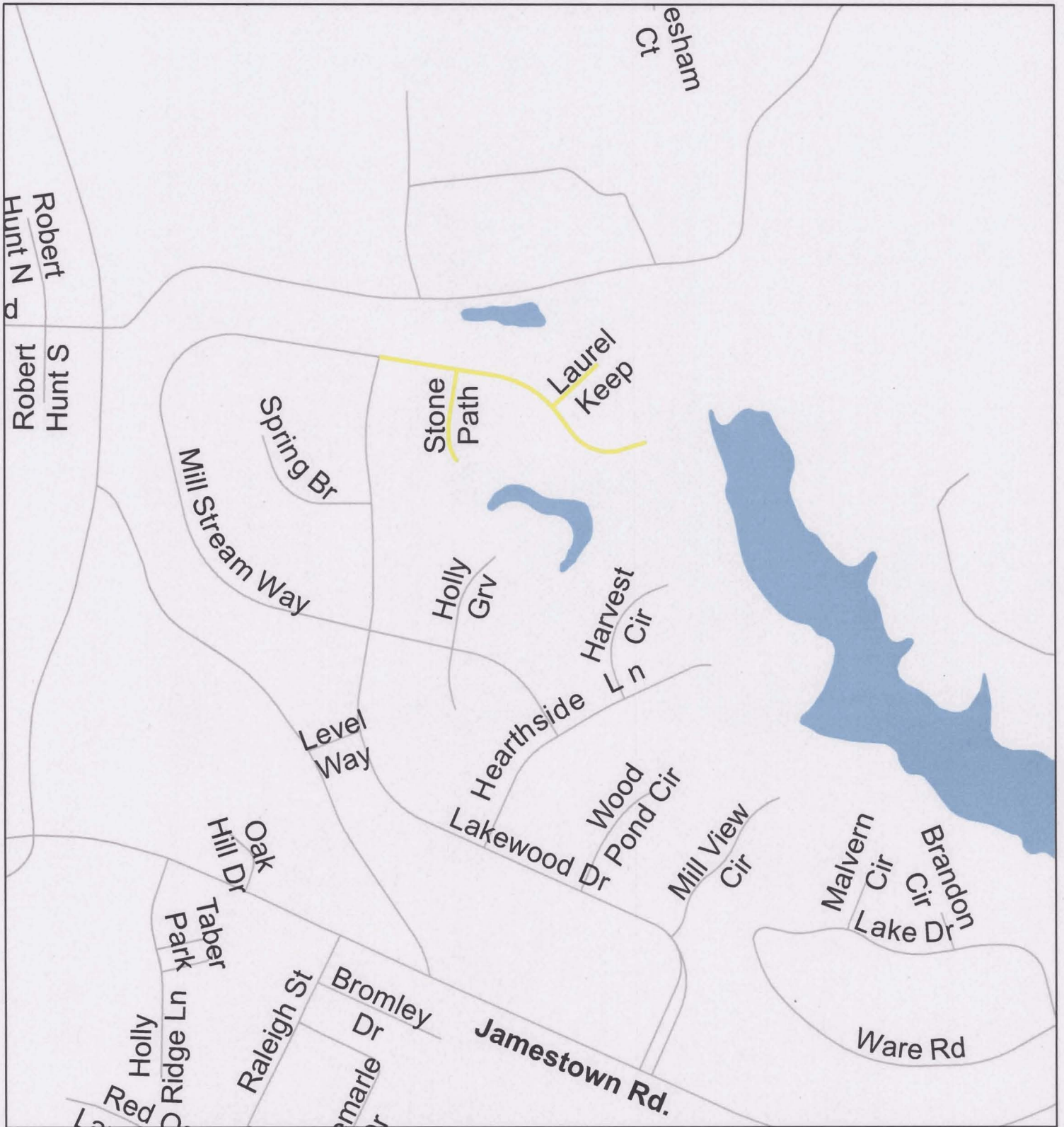
Description: **From:** Rt 1694 (Lakewood Drive)

To: Rt 1699 (Stone Path)

A distance of: 0.06 miles.

Right of Way Record: Filed on 5/18/1999 in the Land Records Office, with a width of 50'.

Recordation Reference: Plat book 73, pages 13-15



**DEDICATION OF STREETS IN
SETTLERS MILL, SECTION 6**



**Streets Being
Dedicated**

1 inch equals 500 feet



MEMORANDUM

DATE: May 22, 2007

TO: The Board of Supervisors

FROM: Grace A. Boone, General Services Coordinator

SUBJECT: Installation of "Watch for Children" Signs - Settler's Mill Subdivision

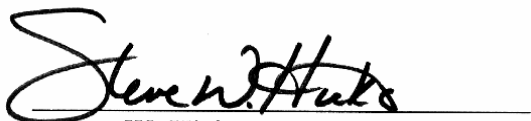
Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing them to take this action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

Residents of the Settler's Mill community have requested the Board of Supervisors seek approval for two "Watch for Children" signs. Staff recommends the signs be installed at the intersections of Level Way and Lakewood Drive, and Lakewood Drive and Mill Stream Way. The locations are shown on the attached map. The attached resolution requests VDOT install and maintain two "Watch for Children" signs at the intersections of Level Way and Lakewood Drive, and Lakewood Drive and Mill Stream Way.

Staff recommends adoption of the attached resolution.


Grace A. Boone

CONCUR:


Steven W. Hicks

GAB/gs
Settlersigns.mem

Attachments

RESOLUTION

INSTALLATION OF “WATCH FOR CHILDREN” SIGNS - SETTLER’S MILL SUBDIVISION

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

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

WHEREAS, residents of the Settler’s Mill community have requested that two “Watch for Children” signs be installed. Staff recommends that the signs be installed at the intersections of Level Way and Lakewood Drive, and Lakewood Drive and Mill Stream Way as illustrated on the attached map titled “Settler’s Mill Subdivision ‘Watch for Children’ signs.”

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that VDOT install and maintain two “Watch for Children” signs as requested with funds from the County’s secondary road system maintenance allocation.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

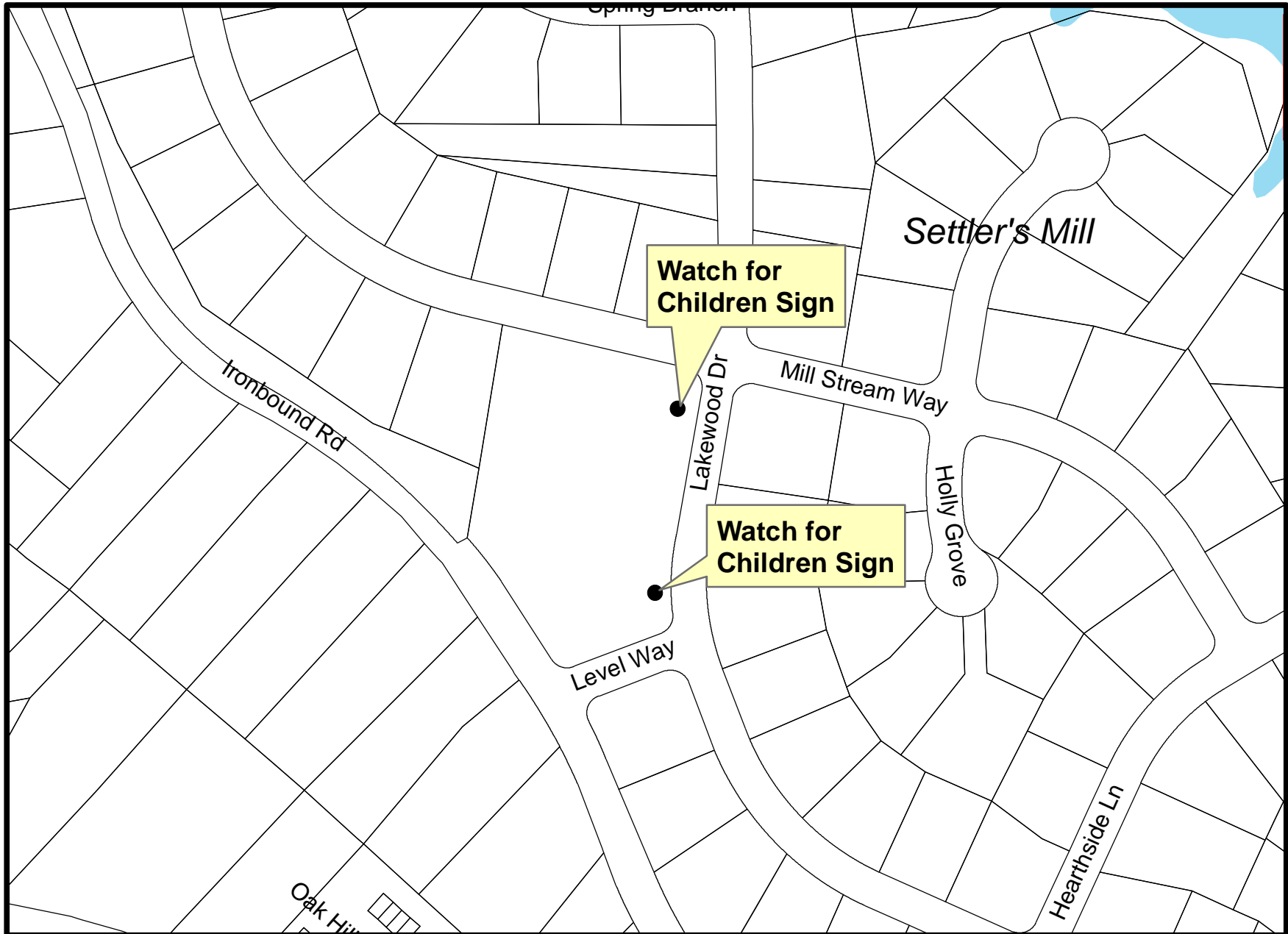
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

Settlersigns.res

SETTLER'S MILL - "WATCH FOR CHILDREN" SIGNS

4



MEMORANDUM

DATE: May 22, 2007

TO: The Board of Supervisors

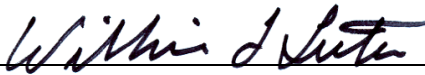
FROM: William T. Luton, Fire Chief

SUBJECT: Appointment of Assistant Fire Marshal, Authorization of Fire Prevention Powers and Authorization of Police Powers

Michelle L. Toutaint has completed all necessary training and certification requirements to be appointed Assistant Fire Marshal in accordance with Commonwealth of Virginia Code Section 27-30, et. seq. The Assistant Fire Marshal is responsible for fire prevention, code enforcement, and fire investigation.

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

Staff recommends approval of the attached resolution.



William T. Luton

WTL/gs
Toutaintappt.mem

Attachment

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHAL, AUTHORIZATION OF

FIRE PREVENTION POWERS AND AUTHORIZATION OF POLICE POWERS

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

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

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

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

WHEREAS, Michelle L. Toutaint has completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.

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

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

Toutaintappt.res

MEMORANDUM

DATE: May 22, 2007

TO: The Board of Supervisors

FROM: Stephanie Ahrendt, Purchasing Director

SUBJECT: Contract Award - PPTA and PPEA RFP Development and Proposal Review Consultant

A Request for Proposals (RFP) was advertised for consultant services on an "as needed" basis to assist the County in developing solicited Public-Private Transportation Act of 1995 (PPTA) and Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) RFPs, and reviewing both solicited and unsolicited PPTA and PPEA proposals submitted by private entities. Review services may include any part of the PPTA or PPEA proposal evaluation process, including the development and negotiation of an interim and/or comprehensive agreement.

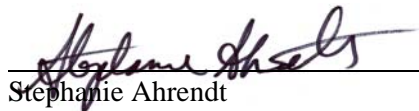
The following four firms submitted proposals:

Firm

Construction Strategies, Inc.
Downey & Scott, LLC
McDonough Bolyard Peck, Inc.
Troutman Sanders LLP

The Evaluation Committee reviewed the proposals and selected McDonough Bolyard Peck, Inc. as the most fully qualified and best suited to meet the County's needs as defined in the RFP. The evaluation of the PPTA and PPEA RFP review is normally paid for by the submittal fee.

Staff recommends approval of the attached resolution authorizing award of a contract to McDonough Bolyard Peck, Inc. for PPTA and PPEA RFP Development and Proposal Review Consulting Services.


Stephanie Ahrendt

SA/gs
MBPcontractawd.mem

Attachment

RESOLUTION

CONTRACT AWARD - PPTA AND PPEA RFP DEVELOPMENT AND

PROPOSAL REVIEW CONSULTANT

WHEREAS, a Request for Proposals (RFP) was publicly advertised for consultant services on an “as needed” basis to assist the County in developing solicited Public-Private Transportation Act of 1995 (PPTA) and Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) RFP, and reviewing both solicited and unsolicited PPTA and PPEA proposals; and

WHEREAS, the Evaluation Committee reviewed the four proposals submitted and selected McDonough Peck, Inc. as the most fully qualified and best suited to meet the County’s needs as defined in the RFP.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the contract for PPTA and PPEA RFP Development and Proposal Review Consulting Services to McDonough Bolyard Peck, Inc.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

MBPcontractawd.res

MEMORANDUM

DATE: May 22, 2007

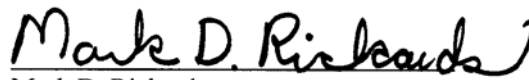
TO: The Board of Supervisors

FROM: Mark D. Rickards, Executive Director, Williamsburg Area Transport

SUBJECT: Appropriation - Surveillance Cameras for Williamsburg Area Transport Buses - \$92,840

Williamsburg Area Transport (WAT) received a Federal grant in the amount of \$88,000 that funds 80 percent of the purchase of four surveillance cameras per bus for 18 buses. The State will match the grant with \$4,840. The local match of \$17,160 is available in the WAT budget.

The surveillance cameras will greatly improve safety and security on the buses. Staff recommends approval of the attached resolution appropriating the funds for the cameras.


Mark D. Rickards

CONCUR:


Doug Powell

MDR/gs
cameras.mem

Attachment

RESOLUTION

APPROPRIATION - SURVEILLANCE CAMERAS FOR

WILLIAMSBURG AREA TRANSPORT BUSES - \$92,840

WHEREAS, Williamsburg Area Transport (WAT) received a grant to purchase surveillance cameras.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates the following FY 2007 revenues and expenditures to the WAT fund:

Revenues:

Federal Grants (STP)	\$88,000
State Grants (STP)	<u>4,840</u>
Total	<u>\$92,840</u>

Expenditures:

Surveillance Cameras	<u>\$110,000</u>
Local WAT Capital Funds	<u>(17,160)</u>
Total	<u>\$92,840</u>

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, increases the approved Fiscal Year 2007 Budget in the amount of \$92,840.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

cameras.res

RESOLUTION

DOMINION RESOURCES GRANT - JAMESTOWN CAMPGROUND AND YACHT BASIN -

APPROPRIATION TO GREENSPACE - \$250,000

WHEREAS, Dominion Resources has awarded \$250,000 to James City County via the Trust for Public Land towards the acquisition of the Jamestown Campground and Yacht Basin property; and

WHEREAS, the Board of Supervisors, in accepting the grant, would like to express its appreciation to Dominion Resources for its generous award and to the Trust for Public Land for its assistance in securing the grant; and

WHEREAS, the funds should be appropriated to the County's Greenspace account, within the Capital Budget, as partial reimbursement of the County's previous spending towards the acquisition of the Jamestown Campground and Yacht Basin property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts \$250,000 from Dominion Resources via the Trust for Public Land to assist in the acquisition of the Jamestown Campground and Yacht Basin property and wishes to express its gratitude for that financial support.

BE IT FURTHER RESOLVED that the Board of Supervisors appropriates these funds as partial reimbursement to the Greenspace account in the County's Capital Budget.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

dominion.res

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, APPROVING THE POWERS GRANTED BY THE GENERAL ASSEMBLY OF THE
COMMONWEALTH OF VIRGINIA TO THE HAMPTON ROADS TRANSPORTATION
AUTHORITY PURSUANT TO THE HAMPTON ROADS TRANSPORTATION AUTHORITY ACT,
SECTIONS 33.1-391.6 ET SEQ. OF THE CODE OF VIRGINIA OF 1950, AS AMENDED

WHEREAS, the General Assembly of the Commonwealth of Virginia has enacted, and the Governor of the Commonwealth of Virginia has approved, the Hampton Roads Transportation Authority Act, Sections 33.1-391.6 et seq. of Chapter 10.2 of the Code of Virginia of 1950, as amended (the Act);

WHEREAS, the Act, which becomes effective July 1, 2007, creates the Hampton Roads Transportation Authority (the Authority) as a body politic and political subdivision of the Commonwealth of Virginia embracing the Counties of Isle of Wight, James City and York, and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg;

WHEREAS, the voting members of the Authority consist of the chief elected officer of the governing body (or his or her designee, who shall be a current elected officer of such governing body) of the counties and cities embraced by the Authority;

WHEREAS, the Act empowers the Authority, among other things to impose or assess certain specified fees and taxes for imposition or assessment by the Authority, including a gasoline sales tax, a real property conveyance grantor's tax, a vehicle rental tax, a vehicle safety inspection fee, an initial vehicle registration fee, a sales tax on auto repair labor, an annual vehicle registration fee and tolls, in all the counties and cities embraced by the Authority;

WHEREAS, the Act provides that the fees and taxes authorized by the Act for imposition and/or assessment by the Authority shall only be imposed and/or assessed by the Authority if: i) at least seven of the twelve governing bodies of the counties and cities embraced by the Authority that include at least fifty-one percent (51%) of the population of the counties and cities embraced by the Authority pass a duly adopted resolution stating their approval of such power of the Authority to impose and/or assess the fees and taxes specified in the Act no later than December 31, 2007, and, thereafter; ii) at least seven of the twelve voting members of the Authority that include at least fifty-one percent (51%) of the population of the counties and cities embraced by the Authority vote in the affirmative to impose and/or assess all of the fees and taxes authorized by the Act for imposition and/or assessment by the Authority in all of the counties and cities embraced by the Authority; and

WHEREAS, the Board of Supervisors of the County of James City, Virginia, approves the powers granted to the Authority under the Act to impose and/or assess the fees and taxes authorized by the Act and in the amounts specified therein.

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

1. The Board of Supervisors of the County of James City, Virginia, as contemplated by the Act and in accordance therewith, hereby approves the powers granted to the Authority under the Act to impose and/or assess the fees and taxes authorized thereby and in the amounts specified therein, including a gasoline sales tax, a real property conveyance grantor's tax, a vehicle rental tax, a vehicle safety inspection fee, an initial vehicle registration fee, a sales tax on auto repair labor, an annual vehicle registration fee and tolls, such fees and taxes constituting all of the fees and taxes authorized by the Act.
2. The Board of Supervisors of the County of James City, Virginia, hereby recommends to the Authority that it vote in the affirmative to impose and/or assess all of the fees and taxes authorized by the Act and in the amounts specified therein for imposition and/or assessment by the Authority in all of the counties and cities embraced by the Authority.
3. This resolution shall take effect on July 1, 2007.
4. The Clerk of the Board of Supervisors of the County of James City, Virginia, shall provide a copy of this resolution to the Clerks of the House of Delegates and the Senate of the Commonwealth of Virginia as soon as practicable after the effective date hereof.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

HRTA.res

MEMORANDUM

DATE: May 22, 2007

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner

SUBJECT: Case No. ZO-1-07. Mixed Use District Amendment

Section 24-527 of the Zoning Ordinance regulates setback requirements in the Mixed Use District. Two different types of setbacks are specified, a right-of-way setback, and a perimeter setback. In general, setback and buffer language are included in the different Districts of the Ordinance, including the Mixed Use District, to address such planning considerations as impacts of proposed development on surrounding areas and uses, and preservation of trees or natural features, among many others.

Within the last few months' public hearing case submission cycle, the Planning Division has received several applications that propose a mixed use zoning, and in reviewing these applications – and thinking of future cases – staff has identified several items in Section 24-527 that staff believes could benefit from amendment to enhance the clarity of the language and enhance accurate application. The proposed changes are listed below, and have been ordered from what staff considers being less substantive amendments progressing on to more substantive amendments: Please note that item number four below is the central issue of these proposed amendments. These changes are further illustrated in the attached revised draft ordinance.

1. Add language to subsection (c) to reference subsections (a) and (b), thereby clarifying the applicability of the setback modification process within the section. Similarly, add language in subsection (e) to reference subsections (a) and (b), thereby clarifying which setbacks are being referenced. Staff proposes to amend these items simply to tie the Ordinance sections together. Staff does not believe that these changes affect the intent or application of this section of the Ordinance, only clarify the existing language.
2. Consolidate the description of the process of obtaining a setback modification in subsection (d), rather than including language in both subsections (c) and (d). Specifically, the changes would be:
 - I. In subsection (c), eliminating the phrases “the planning commission may recommend approval of a setback of less than 50 feet,” and “the planning commission shall find that one or more of the following criteria are met” and replacing them, respectively, with the phrases “Reduction of the width of the setbacks specified in (a) and (b) above may be approved” and “a request for a setback modification must meet one or more of the following criteria.”
 - II. In subsection (d), adding the phrase “Requests for modifications pursuant to subsection (c) above” and replacing “development review committee” with “planning commission”.

Please note that staff is not proposing to change the process of requesting a setback modification: the result of the amendment is to consolidate the description, but the same process would stay in place. Namely, that process is as follows (as now entirely specified within subsection d): formal application with specified reasons, Planning Director evaluation of the request and recommendation to the Planning Commission (the DRC first, if an application is taken at the development plan level), Planning Commission action on the request.

3. Clarify the language in subsection (a) related to setbacks from public road rights-of-way. Currently the language states “structures shall be located 50 feet or more from any existing or planned public road right-of-way which is 50 feet or greater in width,” and does not clearly specify road rights-of-way internal to the development versus roads which are external (border) the proposed development. It is this issue that staff proposes to address.

Throughout the ordinance two different types of setbacks and/or buffers are used. The first type is a setback for a particular individual lot or parcel, consisting of a front setback from the right-of-way, as well as side and rear setbacks. For certain districts (A-1, R-6, LB, B-1, M-1, and M-2) these are the only type of setback specified. Another type of setback is the setback/buffer for a development as a whole, when that development is a group of parcels or units. These overall, or peripheral, setbacks are triggered by the scale of development, such as at the level of a development being classified a major subdivision (R-1, R-2, R-8). These overall setbacks/buffers fall into two categories: along external existing and planned arterial road rights-of-way, and adjacent to the development’s perimeter property lines. Individual parcels within these developments are still required to meet certain individual lot setbacks, and these are also specified in the ordinance.

Several of the zoning districts are differentiated from the rest by requiring a legislatively approved Master Plan for any development with that zoning category to occur. These districts include Planned Unit Development (PUD), Residential Planned Community (R-4) and Mixed Use (MU). Of these, R-4 requires neither overall/external setbacks, nor any individual parcel/internal setbacks. The PUD district does specify overall setbacks, both along external existing or planned arterial road rights-of-way, and adjacent to the development’s perimeter property lines. It also calls out one type of setback interior to the development: a setback of 50 feet from interior road rights-of-way for industrial uses. Other than this one internal setback, there are no requirements for any front, side or rear setbacks for parcels internal to the development. Finally, the Mixed Use district also specifies overall development setbacks along existing or planned public road rights-of-way (subsection a), and along the perimeter of the district (subsection b).

Staff had suggested clarification of subsection (a) to state that this setback along the rights-of-way was intended for streets external to the Mixed Use development, rather than also applying to every right-of-way inside a Mixed Use District. The effect of this latter interpretation would be that every parcel would be required to have a fifty (or seventy-five) foot structural “front” setback from any street within the development. Subsection (e) states that except for required setbacks (referring back to subsections a and b), there are no requirements for any *front*, side or rear setbacks for parcels within a Mixed Use Development. Since a front setback is a setback from the right-of-way, this interpretation would appear to conflict with the language in subsection (e). Given the intent of the Mixed Use district which includes design flexibility, and the longstanding practice in Mixed Use of setting the structure location on a lot relative to surrounding properties and streets during development plan review, staff believes that this degree of restriction is not desirable or intended. At the April 4, 2007 Planning Commission meeting, it was noted that there could be instances where a major arterial road could be internal to a mixed use zoned district. Staff does feel that from a Planning standpoint, arterial roads should be required to have setbacks, with the oversight of the Planning Commission should an applicant wish to reduce them from the 50 feet. The term “arterial” was chosen since it is a term defined within the zoning ordinance. Additional language is therefore added in subsection (a) that includes arterial roads interior to a mixed use zoning district as requiring the right-of-way setback.

Please note that should the Planning Commission or Board of Supervisors have particular concerns about setbacks internal to a proposed mixed use development during review of the rezoning (all mixed use developments must be approved through the rezoning process), legislative discretion could be used to address this issue at the master plan stage.

4. Section 24-527(c) specifies that “The Planning Commission may recommend approval of a setback of less than 50 feet *for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan.*” Staff had proposed amendment of this section to allow for applicants in mixed use zoned districts to apply for a setback modification without limitation by the overlying Comprehensive Plan designation, with (as currently required for areas designated Mixed Use on the Comprehensive Plan) any such modification application subject to the review and approval of the Planning Commission. In order to maintain a distinction between those districts with an overlying Mixed Use designation versus districts with an overlying designation that is other than Mixed Use, additional language has been added to the section specifying two additional criteria that non-Mixed Use designated areas must meet. The purpose of this distinction would be to promote a greater degree of scrutiny on the part of staff and the Planning Commission for non-Mixed Use designated developments given the possible greater concern over compatibility with, or potential impacts on, adjacent development in these areas. The two additional criteria read as follows (see attachment #1 for the full text):

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria.

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;*
- (2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.*

Please note that a proposed setback modification in a mixed use zoned district that was not designated Mixed Use by the Comprehensive Plan would still need to meet one of the three existing criteria, as well as both of the two additional criteria. Staff suggests that the first new criteria, when coupled with the already existing language in the section addressing adjacent development (“shall have no additional adverse impact on adjacent properties or public areas”) would allow the Planning Commission to adequately address any additional concerns there may be for mixed use development in areas not designated Mixed Use by the Comprehensive Plan. The second new condition is suggested to address possible issues or concerns that might arise with new mixed use development with a reduced setback adjacent to existing developments, such as maintaining adequate sight distances along roads or ensuring proper drainage is maintained.

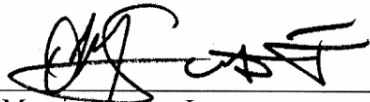
Other proposed changes to subsection (c) related to this central issue include i) simplifying the title of the subsection so that the language in the body of the subsection can be clearly understood and ii) rewording the criteria language by replacing the wording “for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan” with “for a mixed use zoning district that is designated Mixed Use by the Comprehensive Plan,” to clarify applicability.

At their April 4, 2007, meeting, the Planning Commission voted 4-3 to recommend approval of the proposed ordinance changes to the Board of Supervisors.

Staff believes that the proposed amendments listed above are consistent with the intent of the Mixed Use Ordinance, and that the amendments would clarify application of the Ordinance for the current pending submissions, as well as future proposals. Staff recommends that the Board approve the ordinance listed as Attachment 1 to this memorandum. At the May 8, 2007, Board of Supervisors meeting, an alternative version of the ordinance was presented at a Board member request which specifies the Board of Supervisors as the body acting on the setback modification in subsection (d). Should the Board wish to adopt this alternative version, it is included as Attachment 8.

Ellen Cook

CONCUR:



O. Marvin Sowers, Jr.

EC/nb
Zoning24_527_0522-07.mem

Attachments:

1. Revised Ordinance
2. Copy of Existing Ordinance
3. Approved minutes from 3/7/2007 Planning Commission meeting
4. Unapproved minutes from 3/14/2007 Policy Committee meeting
5. Follow up document per 3/14/2007 Policy Committee meeting request
6. Unapproved minutes from 3/21/2007 Policy Committee meeting
7. Approved minutes from 4/4/2007 Planning Commission meeting
8. Alternative Ordinance (Version with Board of Supervisors Approval of Modifications)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24 ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE, MU, SECTION 24-527, SETBACK REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-527, Setback requirements.

Chapter 24. Zoning

Article V. Districts

Division 15. Mixed Use, MU

Section 24-527. Setback requirements.

(a) *Location of structures.* Structures shall be located 50 feet or more from any *external* existing or planned public road right-of-way, *or any internal arterial road right-of-way*, which is 50 feet or greater in width. Where the *external* existing or planned public road right-of-way, *or the internal arterial road right-of-way*, is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the *external* existing or planned *or internal arterial*, public road.

(b) *Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) ~~*Lesser setback requirements for mixed use area internal to mixed use districts; criteria for determination.*~~ *The planning commission may recommend approval of a setback of less than 50 feet for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan upon finding* *Setback modifications; criteria for determination. Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use zoning*

district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setbacks, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, ~~the planning commission shall find that one or more of the following criteria are met~~ *a request for a setback modification must meet one or more of the following criteria:*

- (1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;*
- (2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.*

(d) *Requests for modifications.* Requests for modifications ~~to the 50 foot setback~~ *pursuant to subsection (c) above* shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall make a recommendation

to the ~~development review committee~~ *planning commission* to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks *specified in (a) and (b) above*, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

zoning24-527_052207.ord_1

Existing Ordinance Language (Attachment 2)

Sec. 24-527. Setback requirements.

(a) *Location of structures.* Structures shall be located 50 feet or more from any existing or planned public road right-of-way which is 50 feet or greater in width. Where the existing or planned public road right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the existing or planned public road.

(b) *Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Lesser setback requirements for mixed use area internal to mixed use districts; criteria for determination.* The planning commission may recommend approval of a setback of less than 50 feet for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan upon finding that the proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, the planning commission shall find that one or more of the following criteria are met:

- (1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(d) *Requests for modifications.* Requests for modifications to the 50-foot setback shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall make a recommendation to the development review committee to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

**APPROVED MINUTES OF THE MARCH 7, 2007 MEETING
OF THE PLANNING COMMISSION**

ZO-1-07 Zoning Ordinance Amendment – Mixed Use Ordinance

Ms. Ellen Cook presented the staff report stating that Staff has recognized the need to amend and reordain JCC Code, Chapter 24, Zoning, Article V, Districts, Division 15, Mixed Use, MU, Section 24-527, Setback Requirements, to clarify the following: when a setback is required, the conditions of when a setback can be modified and the procedure to request a modification. Ms Cook stated that the amendment is necessary to eliminate ambiguity between the terminology used in the title of the section and the terminology used in the first sentence and to permit setback waiver modification requests in Mixed Use Districts regardless of Comprehensive Plan Designation. Ms. Cook also noted several other proposed amendments. She stated that on February 27, 2007 the Policy Committee voted to forward the recommendations to the Planning Commission.

Mr. Obadal asked if the intent of adding the word “external” to paragraph A is to totally eliminate setbacks that are interior.

Ms. Cook stated that specifying the word “external” means setbacks would be from external roads and there would be no setbacks from internal roads in a Mixed Use District.

Mr. Sowers added that Mixed Use Districts have to go through rezoning and that during either the rezoning or development plan process is when setbacks are established. He stated that this amendment allows more flexibility.

Mr. Obadal asked where that authority is given.

Mr. Sowers said the authority would be given under the section of the Ordinance being considered.

Mr. Obadal stated that the effect then would be to eliminate internal setbacks entirely.

Mr. Kennedy asked Ms. Lyttle to comment on Mr. Obadal’s statement.

Ms. Lyttle asked for a moment to research the answer.

Mr. Obadal asked Ms. Cook to repeat her earlier reference to Cluster developments.

Ms. Cook stated there was an error in the memorandum and that R-4 should have been used, instead of Cluster, along with PUD in comparing Districts with large master planned communities that have flexible setbacks internal to the District.

Mr. Obadal stated his thoughts that setbacks included an interior setback.

Mr. Kennedy stated that he would entertain a motion to defer this item due to the complexity of the issues.

Mr. Obadal said that would be acceptable.

Mr. Billups asked if the application sought to exclude external setbacks and asked if that would be on a case by case basis.

Ms. Cook clarified that the setback would for roads external to the Mixed Use District.

Mr. Billups asked what would happen with a development that runs parallel to a Corridor road.

Ms. Cook stated that they would need to have the setback from that external road unless they applied for a waiver.

Mr. Billups referenced the term "Planning Director or designee" and asked what authority a designee would have without Board approval.

Ms. Cook stated that the term "or designee" had been removed per the Policy Committee's comment.

Mr. Billups motioned to defer the application.

Ms. Jones seconded the motion.

Mr. Kennedy asked that Commissioners forward their questions and concerns to Staff to be research prior to the case being considered again.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was continued.

In a unanimous voice vote the application was deferred (7-0).

Mr. Fraley thanked Ms. Cook for her work on the application.

Unapproved Minutes
Policy Committee Meeting
March 14, 2007

Mr. Fraley stated that he had communicated to Ms. Cook some of the concerns the Committee has. He also noted the work that Mr. Tony Obadal had done on behalf of the Committee in preparing a memo.

Mr. Obadal said he had sent Ms. Cook a copy of the memo.

Ms. Jones stated that Planning Commissioner Shereen Hughes called her expressing her concerns about the Community Character Corridor Buffers.

Ms. Ellen Cook said she wanted start by explaining how a Mixed Use District is created.

Ms. Jones asked for confirmation that she was referring to the Zoning District not the Comprehensive Plan Land Use Designation.

Ms. Cook explained that there are no parcels in the County originally zoned Mixed Use. She stated that the parcels went to the rezoning process and received approval from the Board Supervisors. Ms. Cook said this is also true of the R-4 District as well. She stated that through the rezoning process the Planning Commission and Board of Supervisors has an opportunity determine if the use is appropriate for that area based on the Comprehensive Plan Designation and surrounding uses. She also stated that there are about ten parcels in the County zoned Mixed Use with the largest being New Town.

Mr. Fraley stated that their concern is how this proposal will affect Ironbound Square and the Candle Factory, which is a future case.

Mr. Obadal said his concern is that the districts that already exist are covered by the Ordinance.

Ms. Cook said they are existing master planned communities with proffers that must be adhered to.

Mr. Obadal asked if applicants could decide to combine the benefits of the Ordinance and alter the master plans.

Ms. Cook said changing a master plan and proffers requires legislative approval

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Mr. Obadal asked if applicants could decide to combine the benefits of the Ordinance and alter the master plans.

Ms. Cook said changing a master plan and proffers requires legislative approval.

Mr. Fraley said that is the requirement to change proffers. He said a minor change to the master plan can be approved by the Planning Director and a major change of the master plans can be approved by the DRC (Development Review Committee).

Ms. Cook said Mr. Fraley was correct.

Mr. Fraley said part of the concern of the Planning Commission is due to the issues with the Whitehall case which has complicated the Commission's review of this proposal.

Mr. Obadal said the proposal would allow someone to request approval of a modification to the setbacks from the Planning Director and then to the Planning Commission and it could be an administrative action.

Ms. Cook stated that Staff's purpose is to clarify that the Planning Commission would approve any modifications. She stated that the Planning Director is mentioned in that section as the person formally submitting a recommendation. Ms. Cook said it is the Planning Commission that ultimately makes the decision.

Ms. Jones asked if that is a change. She asked if so that the request is made upfront and not after the case has received approval.

Ms. Cook said yes. She said the Ordinance is not consistent and in some places it says DRC and in some it says Planning Commission which usually is not an issue because the DRC is made up of 4 members of the Planning Commission. She stated that sometimes an applicant will wait until after the rezoning process and request a modification through the DRC. She said there are some cases where staff and the applicant are aware that a modification will be requested and that gets noted in the staff report so that Planning Commission can comment on that with their recommendation to the Board.

Ms. Jones asked if Ironbound Square will go to the DRC.

Mr. Ribiero said there are over 50 lots so it will go to the DRC.

Mr. Fraley asked how Staff intends to differentiate that in the language of the Ordinance.

Ms. Cook said it is not to differentiate anywhere else in the Ordinance; it is a case by case basis. She said the Planning Commission can decide whether changes to a particular case would be reviewed by the full Commission or to the DRC.

Mr. Fraley said as a housekeeping item Staff is trying to clean up the language and asked what the language will be.

Ms. Cook said this could be done by using Planning Commission instead of DRC. She also stated that when there is a comprehensive update to the Zoning Ordinance the language will be standardized.

Mr. Obadal said there is a difference. He said Planning Commission is used in paragraph "C" whereas DRC is used in either paragraph "D" or "B".

Ms. Jones said DRC is used in paragraph "D"

Mr. Obadal said paragraph C relates to zoning or rezoning. He said paragraph D would relate to modifications and rezoning.

Ms. Cook stated that it is not spelled out in the ordinance. She said that could be a possible determination of its intent but that is not traditionally how Staff interprets it. She stated that they use whatever process is most appropriate as determined by the Staff and the applicant.

Mr. Obadal said he is asking for an interpretation that follows the wording of this section of the Ordinance rather than a practice that may have occurred over a period of years and has become ingrained in the way Staff approaches it. He stated that he thinks Staff can achieve everything they propose while strictly adhering to the Ordinance.

Ms. Jones asked if the discussion is concerning paragraph D.

Mr. Fraley said C and D. He said C talks about the Planning Commission making a recommendation and D talks about requests for modifications made to the Planning Director who shall make a recommendation to the DRC. He said there is no authority grab but differentiation between the Planning Commission and the DRC and he can see those differences. Mr. Fraley said he could see a plan coming to the Planning Commission and then requesting a change later during site plan consideration. He stated that he thinks it is okay from a process standpoint but asked if it is okay in the Ordinance with the wording.

Mr. Obadal stated that he felt the drafters of the Ordinance made very subtle distinctions that indicated how they wanted the problems handled and had very specific reasons for doing it. He said they included, for example, internal road setbacks in paragraph C as part of the zoning process. Mr. Obadal stated that it was the Planning Commission that could initiate the changes to those setbacks as part of the zoning process.

Ms. Jones said that was only if it was designated for that in the Comprehensive Plan.

Mr. Obadal agreed and stated that paragraph C uses the words mixed-use areas, not mixed-use districts so you turn to the Comprehensive Plan and ask what areas are mixed use areas. The ones we traditionally look at are designated on the map. He found it extremely interesting that housing rehabilitation focus areas were intended to be in the Comprehensive Plan mixed use areas.

Mr. Fraley referred Ms. Cook to page 107 of the Comprehensive Plan.

Ms. Cook agreed that the language in the title does say mixed use area. She stated that the next section says the Planning commission may grant approval of setback modifications in Mixed Use Designated areas. She said that is the conflict Staff is trying to resolve. Ms. Cook stated that mixed use district means zoning district and mixed use area designation by the Comprehensive Plan is a land use.

Ms. Jones said that it is a reduction based on the Zoning Ordinance only to be applied to a mixed use area that is designated in the Comprehensive Plan. She stated that Mr. Obadal's thought is rather than completely take the land use designation out is it possible to add language into the Ordinance to allow for a waiver with criteria for situations where, under very close scrutiny, a setback reduction is permitted. Mr. Jones confirmed with Mr. Obadal that that was his thought.

Mr. Obadal said that was part of his approach. He suggested inserting 'included housing revitalization refocus areas'. He said that he thought that would clarify some of the confusion.

Ms. Cook asked the Policy Committee to think broadly about applying setback modifications to those areas designated mixed use and asked if by putting appropriate controls in the Ordinance if it's appropriate to allow any mixed use zoning district to have the ability to request setback modifications. She reminded the Committee that a mixed use district is only created with Planning Commission and Board of Supervisors approval that recognizes that the mixed use zone is appropriate for that area.

Ms. Jones said she did not have an issue as long as it is highly justified. She also stated her concern with defining revitalization areas.

Mr. Fraley asked that the changes that are housekeeping things be separated from the more important changes. He also asked for clarification of what is proposed to be accomplished with the other changes and how that is different from other Ordinances.

Ms. Krapf stated his agreement that it should be difficult to get a setback waiver. He said that he was also having a hard time sorting out what is purely housekeeping and what represents a substantial change to the Ordinance.

Ms. Jones said she thinks C is the substantial change.

Ms. Cook said the issue that seems to be less controversial is the proposal to tie subsections A and B to section D that talks about the kinds of setback modifications can be requested.

Mr. Fraley confirmed that A and B are the setbacks and D covers how you can apply for a modification to the setbacks. He also said D ultimately requires approval from the DRC.

Ms. Cook said that was correct as it is currently written.

Mr. Fraley asked if anyone has a concern with that part of the proposal.

Mr. Obadal stated that his thought that the original drafters were tying the setbacks to mixed-use areas to encourage development in those areas, not outside those areas. He stated that a mixed-use district is very dense and the drafters wanted them in specific areas outlined in the Comprehensive Plan.

Ms. Jones asked if Staff is trying to clarify internal and external roadways.

Ms. Cook stated that Staff's perception is that the word "internal" in subsection (c) is not necessarily talking about internal streets but internal to a mixed designated area identified on the Comprehensive Plan.

Mr. Fraley asked Ms. Cook to show those areas on the map (drawn on the whiteboard).

Ms. Cook showed the areas.

He stated that Mr. Obadal has pointed out that Mixed-use areas and mixed-use districts are used.

Ms. Cook stated that a mixed use designated area would be the Comprehensive Plan designation and a district is the Zoning District. She pointed to a parcel and explained that if the owners were successful in requesting a rezoning to mixed use zoning it would be considered a mixed-use zoned district internal to a mixed use designation area on the Comprehensive Plan and would be able to apply for a setback modification. She stated that if the parcel were successfully rezoned to a mixed use zoned district but had a different designation on the Comprehensive Plan the owners could not apply for a setback modification under the current Ordinance.

Mr. Obadal said he agreed.

Mr. Fraley stated that Mr. Obadal is suggesting that this was not an oversight but purposely.

Ms. Cook agreed.

Mr. Fraley asked what the reason could be

Ms. Cook stated that staff is suggesting that at the time of Ordinance writing the drafters did not have specific plans. She stated that the Ordinance is there to regulate development but is not something that could never be changed as developments come forward and someone recognizes some of the implications.

Mr. Obadal stated that to him the issue is how to manage growth. He stated that they cannot assume that the drafters were unaware of the implications.

Ms. Cook stated her belief that they thought at the time it was most appropriate.

Mr. Fraley said the question is does it make sense.

Mr. Obadal agreed and stated that if the Committee feels it does not make sense then they should change the ordinance.

Mr. Fraley stated that they must consider that when a zoning request comes before them. He said the question was whether they wanted to permit more flexibility than the current ordinance allows that would provide for setback waivers in mixed-uses zoning that is not in a mixed-use designated area. Mr. Fraley also confirmed with Ms. Cook that the Board of Supervisors has already approved Phase 1 of Ironbound Square which is contrary to the current Ordinance.

Ms. Jones said the setback waivers were not necessarily based on how the Ordinance reads today.

Mr. Fraley stated that conflict did not surface during that approval process of Phase 1 and therefore the Planning Commission, Staff, and Board of Supervisors recommended approval.

Mr. Chris Basic stated that Stonehouse is PUD-R and is designated mixed use on the Comprehensive Plan. He asked how severe intentional reliance on mixed use designations apply in that situation.

Mr. Obadal stated that you can always go to a lesser density. He said the questions is can you go to a higher density in an area that's not zoned for a higher density.

Mr. Krapf and Mr. Obadal talked about the possible scenarios.

Mr. Fraley asked if the Committee wanted to consider modifying the Ordinance to permit setback modifications for mixed use districts that are not in mixed used designated areas. He asked Mr. Obadal if that was the fundamental question.

Mr. David German stated that when the Ordinance was drafted no mixed use districts existed.

Mr. Fraley asked how setback modifications work in other districts.

Ms. Cook said it varies a little by district and explained the provisions for modifications.

Mr. Fraley asked the difference between a buffer and a setback.

Ms. Cook stated that in general a setback is referring to a structural setback and buffer is undisturbed area.

Mr. Fraley and Ms. Cook discussed the specifics of Staff's proposal.

Mr. Fraley asked why Staff thinks it is necessary to modify to make it more flexible.

Ms. Cook suggested that the proposed changes did not necessarily make the ordinance more flexible, but just increased the range of applicability. Ms. Cook noted that the approval process would remain in place.

The Committee and Staff confirmed the specifics of the proposal and discussed the process for moving forward with the amendment. The Committee agreed to meet again to continue the discussion.

Mr. Fraley asked how a decision against amending the Ordinance would affect the Ironbound Square project.

Mr. Jose Ribeiro explained how Ironbound Square will be affected.

Mr. Fraley stated that he would like Staff to separate out the pure housekeeping issues and then to draw a proposed ordinance that would set the standards.

The Committee agreed.

Follow Up Document per 3/14/2007 Policy Committee Meeting (Attachment 5)

At the March 14, 2007 Policy Committee meeting, the Policy Committee requested that staff accomplish three tasks prior to the next meeting:

Task (1) Clearly separate technical “housekeeping” from substantive/policy changes.

Task (2) Address the criteria that a mixed use zoned district with an overlying Mixed Use Comprehensive Plan designation would need to meet to have a setback modification approved versus criteria a mixed use zoned district with an overlying Comprehensive Plan designation other than Mixed Use would need to meet to have a setback modification approved, with the Committee’s input that areas not designated Mixed Use should perhaps be the subject of a higher degree of scrutiny.

Task (3) Discuss setbacks internal to a mixed use district.

In addition, discussion at the Policy Committee meeting had included thoughts about whether it would be appropriate to cite “Housing Revitalization Focus Areas” as areas, along with Comprehensive Plan-designated Mixed Use areas, within which applicants could request setback waivers. A discussion of this concept is also included below.

Task 1

Staff considers the following two changes to be technical changes that do not have real policy implications and are proposed for clarity only, and reflect past practice:

A. Adding references between the different subsections to tie them together. (Adding language to subsection (c) to reference subsections (a) and (b), thereby clarifying the applicability of the setback modification process within the section. Similarly, adding language in subsection (e) to reference subsections (a) and (b), thereby clarifying which setbacks are being referenced.)

B. Consolidation of the description of the modification process in subsection (d), which then allows subsection (c) to be clearly read as the subsection focusing on eligibility and criteria. Staff would note that as part of this change, staff was suggesting simply using the term Planning Commission instead of both the term Development Review Committee and Planning Commission. At the March 14 meeting, it was suggested that perhaps the Planning Commission was cited in one subsection and the Development Review Committee in another because setback modifications might be considered at different times in the application process (rezoning versus development plan). While it is the case that setbacks modifications could be requested at various stages of the application process, staff does not feel that there is any substantive effect to solely citing the Planning Commission as the acting body (recognizing that if the request is brought at the development plan level, it will be the DRC considering the request and then forwarding their action to the Planning Commission). Regardless of when the modification is submitted, it must go through the process specified in subsection (d): formal application with specified reasons, Planning Director evaluation of the request and recommendation to the Planning Commission, Planning Commission action.

Staff considers the following two proposed changes to be substantive/policy matters:

C. Staff considers the proposed amendments to subsection (c) in relation to the circumstances under which an applicant is able to request a waiver to be a substantive/policy amendment. There is a housekeeping/technical element linked to this issue in that the title language could be more closely linked to the language in the body of the subsection. However, this element is secondary to the policy issue. This issue is discussed under Task 2 below and it is the central issue of the proposed amendments.

D. Staff had considered that clarifying that subsection (a) by specifying “external” roads was largely a housekeeping/technical change, but with subsequent questions by Policy Committee members, staff would put this in the category of items that do have some policy implications and which would benefit from clear explanations of effects. This issue is discussed under Task 3 below.

Task 2

Section 24-527(c) specifies that “The Planning Commission may recommend approval of a setback of less than 50 feet *for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan.*” Staff has proposed amendment of this section to allow for applicants in mixed use zoned districts to apply for a setback modification without limitation by the overlying Comprehensive Plan designation, with (as currently required for areas designated Mixed Use on the Comprehensive Plan) any such modification application subject to the review and approval of the Planning Commission. At their March 14th meeting, the Policy Committee discussed whether instead of simply allowing the setback modification for all Comprehensive Plan designations equally, some distinction could continue to be made between those districts with an overlying Mixed Use designation versus districts with a overlying designation that was other than Mixed Use. The Committee considered whether the distinction could be made by requiring additional or different criteria be met for non-Mixed Use designated areas, and asked staff to provide suggestions. The Committee’s intention for this distinction was to promote a greater degree of scrutiny on the part of staff and the Planning Commission for non-Mixed Use designated developments given the possible greater concern over compatibility with, or potential impacts on, adjacent development in these areas. Accordingly, staff has suggested two additional criteria, as shown in yellow below. Staff suggests that the first new criteria, when coupled with the already existing language in the section addressing adjacent development (“shall have no additional adverse impact on adjacent properties or public areas”) would adequately address any additional concerns there may be for mixed use development in areas not designated Mixed Use by the Comprehensive Plan. The second new condition is suggested to address possible issues or concerns that might arise with new mixed use development with a reduced setback adjacent to existing developments, such as maintaining adequate sight distances along roads or ensuring proper drainage is maintained.

(c) Setback Modifications; criteria for determination. Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use

zoning district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setbacks, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback modification must meet one or more of the following criteria:

- (1) The proposed setback is for the purpose of integrating proposed mix use development with adjacent development;
- (2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;
- (2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.

Task 3

The Policy Committee requested that staff discuss the idea of setbacks both internal and external to a mixed use district. Throughout the ordinance two different types of setbacks and/or buffers are used. The first type is a setback for a particular individual lot or parcel, consisting of a front setback from the right-of-way, as well as side and rear setbacks. For certain districts (A-1, R-6, LB, B-1, M-1, and M-2) these are the only type of setback specified. Another type of setback is the setback/buffer for a development as a whole, when that development is a group of parcels or units. These overall, or peripheral, setbacks are triggered by the scale of development, such as at the level of a development being classified a major subdivision (R-1, R-2, R-8). These overall setbacks/buffers fall into two categories: along external existing and planned arterial road rights-of-way, and adjacent to the development's perimeter property lines. Individual parcels within these

developments are still required to meet certain individual lot setbacks, and these are also specified in the ordinance.

Several of the zoning districts are differentiated from the rest by requiring a legislatively approved Master Plan for any development with that zoning category to occur. These districts include Planned Unit Development (PUD), Residential Planned Community (R-4) and Mixed Use (MU). Of these, R-4 requires neither overall/external setbacks, nor any individual parcel/internal setbacks. The PUD district does specify overall setbacks, both along external existing or planned arterial road rights-of-way, and adjacent to the development's perimeter property lines. It also calls out one type of setback interior to the development: a setback of 50 feet from rights-of-way for industrial uses. Other than this one internal setback, there are no requirements for any front, side or rear setbacks for parcels internal to the development. Finally, the Mixed Use district also specifies overall development setbacks along existing or planned public road rights-of-way (subsection a), and along the perimeter of the district (subsection b). Subsection (c) states that except for required setbacks, there are no requirements for any front, side or rear setbacks for parcels within a Mixed Use Development. Staff had suggested clarification of subsection (a) to state that this setback along the rights-of-way was intended for streets external to the Mixed Use development, rather than also applying to every right-of-way inside a Mixed Use District. The effect of this latter interpretation would be that every parcel would in effect be required to have a fifty (or seventy-five) foot structural "front" setback from any street within the development, creating a conflict with subsection (e). Given the intent of the Mixed Use district which includes design flexibility, and the longstanding practice in Mixed Use of setting the structure location on a lot relative to surrounding properties and streets during development plan review, staff believes that this degree of restriction is not desirable or intended. Staff continues to recommend that this subsection be amended to specify "external" roads.

Housing Revitalization Focus Areas Discussion

At the March 14th meeting, the Policy Committee members considered whether simply adding the phrase "Housing Revitalization Focus Areas" to the first sentence of subsection (c) would be appropriate. If this were done, the sentence would read: "The planning commission may recommend approval of a setback of less than 50 feet for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan and for Housing Revitalization Focus Areas upon finding that the proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and....(list of additional criteria)."

The Committee had looked at page 102 of the Comprehensive Plan which shows areas of the County which are Housing Revitalization Focus Areas. Staff's interpretation of the Committee's discussion was that the Committee thought of these Focus areas in connection with the concept that perhaps these areas were intended as focus areas for growth and that higher densities are generally encouraged in areas designated for growth, and that mixed use is a zoning district which is typically considered an appropriate district for higher densities. Therefore, perhaps it could be thought that these were mixed

use areas. (If this is not a correct interpretation on the part of staff, please call or e-mail staff so we can better understand this issue.) Subsequent to the March 14th meeting, staff has discussed with Marion Paine of Housing and Community Development the intent of the Focus areas to see if Housing had any comments that would be pertinent to this issue. Ms. Paine stated that in general these Revitalization Focus areas are most directly intended for Revitalization where the primary goal is to bring existing structures or lots up to code. Ms. Paine stated that very little new growth would be intended or expected for these Revitalization Focus areas, noting that a number of them are outside the Primary Service Area. Ms. Paine also discussed the fact that Ironbound Square was unique among the Revitalization areas in proposing a higher density Mixed Use zoned development. Staff would recommend that the Policy Committee carefully consider, given this information, the addition of this specific type of area to Section 24-527. The character of these areas varies considerably, from urban, to suburban to rural. Staff believes that much more additional consideration (outside the scope of this amendment) is necessary before determining if MU zoning is general appropriate and warrants any amendments at this time.

UNAPPROVED MINUTES
POLICY COMMITTEE MEETING

Setbacks in Mixed-Use Districts, Comprehensive Plan Methodology and Timeline

March 21, 2007, 10:00AM, Building A Large Conference Room

A. Roll Call

PRESENT:

Mr. Jack Fraley
Mr. Richard Krapf
Mr. Tony Obadal
Ms. Mary Jones

OTHERS PRESENT:

Ms. Tamara Rosario, Senior Planner II
Ms. Kate Sipes, Planner
Ms. Ellen Cook, Senior Planner
Ms. Melissa Brown, Acting Zoning Administrator
Mr. John Horne, Development Manager
Mr. Marvin Sowers, Planning Director
Mr. Jose Ribeiro, Planner
Ms. Jennifer Lyttle, Assistant County Attorney

B. Minutes

Mr. Fraley opened the meeting by asking for approval of the minutes from the February 26, 2007 meeting. Approval was granted by the Policy Committee members on a 4-0 vote.

C. Old Business – Mixed Use Districts

Ms. Cook stated that certain tasks had been given at the last Policy Committee meeting, and that she would go through those one by one. The first task was to separate the proposed amendments that were more technical/non-policy in nature from the more substantive changes. Ms. Cook listed the two changes that staff considered more technical/non-policy: adding the references between the sections, and consolidating the description of the process in subsection (d). She noted that staff did not propose to change the process. The two more substantive changes were the proposed amendment regarding under what circumstances a setback modification could be requested, and the proposed amendment to clarify the type of right-of-way setback. Ms. Cook noted that these were further discussed in the second and third tasks.

Mr. Fraley mentioned the article in the Virginia Gazette and asked staff to clarify the internal setback situation. Ms. Cook replied that that item was discussed as part of the third task that staff had done for the Committee.

Mr. Fraley asked if there were any questions on the first two items. The Committee discussed them briefly, but did not have major questions.

The Committee returned to the discussion of right-of-way setbacks (the third task). Mr. Krapf suggested that the information staff had put together was helpful. Mr. Fraley asked how staff had looked at this issue in the past. Ms. Cook stated that in the past staff had looked at the right-of-way setback as applying to external right-of-ways, but that in practice staff had sometimes brought modification requests to the DRC that did not specify the type of right-of-way setback that was being requested (external roads versus internal roads), just that a modification had been applied for. Mr. Krapf stated the question that was before the Committee was whether to recommend continuing with past practice or whether to recommend that the right-of-way setback be applied to both external and internal rights-of-way. Staff discussed the idea that external right-of-way setbacks are the setbacks that are most directly associated with a public purpose, which is to examine impacts on the road network and adjacent development. The Committee and staff also discussed the fact that all mixed use zoned districts go through the rezoning process and are set up under an adopted master plan.

Mr. Obadal stated that he objected to the idea that a building could be a zero lot line building without required internal setbacks. Mr. Fraley asked staff to comment on what the review process would be for building placement on lots internal to a mixed use zoned district. Staff discussed the review process, noting that any building or group of buildings that triggered DRC review, such as a building over 30,000 square feet, would be reviewed by the DRC. For other site or subdivision plans, the plan would be reviewed administratively by staff and by reviewing agencies to ensure that the siting of the building on a lot was not contrary to public safety such as interfering with sight distances along an internal roadway. Staff also discussed the fact during a rezoning, the Planning Commission and Board could examine a proposal and, if there were particular concerns, use their discretion to determine whether setting internal setbacks via the master plan or proffers were necessary in order to gain approval. Mr. Obadal questioned why it was necessary to amend the ordinance and why it was that the PC and Board could not look at the rezoning cases before them and determine the setbacks which would then be shown on the master plan or specified in the proffers. Ms. Lyttle and Ms. Brown clarified that an applicant needed to meet ordinance requirements regardless, and that an applicant could proffer items that exceeded ordinance requirements, but could not replace the basic ordinance requirements with proffers. Mr. Obadal stated that he felt that any setback modifications should be brought to the legislative body, meaning the Board of Supervisors. Mr. Fraley asked staff to comment on what body approved setback modifications when they were requested, as stated in the ordinance for different districts. Staff discussed the fact that generally, the body in the ordinance that is specified is the Planning Commission. Staff discussed the idea that having the Board specified as the body that granted the setback modifications would be unusual compared to the rest of the ordinance, and that the Board was not the body that would typically examine development plans (site and subdivision plans) and consider setback modification

requests in connection with them. Mr. Krapf, Ms. Jones and Mr. Fraley generally agreed that they did not have further issues with the proposed change. Mr. Krapf noted that he thought it was important to emphasize the fact that mixed use districts were master planned districts that were reviewed by the Planning Commission and Board when initially proposed.

In relation to the item that had been set as the second task, Ms. Cook presented the proposed changes to subsection (c) dealing with the overlying Comprehensive Plan designation necessary for an applicant to request the modification. Ms. Cook reviewed the request that had been made of staff at the last Policy Committee meeting, which was to examine additional conditions for mixed use districts which were not designated Mixed Use by the Comprehensive Plan. Ms. Cook stated that these were presented in the text of the Task list document and asked if there were any questions. Mr. Fraley asked for clarification of the language in the subsection related to the word "internal". Staff and the Committee discussed that the word "internal" in subsection (c) was not referring to "internal setbacks" but rather the location of a mixed use zoning district in relation to the overlying Comprehensive Plan designation. Staff stated that this wording would be addressed to clarify the meaning. Mr. Fraley asked staff to comment on the idea of including Housing Revitalization Areas (as shown on page 102 of the Comprehensive Plan) in the ordinance as areas that could be eligible to request setback modifications. Ms. Cook stated that she had talked with the staff at Housing and Community Development and that these areas were, in general, focus areas for rehabilitation and bringing residences up to code rather than areas where a mixed use development or mixed use zoning were envisioned for the future.

Mr. Fraley offered the time for public comments; there were none. Mr. Krapf motioned to approve the changes to the ordinance staff had proposed. Ms. Jones seconded the motion. The motion was approved with a 3 – 1 vote, with Mr. Obadal dissenting.

Mr. Fraley asked for guidance from Mr. Horne in getting the correct information to the media. Mr. Fraley suggested that perhaps staff could write a press release for the ordinance changes. Several citizens spoke to the issue of desiring accurate information on the items the Planning Commission was considering.

Ms. Sipes provided for review the methodology and timeline for the 2008 Comprehensive Plan. The timeline identifies tasks with the kickoff to occur in October 2007. It is a twenty month long process that will incorporate staff and citizen input. There will also be a regional effort with York County and City of Williamsburg that will begin late 2007 and be completed in 2010.

Ms. Rosario focused on certain elements such as the Citizen Participation Teams (CPT) and Steering Committee. This methodology and timeline is based on previous experience although there is room for modifications. During the CPT and Steering Committee meeting the public is welcomed and comments are encouraged.

Ms. Jones suggested general information sessions for the public before the citizen meetings are held. Mr. Krapf added to that with the idea of having informal seminars, short segments on the Channel 48 to state the issues and the elements that go into updating the Comprehensive Plan.

Mr. Fraley had suggested having smaller focus groups with emphasis on certain issues instead of having more generalized citizen input meetings.

Ms. Rosario explained that the first round of meetings would be general in nature in order to come up with a vision as to where the County is headed. The second round would define the vision and determine the issues that the citizens are most concerned with.

Ms. Jones stated that last time through community conversations citizens met as a whole, and then broke up into smaller groups. It might be helpful this time to separate into smaller groups based on topics of interest.

All members agreed to the methodology and timeline.

Mr. Fraley stated the Land Conservancy has volunteered to map the County. This is an undertaking that a student at William and Mary is doing for a project. This project would include categories such as wetlands, historic sites, undeveloped land, etc. Mr. Fraley questioned whether this would be helpful to staff and would want to be involved. Ms. Rosario said that staff would want some role to ensure the accuracy of the information. She also stated that it may be helpful to staff depending on the level of detail.

Adjournment

The meeting was adjourned at 12:25pm.

Jack Fraley
Chairman

**APPROVED MINUTES OF THE APRIL 4, 2007 MEETING
OF THE PLANNING COMMISSION**

Ms. Ellen Cook presented the staff report stating that the proposal seeks to amend and reordain JCC Code, Chapter 24, Zoning, Article V, Districts, Division 15, Mixed Use, MU, Section 24-527, Setback requirements, to clarify the following: when a setback is required, the conditions of when a setback can be modified and the procedure to request a modification. Ms. Cook said the Policy committee recommended approval of the proposed change by a vote of 3-1.

Mr. Obadal asked if Ordinance paragraph A currently applies to both internal and external roads.

Ms. Cook stated that it currently does not specify and has been interpreted by staff as external given other language elsewhere in the section.

Mr. Obadal asked if paragraph C specifies internal roads.

Ms. Cook stated that it refers to the location of the mixed use district in relationship to the overlaying comprehensive designation.

Mr. Obadal asked if that has consistently been staff's interpretation.

Ms. Cook said that was correct.

Mr. Kennedy opened the public hearing.

Hearing no requests, the public hearing was closed.

Mr. Obadal stated his concern that higher densities be confined to mixed use areas to manage growth and suggested alternative wording.

Mr. Fraley said there are mixed use developments other than housing redevelopment focus areas. He stated that any mixed use rezoning has to have legislative approval. Mr. Fraley also stated that the proposal specifies additional criteria which must be met before a setback modification request can be made.

Mr. Billups stated his concern that the proposal conflicts with the Comprehensive Plan. He stated that there are other ways to address the issue.

Mr. Krapf stated that there are mixed use zoned districts that are internal to mixed use areas designated by the Comprehensive Plan and some mixed use zoned districts that are internal to areas with a different Comprehensive Plan designation. He stated the proposal's intent to clarify this distinction and add additional criteria for those outside of mixed use designated areas.

Mr. Fraley stated that the proposal does not change setbacks, only the criteria for requesting waivers to setbacks.

Mr. Obadal **disagreed**. He stated that internal setbacks are eliminated. Mr. Obadal stated that the setbacks were designed to create a roadblock in order to manage density.

Mr. Kennedy stated his inclination to hear a motion with Mr. Obadal's suggested language and a separate motion on the proposal as presented by Staff.

Mr. Obadal stated his appreciation for the time staff and Commissioners have given to considering this amendment. Mr. Obadal read his proposed change, which was to include Housing Revitalization Areas, along with Mixed Use Designated areas, as eligible for the setback waiver.

Ms. Cook showed on the overheard where she believed Mr. Obadal's suggested language would be inserted.

Mr. Sowers asked if it was Mr. Obadal's intent to delete the additional criteria for projects outside of mixed use designated areas.

Mr. Obadal said the additional criteria would not be necessary.

Mr. Fraley explained the Policy Committee's reasons for the additional criteria. He stated that Mr. Obadal's suggestion would not address a solution for most cases.

Mr. Kennedy stated that the Commission could vote on Mr. Obadal's proposal first and if it does not carry, they can vote on the proposal presented.

Mr. Fraley asked for clarification of Mr. Obadal's intent concerning the additional criteria.

Mr. Obadal said setback waivers should not be easily available to cases outside of mixed use designated areas and stated that the additional criteria are not necessary.

Mr. Kinsman suggested the Commission vote on Staff's proposal as presented first. He stated that if that doesn't pass the Commission could recess to allow him and staff to consider the affect of Mr. Obadal's suggestions on the Ordinance language.

Mr. Billups stated his concerns of adding additional terminology to the Ordinance.

Mr. Kennedy asked for a motion.

Ms. Jones made a motion to approve the proposal as presented by staff.

Mr. Fraley seconded the motion.

In a roll call vote the application was recommended for approval (4-3). AYE: Fraley, Hughes, Jones, Krapf (4); NAY: Obadal, Billups, Kennedy (3).

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24 ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE, MU, SECTION 24-527, SETBACK REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-527, Setback requirements.

Chapter 24. Zoning

Article V. Districts

Division 15. Mixed Use, MU

Section 24-527. Setback requirements.

(a) *Location of structures.* Structures shall be located 50 feet or more from any *external* existing or planned public road right-of-way, *or any internal arterial road right-of-way*, which is 50 feet or greater in width. Where the *external* existing or planned public road right-of-way, *or the internal arterial road right-of-way*, is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the *external* existing or planned *or internal arterial*, public road.

(b) *Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) ~~*Lesser setback requirements for mixed use area internal to mixed use districts; criteria for determination.*~~ *The planning commission may recommend approval of a setback of less than 50 feet for those areas of a mixed use district that are internal to a Mixed Use area as designated by the Comprehensive Plan upon finding* *Setback modifications; criteria for determination. Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use zoning*

district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setbacks, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, ~~the planning commission shall find that one or more of the following criteria are met~~ *a request for a setback modification must meet one or more of the following criteria:*

- (1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (2) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;*
- (2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.*

(d) *Requests for modifications.* Requests for modifications ~~to the 50 foot setback~~ *pursuant to subsection (c) above* shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall make a recommendation

to the ~~development review committee~~ *board of supervisors* to approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks *specified in (a) and (b) above*, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of May, 2007.

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