

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

July 10, 2007

7:00 P.M.

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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. Regional Issues Committee

L. ADJOURNMENT

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF JUNE 2007, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. 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

C. BOARD DISCUSSIONS

1. Cash Proffers Policy for Schools

Mr. John E. McDonald, Financial and Management Services Manager, gave a brief presentation comparing the proposed cash proffers for certain housing types to the current Cash Proffer Policy.

The Board and staff discussed reconstituting a committee to review the Cash Proffer Policy due to significant increases, and Mr. Wanner directed that a nominal committee could be formed to review the information but felt it was not necessary to reconstitute the original committee.

The Board and staff discussed the methodology for developing the proposed numbers. Mr. McDonald explained that the same methodology was used during the original policy development but now the costs of school building construction are known and reflected in the numbers.

Mr. Goodson expressed concern about the impact of the school cash proffer on the affordability of homes.

Mr. McGlennon stated there was little evidence to suggest that the homeowner bears the burden of cash proffers, and that the proffers were more likely to impact how much the developer would be willing to pay for the land during rezoning. He stated that other communities' cash proffers for schools were significantly higher, and that through impact fees studies there has not been any clear evidence that proffers impact the prices of homes.

The Board and staff discussed the application of the policy to age-restricted housing, methodology used originally to create the policy, when the policy should be updated, and the effective date of each update.

Mr. Bradshaw expressed concern that this proffer policy created an incentive to build by-right in an A-1, General Agriculture, zoned area.

Mr. McGlennon stated that if the County was moving forward with the Rural Lands revisions as planned, it would be more difficult to build by-right in A-1 zoned areas.

Mr. McGlennon noted that if a proffer system could be replaced by an impact fee, this could be applied generally to new development not just rezoning, as with a proffer.

The Board and staff discussed flexibility in the application of the proffer policy.

The Board directed to see the comparison of the County's policy with those of other locations.

Mr. McDonald stated he would obtain the information for other localities before the policy is set to be adopted.

The Board and staff discussed plans when the policy should go into effect. A consensus was reached that the policy should go into effect upon adoption. The formal Board consideration on the Cash Proffer Policy is scheduled to be held on July 24, 2007. Mr. Wanner stated people wishing to speak to this matter could do so during public comment segments twice at each Board meeting on June 26, 2007, and July 10, 2007, and at the first public comment segment on July 24, 2007.

2. Risk Management Program Update

Mr. Bart Johnson, Risk Management Director, gave an overview of the County's Risk Management Program. Mr. Johnson covered losses over 20 years, risk comparisons to other localities nationally, insurance coverage, influences which contribute to the County's low rate of insurance claims, and challenges and opportunities for the future. He outlined premiums and deductibles for the County's various insurance coverages and outlined efforts toward savings. He asserted that possible challenges for the future included self-insurance, partnering with the schools, an aging workforce, promoting wellness, and providing on-line training for employees.

The Board thanked staff for their efforts toward Risk Management and noted the importance of working with outside agencies.

At 5:16 p.m., Mr. McGlennon recessed the Board.

At 5:19 p.m., Mr. McGlennon reconvened the Board.

At 5:20 p.m., Mr. Bradshaw made a motion to go into Closed Session.

At 5:40 p.m., Mr. McGlennon reconvened the Board.

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

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

WHEREAS, Section 2.2-371 1 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.

At 5:41 p.m., the Board broke for dinner.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF JUNE 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, Absent
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 - Tonnette Bennett, a rising twelfth-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Capital Improvement Projects Update

Mr. Steven Hicks, General Services Manager, gave an overview of Capital Improvement projects in the County and an update on the status of several completed and pending projects: improvements to Brick Bat Road, Courthouse Entrance Monuments, Chickahominy Riverfront Park, Freedom Park Phase II-C, Greensprings Trail Extension, Jamestown Road, 2007 Legacy Hall, Norge Train Depot, Water Tower Trail, Warhill Site Developments, Baseball Field 5 Lighting, James City County Stadium, Multipurpose Fields, Thomas Nelson Community College Historic Triangle Campus, and the Warhill Multiuse Trail.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Virginia Department of Transportation (VDOT) Residence Administrator, reported on drainage improvements at Westray Downs and work on Route 321 to coordinate pedestrian crossings.

Mr. Bradshaw commented on shoulder strengthening and paving on Holly Forks Road and asked if VDOT was using a new technique.

Mr. Brewer stated he would look into it.

Mr. McGlennon asked for a report on the drainage work being done in First Colony.

Mr. Brewer agreed.

F. PUBLIC COMMENT

1. Mr. William H. Beck, 7988 Richmond Road, stated his disapproval of the Hampton Roads Transportation Authority.

2. Mr. Leonard Sazaki, 3927 Ironbound Road, stated his disapproval of the Hampton Roads Transportation Authority.

3. Mr. Bryan Oyer, 9025 Barnes Road, stated his disapproval of the Hampton Roads Transportation Authority.

4. Mr. Randy O'Neil, 109 Sheffield Road, commented on public health and working with youth in the community.

5. Mr. Michael Richardson, 2701 Jolly Pond Road, commented on increased assessments, taxes, and the County's acquisition of greenspace.

6. Mr. Ed Oyer, 139 Indian Circle, commented on General Assembly legislation and the Hampton Roads Transportation Authority; unsolicited collect phone calls; and excess school funds being returned to the County.

Mr. Goodson stated that he supported delaying taxes until the General Assembly has a chance to revisit the fees and revise the bill regarding the Hampton Roads Transportation Authority. He stated he was committed to getting issues resolved before the Bill takes effect.

Mr. McGlennon stated that the Hampton Roads Mayors and Chairs have discussed improvements that may be done to the current plan for the Hampton Roads Transportation Authority.

Mr. McGlennon noted that about \$3 million of County money was spent for the acquisition of the Jamestown Campground and Yacht Basin, and the NOAA grant referenced by Mr. Richardson was awarded toward the purchase of property rather than maintaining the campground.

Mr. Bradshaw asked that the Board Consideration Item No. 1 be moved ahead of the Public Hearings for expedited consideration.

As there was no objection, Mr. McGlennon moved the item ahead of the Public Hearings on the agenda.

G. CONSENT CALENDAR

Mr. Icenhour asked to pull Item No. 9 for separate consideration.

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

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

1. Minutes - June 12, 2007, Regular Meeting
2. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Eugene C. and Mary K. Andrews Trustees

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE -

EUGENE C. AND MARY K. ANDREWS TRUSTEES

WHEREAS, Eugene C. and Mary K. Andrews Trustees are the owners of a certain parcel of land commonly known as 3406 North Riverside Drive, Williamsburg, VA, designated as Parcel No. 0940100008N within James City County Real Estate system, herein referred to as the ("Property"); and

WHEREAS, on or about November 14, 2006, Eugene C. and Mary K. Andrews Trustees caused the removal of vegetation from within the Resource Protection Area on the Property; and

WHEREAS, Eugene C. and Mary K. Andrews Trustees agreed to a Restoration Plan to replant 30 understory trees and 115 shrubs on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and Eugene C. and Mary K. Andrews Trustees have posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Eugene C. and Mary K. Andrews Trustees have agreed to pay \$2,250 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,250 civil charge from Eugene C. and Mary K. Andrews Trustees as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

3. Chesapeake Bay Preservation Ordinance Violation – Civil Charge - Peter L. and Rebecca S. Paluzsay

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE -

PETER L. AND REBECCA S. PALUZSAY

WHEREAS, Peter L. and Rebecca S. Paluzsay are the owners of a certain parcel of land commonly known as 128 Shellbank Drive, Williamsburg, VA, designated as Parcel No. 451020003 within James

City County Real Estate system, herein referred to as the ("Property"); and

WHEREAS, on or about May 12, 2006, Peter L. and Rebecca S. Paluzsay caused the removal of vegetation from within the Resource Protection Area on the Property and caused the installation of unapproved structures within the Resource Protection Area; and

WHEREAS, Peter L. and Rebecca S. Paluzsay agreed to a Restoration Plan to replant 5 understory trees and 75 shrubs on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and Peter L. and Rebecca S. Paluzsay have posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Peter L. and Rebecca S. Paluzsay have agreed to pay \$2,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,000 civil charge from Peter L. and Rebecca S. Paluzsay as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

4. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - John D. and Grace Maxine Williams

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE -

JOHN D. AND GRACE MAXINE WILLIAMS

WHEREAS, John D. and Grace Maxine Williams are the owners of a certain parcel of land commonly known as 2497 Manion Drive, Williamsburg, VA, designated as Parcel NO. 4630100001D, within James City County's Real Estate system, herein referred to as the ("Property"); and

WHEREAS, On or about May 22, 2007, John D. and Grace Maxine Williams caused the removal of vegetation from within the Resource Protection Area on the Property; and

WHEREAS, John D. and Grace Maxine Williams agreed to a Restoration Plan to replant six canopy trees, 28 understory trees, and 30 shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and John D. and Grace Maxine Williams have posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, John D. and Grace Maxine Williams have agreed to pay \$2,000 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$2,000 civil charge from John D. and Grace Maxine Williams, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

5. Erosion and Sediment Control Ordinance Violation - Michael R. and Marsh Leighton-Herrmann

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

MICHAEL R. AND MARSH LEIGHTON-HERRMANN

WHEREAS, on or about May 7, 2007, Michael R. and Marsh Leighton-Herrmann, Owners, violated or caused a violation of the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 219 Skillman Drive, Toano, Virginia, identified by property identification number 04300400011 within the James City County Real Estate System and hereinafter referred to as the ("Property"); and

WHEREAS, Michael R. and Marsh Leighton-Herrmann have abated the violation at the Property; and

WHEREAS, Michael R. and Marsh Leighton-Herrmann have agreed to pay \$500 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$500 civil charge from Michael R. and Marsh Leighton-Herrmann as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -

CIVIL CHARGE - ROBERT C. SHOLAR

WHEREAS, on or about March 3, 2007, Robert C. Sholar, Owner, violated or caused a violation of the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 9032 Barnes Road, Toano, Virginia, identified by property identification number 1020500001B within the James City County Real Estate System and hereinafter referred to as the ("Property"); and

WHEREAS, Robert C. Sholar has abated the violation at the Property; and

WHEREAS, Robert C. Sholar has agreed to pay \$500 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$500 civil charge from Robert C. Sholar as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

7. Appointment of Deputy Zoning Administrator

RESOLUTION

APPOINTMENT OF DEPUTY ZONING ADMINISTRATOR

WHEREAS, pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator; and

WHEREAS, an appointment of a Deputy Zoning Administrator is necessary beginning on July 1, 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Melissa C. Brown as Deputy Zoning Administrator.

8. Grant Appropriation - Tropical Storm Ernesto

RESOLUTION

GRANT APPROPRIATION - TROPICAL STORM ERNESTO

WHEREAS, James City County was given a Federal disaster declaration for Tropical Storm Ernesto, making public expenditures for repair and recovery eligible for Federal reimbursement; and

WHEREAS, James City County filed for reimbursement for its eligible expenditures and those of the James City Service Authority and the Williamsburg/James City County Schools; and

WHEREAS, the Federal Emergency Management Agency and the Commonwealth of Virginia have provided \$166,546 in reimbursements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, appropriates the following budget amendment to the Special Projects/Grant Funds:

Revenues:

Federal Emergency Management Agency	\$138,065
Commonwealth of Virginia	<u>28,481</u>
Total	<u>\$166,546</u>

Expenditures:

James City Service Authority	\$121,576
Williamsburg/James City County Schools	5,035
Storm Costs	<u>39,935</u>
Total	<u>\$166,546</u>

10. Acceptance of Funds for Citizens Corps Program

RESOLUTION

ACCEPTANCE OF FUNDS FOR CITIZEN CORPS PROGRAM

WHEREAS, James City County received Virginia Department of Emergency Management (VDEM) funds in the amount of \$20,000 to support and enhance the training and equipment capabilities of the Citizen Corps Program to respond to potential emergencies or natural disasters; and

WHEREAS, these funds were allocated to provide training, equipment and planning activities to benefit the Citizen Corps Program in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of and expenditure of the VDEM grant funds in the amount of \$20,000 to enhance the training and equipment capabilities of the Citizen Corps Program.

11. Department of Criminal Justice Services Grant Award - \$43,720

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES GRANT AWARD - \$43,720

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a grant in the amount of \$43,720 (DCJS share \$32,790); and

WHEREAS, the funds are to be used towards the salary and partial fringe benefits of a full-time Gang Investigator position; and

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

WHEREAS, additional costs for this position include motor-fuel expenses, estimated overtime, and additional cost for fringe benefits, totaling \$16,936, and the funds are available in the General Fund; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2007, through June 30, 2008.

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/Grant Funds and the transfer from the General Fund:

Special Project/Grant Fund

Revenues:

DCJS - Gang Investigator	\$32,790
James City County Grant Match Fund	<u>10,930</u>
Total	<u>\$43,720</u>

Expenditure:

DCJS - Gang Investigator	<u>\$43,720</u>
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General Fund

Transfer:

Contingency Fund	<u>(\$16,936)</u>
Police Department	<u>\$16,936</u>

12. Department of Criminal Justice Services Grant Award - Criminal Justice Records Systems Improvements - \$27,500

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES - GRANT AWARD -

CRIMINAL JUSTICE RECORD SYSTEMS IMPROVEMENT - \$27,500

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant for the Police Department in the amount of \$27,500, with a State share of \$20,625 for the enhancement of the Department's current Records Management System (RMS); and

WHEREAS, the grant will be used to purchase Base Mobile Server software to support data communication between Mobile Data Terminals (MDT) and base stations, as well as allow officers' access to the Department's existing RMS and Computer-Aided Dispatch (CAD) databases; and

WHEREAS, the grant requires a cash local match of \$6,875, which is available in the County's Grants Match Account; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2007, through June 30, 2008.

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:

DCJS - Record Systems Improvement		\$20,625
JCC Grants Match	<u>6,875</u>	
Total	<u>\$27,500</u>	

Expenditure:

DCJS - Record Systems Improvement	<u>\$27,500</u>
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9. Contract Award - 457(b) and 401(a) Deferred Compensation Plan Provider

Ms. Carol Luckam, Human Resource Manager, gave a brief overview of the bid and selection process for the County's deferred compensation plan. She stated the resolution recommends allowing the County Administrator to enter into contract with the County's current vendor, ICMA-RC due to input from the Employee Benefits Committee, a consultant, and other staff that evaluated the proposals. Ms. Luckam outlined additional benefits to the selected plan beyond the current plan. She stated that if the resolution is approved, the Human Resource Department would continue to work with the consultant to develop an implementation plan.

Mr. Icenhour thanked Ms. Luckam for her introduction and for selecting a superior system with greater access and stated his concern with choice of funds.

Ms. Luckam stated the contract did not limit the number of options that could be selected.

Mr. Icenhour asked if there was a way to ensure performance and could terminate the contract with due notice.

Ms. Luckam stated this was correct.

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

CONTRACT AWARD - 457(b) AND 401(a) DEFERRED COMPENSATION PLAN PROVIDER

WHEREAS, a Request for Proposals has been advertised and eight interested firms submitted proposals; and

WHEREAS, the staff reviewed and evaluated the proposals, conducted interviews, and selected ICMA Retirement Corporation as the most qualified to provide the Deferred Compensation Services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with ICMA Retirement Corporation.

H. BOARD CONSIDERATION

1. Case No. SUP-13-07. Denley Brown Contractor's Warehouse (Deferred from June 12, 2007)

Mr. Jason Purse, Planner, stated that at the previous meeting, the Board directed evaluating the propriety of applying a sunset clause to this use. Staff did not recommend a sunset clause to be applied to this case, but has provided an alternate resolution for the Board's consideration.

Mr. McGlennon stated that he appreciated being able to take the time to evaluate the option of a sunset clause but felt that it was not necessary for this Special Use Permit (SUP).

Mr. Bradshaw stated that a suitable cause for sunset clauses would be untested uses or transition properties, which did not apply to this use, but provided a good comparison.

Mr. Bradshaw made a motion to adopt the resolution without the sunset clause.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

CASE NO. SUP-13-07. DENLEY BROWN CONTRACTORS WAREHOUSE/OFFICE

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. Tim Trant, on behalf of Denley Brown, has applied for an SUP to allow a contractors warehouse/office on approximately 8.074 acres of land on a parcel zoned A-1, General Agricultural; and

WHEREAS, the proposed site is shown on a conceptual layout, entitled "Special Use Permit Exhibit for Denley Brown" and dated March 13, 2007; and

WHEREAS, the properties are located on land zoned A-1, General Agricultural, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. (24-1)(1-15a); and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 2, 2007, recommended approval of this application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 13-07 as described herein with the following conditions:

1. This SUP shall be valid for the operation of one contractors warehouse, shed, and office and accessory uses thereto (the "Project") as shown on the Master Plan titled "Special Use Permit Exhibit for Denley Brown" dated March 13, 2007, (the "Master Plan") on the parcel, located at 272 Peach Street, and identified as James City County Real Estate Tax Map No. 2410100015a (the "Property"). Development of the Project shall be generally in accordance with the Master Plan as determined by the Development Review Committee (the "DRC") of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the Project.
2. All storage of equipment associated with the Project shall be located inside the "Contractor's Warehouse" or under the adjacent "Covered Lean To" or "Future Covered Storage Area" as shown on the Master Plan. The storage area, for both the indoor and outdoor storage, as well as any future office expansion shall be limited to 2,600 square feet. The office use for this operation that is currently located in the residential dwelling on-site shall be limited to not more than 25 percent of the first floor area. Parking associated with the project shall be limited to the "proposed gravel parking area" as noted on the Master Plan.
3. Should new exterior site or building lighting be installed for the operation of the business, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare, defined as 0.1 footcandle or higher, shall extend outside the boundaries of the Property.

4. With the exception of the drive aisle and warehouse, the area depicted as “Natural undisturbed area” on the Master Plan shall remain in a natural undisturbed state unless otherwise approved by the Planning Director.
5. Hours of operation, including the operation of power tools and machinery and truck deliveries and pickups, shall be limited to 6 a.m. to 6 p.m., Monday through Saturday.
6. Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a “monument” style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 16 square feet in size and not to exceed six feet in height from grade.
7. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

I. PUBLIC HEARINGS

1. Case Nos. Z-09-06/MP-10-06. Ironbound Square Redevelopment

Mr. Jose Ribiero, Planner, stated Mr. Rick Hanson of the James City County Office of Housing and Community Development (OHCD) has applied, on behalf of the Williamsburg Redevelopment Housing Authority, to rezone approximately 9.34 acres from R-2, General Residential, to MU, Mixed use, with proffers. The area of this proposal consists of 40 existing parcels (37 residential parcels, two parcels are designated as “alleys”, and therefore nonresidential, and the remaining parcel is owned by James City County), and it is located within the Ironbound Square Redevelopment Area. If approved, this rezoning application will allow subdivision of the existing 40 parcels to create up to 52 parcels and three new streets. Because the James City County Office of Housing and Community Development was unable to obtain signatures from the owners of five of the parcels located in the site, the Board of Supervisors approved a resolution on February 13, 2007, initiating the rezoning process for the five parcels within the Ironbound Square Redevelopment Area. The rezoning of the five parcels will be considered concurrently with the James City County Office of Housing and Community Development rezoning application. The site of Phase II is designated by the Comprehensive Plan as Low Density Residential, but is located within the New Town Community Character Area. The rezoning case was deferred by the Planning Commission on March 7, 2007, and on April 4, 2007, the Planning Commission recommended denial by a vote of 7-0. The applicant has requested deferral to July 10, 2007, and staff concurred with this request.

Mr. McGlennon stated this case would be deferred to the July 10, 2007, Board meeting.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak to this matter, Mr. McGlennon continued the Public Hearing to July 10, 2007.

2. Lease Approval - Chickahominy Riverfront Park Cottage

Mr. Ned Cheely, Parks and Recreation Director, stated that the County has leased the cottage at Chickahominy Riverfront Park on a yearly basis. He stated that the resolution authorized the lease of the cottage. Staff recommended approval of the resolution.

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 adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

LEASE APPROVAL - CHICKAHOMINY RIVERFRONT PARK COTTAGE

WHEREAS, the County is the owner of certain real property identified as James City County Real Estate Tax Map No. 3430100002 and more commonly known as the Chickahominy Riverfront Park (the "Park"); and

WHEREAS, located on the Park is a caretaker cottage (the "Cottage"); and

WHEREAS, the County desires to lease the Cottage under certain terms and conditions as set forth in the attached lease agreement; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the Cottage under the terms and conditions set forth in the attached lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the County to lease the Cottage under the terms and conditions set forth in the attached lease agreement and authorize the County Administrator to execute the lease agreement and any and all subsequent renewals of the lease agreement.

3. Ordinance to Amend and Reordain James City County Code Section 13-7, Adoption of State Law; and Section 13-28, Adoption of State Law, Generally; to adopt by reference the State Code provisions amended by the General Assembly.

Ms. Jennifer Lyttle, Assistant County Attorney, stated this item was an ordinance to reordain the DUI and traffic laws to incorporate new laws that were passed by the General Assembly. Staff recommended adoption of the ordinance.

Mr. McGlennon stated that this item was done annually to incorporate laws enacted by the General Assembly, not to endorse those laws, but to allow them to be enforced by the County's police officers.

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 amendment.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

4. Property Dedication - Ironbound Road Virginia Department of Transportation Project

Mr. John Horne, Development Manager, stated this item was a secondary road project and VDOT is in the acquisition phase. Two pieces of property need to be dedicated - a small piece of the Courthouse property at the intersection and a small piece of the Palmer Lane office complex property. Staff recommended adoption of the resolution. He clarified that all the developments involved have planned for this acquisition.

Mr. Icenhour asked what the schedule would be for construction.

Mr. Horne stated VDOT has it slated for advertisement in December 2008. He stated this was a complex project so the construction phase would be lengthy.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak tot his matter, Mr. McGlennon closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

PROPERTY DEDICATION - IRONBOUND ROAD

VIRGINIA DEPARTMENT OF TRANSPORTATION PROJECT

WHEREAS, the Board has endorsed a project to widen Route 615 (Ironbound Road) within the Six-Year Secondary Road Improvement Plan; and

WHEREAS, the Virginia Department of Transportation (VDOT) has requested the dedication of 1,631 square feet of permanent right-of-way, 251 square feet of permanent utility easement, and 267 square feet of temporary construction easement from the property of the Williamsburg/James City County Courthouse, as shown on Sheet 4 of the Plan and profile of VDOT Project 0615-047-169, PE-101, RW-201, C-501; and

WHEREAS, VDOT has requested 3,007 square feet of permanent utility easement on County office property on Palmer Lane as shown on Sheet 10; and

WHEREAS, the Board of Supervisors has determined that these property dedications are necessary to allow for the construction of this valuable road improvement project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County hereby dedicates the following property to VDOT:

City of Williamsburg Tax Parcel No. 460-01-00-002:

Permanent right-of-way, 1,631 square feet
Permanent utility easement, 251 square feet
Temporary construction easement, 267 square feet

James City County Tax Parcel Nos. 3911300001A and 3911300001B:

Permanent utility easement, 3,007 square feet

5. Employer Assisted Home Ownership Program Application

Ms. Carol Luckam, Human Resource Manager, stated the State law requiring freestanding ordinances for employer assisted homeownership grants would end July 1, 2007. She stated an employee has applied for a grant and has met the criteria. She explained that the ordinance was necessary to allow the employee to close on a home on June 29, 2007.

As no one wished to speak to this matter, Mr. McGlennon closed the Public Hearing. Mr. McGlennon made motion to approve the ordinance.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

J. BOARD CONSIDERATIONS

2. Acquisition of Real Property and Conservation Easement - DeBord

Mr. Doug Powell, Community Services Manager, stated in October 2006, the Board authorized staff to offer to purchase 101 acres of a 125-acre tract owned by David DeBord and known as Tax Map 2310100001A. In addition, the Board authorized staff to offer to purchase an easement on the remaining 24 acres, since determined to be 22.6 acres, restricting the development of this single lot to one house with an accessory apartment over a garage. Since then, staff has negotiated with the property owner and reached an agreement that the County shall purchase the 101 acres for \$12,000 per acre and the County shall purchase an easement on the 22.6-acre residue for \$6,386 per acre. The property owner shall retain the right to build one dwelling unit such as a garage with living quarters not to exceed 1,500 square feet and an expansion of an integrated single-family dwelling unit not to exceed 6,000 square feet on the 24 acres. The property would not be allowed to be subdivided further of the 22.6 acres, set back at least 300 feet from the road. The deed would allow uses that would normally be allowed in A-1 zoned districts with a few exceptions, including general agricultural conforming with farm conservation plan and timbering activities that conform to forest stewardship plan and no more than 50 percent of the timber should be cut at any time. Mr. Powell stated that funds were available for the purchase from the Greenspace fund and that the final cost of the property would be \$1,356,751.46. Mr. Powell stated that discussions had been held about the potential to place restrictions on the 101-acre parcel of the property and then dispose of it to recoup some of the investment, and while no specific proposal was in place, this was still an option. Mr. Powell noted the current balances of the Greenspace account and the PDR account. He said that there had been \$20 million dollars in a bond referendum for greenspace with \$6 million in general obligation bonds that were appropriated to the Greenspace account for the purchase of the Jamestown Beach Campground and Marina and the County can still borrow \$14 million from the referendum funds. He stated the PDR account currently has a balance of \$2.1 million and an additional \$1.1 million will be appropriated in FY 2008, bringing the balance to a total of \$3.2 million. He indicated that if the DeBord purchase was approved, the balance of the Greenspace account would be \$305,000, but would increase to \$5.8 million after the County sold the property of the Jamestown Beach and Campground to VDOT and the Jamestown-Yorktown Foundation later in the year.

Staff recommended approval of the resolution.

Mr. Bradshaw stated that he was pleased with the conservation of greenspace in the County and the way staff is able to recover a portion of the money expended for the purchase.

Mr. McGlennon stated that this is a way to maximize bond referendum dollars and conserve greenspace.

Mr. Icenhour thanked Mr. Powell for information about the balance of the funds.

Mr. Bradshaw made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

ACQUISITION OF REAL PROPERTY AND CONSERVATION EASEMENT -

TAX MAP NO. 2310100001A - DEBORD

WHEREAS, David P. DeBord is the owner of certain real property identified as James City County Tax Map No. 2310100001A, being approximately 123.667 acres and more commonly known as 130 Crescent Drive ("Property"); and

WHEREAS, the County desires to acquire 101 acres of the Property at \$12,000 per acre and a conservation easement over the remaining 22.667 acres of the Property at \$6,386 per acre; and

WHEREAS, the acquisition of the 101 acres of the Property and 22.667 acres of conservation easement will preserve the Property's rural landscape and farmland; and

WHEREAS, the Board of Supervisors is of the opinion that the County should acquire the 101 acres of the Property and 22.667 acres of conservation easement to preserve the rural landscape and farmland of the Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the 101 acres of the Property and 22.667 acres of conservation easement, and execute any and all documents as may be necessary to complete the transaction.

3. Acquisition of Real Property - Tax Map No. 4621200001A

Mr. Ned Cheely, Parks and Recreation Director, stated the resolution authorized the acquisition of property from St. George's Hundred for a portion of property that is identified as a greenway in the Greenway Master Plan to develop a connection to the Greensprings Trail. Staff recommended approval of the resolution authorizing the County administrator to execute the documents necessary for the purchase of the property.

Mr. Icenhour made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

ACQUISITION OF REAL PROPERTY - TAX MAP NO. 4621200001A

WHEREAS, St. George's Hundred Association LTD owns certain real property identified on James City County Tax Map No. 4621200001A and being approximately 6.455 acres ("Property"); and

WHEREAS, the County desires to acquire the Property for the purposes of constructing a multi-purpose trail which would connect to the Greensprings Trail as part of the Powhatan Creek greenway identified on the County Greenway Master Plan; and

WHEREAS, the total purchase price of the Property is \$1,291; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Property for the purpose of constructing a multi-purpose trail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the Property and to execute any and all documents as may be necessary to acquire the Property.

4. Acquisition of Real Property from Green Mount Associations, LLC for Route 60 Relocation

Mr. Steven Hicks, General Services Manager, stated discussions were held with Green Mount Associates, LLC to develop plans for the relocation of Route 60. He stated in order to move forward with the project the Green Mount property was necessary and recommended approval of the resolution.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

RESOLUTION

ACQUISITION OF REAL PROPERTY FROM GREEN MOUNT ASSOCIATES, LLC FOR

ROUTE 60 RELOCATION

WHEREAS, Green Mount Associates, LLC currently owns a certain parcel located at 1651 Green Mount Parkway in James City County, designated as Tax Parcel No. 6010100004 (the "Site"); and

WHEREAS, in furtherance of the County's initiative to expand and relocate Route 60, beginning from Blow Flats Road and connecting to the City of Newport News at Skiffe's Creek, there is a proposed real estate purchase agreement to convey to James City County 12.6164 acres (the "Property") of the Site, generally shown "10.3965 AC" and "2.2199 AC" on that certain plat entitled "Exhibit Showing Existing and Proposed Right-of-Way Green Mount Parkway, James City County, Virginia", dated October 24, 2006, and prepared by LandMark Design Group (the "Plat"); and

WHEREAS, the purchase price for the Property is \$10,000 per acre, being a total purchase price of \$126,164; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Property for the purpose of expanding Route 60.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute any and all documents necessary to acquire the 12.6164 acres, as generally shown on the Plat, for the purpose of expanding Route 60.

K. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated in regards to SB 1313 that the County must adopt an ordinance to regulate the authority; commented that the General Assembly was prohibited in the Constitution to create special tax districts and the law should be subject to amendment and appeal. He also stated the General Assembly cannot delegate its powers.

2. Mr. Michael Richardson, 2701 Jolly Pond Road, commented on money spent on recreation, specifically boating and commented on boating hazards from not dredging waterways. Mr. Richardson requested the Board put in a request to the Corps of Engineers to have the Powhatan Creek waterway dredged.

Mr. McGlennon thanked Mr. Richardson for bringing this to the attention of the County.

Mr. Wanner stated the City of Hampton is putting together a regional dredging project.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated when the Board completed its business, a meeting of the James City Service Authority Board of Directors should be held. He stated that the Board should adjourn until 7 p.m. on July 10, 2007.

M. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon stated that after the Work Session a closed session was held. He requested a motion for the action discussed during Closed Session.

Mr. Bradshaw made a motion to appoint Ms. Leanne DuBois to a four-year term on the Economic Development Authority, effective July 8, 2007, with her term set to expire on June 30, 2011.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

Mr. Bradshaw commented on the County Fair and noted that the weather was good and the facility was exceptional. Mr. Bradshaw recognized Ms. Loretta Garrett and the Fair Committee for their work on a very successful event.

Mr. McGlennon stated he was very happy with the Fair and felt that it was a great success.

Mr. Icenhour stated that he was very impressed with the Fair facility and commented how family-friendly the event was.

Mr. Goodson stated he and his family enjoyed the Fair also.

Mr. McGlennon stated on June 16, 2007, graduation exercises were held at local high schools and that these were important events for the community.

N. ADJOURNMENT - until July 10, 2007, at 7 p.m.

Mr. Goodson made a motion to adjourn.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Icenhour, McGlennon. (4). NAY: (0).

At 8:15 p.m., Mr. McGlennon adjourned the Board until 7 p.m. on July 10, 2007.

Sanford B. Wanner
Clerk to the Board

062607bos.min

MEMORANDUM

DATE: July 10, 2007
TO: The Board of Supervisors
FROM: Darryl E. Cook, County Engineer
SUBJECT: Dedication of Streets in Lake Powell Pointe Subdivision, Phases 1-4

Attached is a resolution requesting acceptance of certain streets in Lake Powell Pointe Subdivision, Phases 1-4 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
LakePowellPointeSts.mem

Attachment

RESOLUTION

DEDICATION OF STREETS IN LAKE POWELL POINTE SUBDIVISION, PHASES 1-4

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.

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 10th day of July, 2007.

LakePowellPointeSts.res

In the County of James City

By resolution of the governing body adopted July 10, 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 Lake Powell Pointe Subdivision, Phases 1 - 4

Type Change to the Secondary System of State Highways: 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 cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: **New subdivision street**

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

Street Name and/or Route Number

Durfey's Mill Road, State Route Number 1775

Old Route Number: 0

- From: Jamestown Road (Rt. 31)
To: Rolling Reach (Rt. 1780) / Scenic Ct. (Rt. 1776), a distance of: 0.14 miles.

Recordation Reference: Book 71 Page 70

Right of Way width (feet) = 50 ft.

► **Durfey's Mill Road, State Route Number 1775**

Old Route Number: 0

- From: Rolling Reach (Rt. 1780) / Scenic Ct. (Rt. 1776)
To: Pierside Reach (R. 1778)/Shoreline Ct. (Rt 1777), a distance of: 0.07 miles.

Recordation Reference: Book 72 Page 47

Right of Way width (feet) = 50 ft.

► **Durfey's Mill Road, State Route Number 1775**

Old Route Number: 0

- From: Pierside Reach (R. 1778)/Shoreline Ct. (Rt 1777)
To: Cul-de-sac, a distance of: 0.05 miles.

Recordation Reference: Book 74 Page 99

Right of Way width (feet) = 50 ft.

Report of Changes in the Secondary System of State Highways

► Scenic Court, State Route Number 1776

Old Route Number: 0

- From: Durfey's Mill Road (Rt. 1775)
To: Cul-de-sac, a distance of: 0.05 miles.

Recordation Reference: Book 71 Page 70

Right of Way width (feet) = 50 ft.

► Rolling Reach, State Route Number 1780

Old Route Number: 0

- From: Durfey's Mill Road (Rt. 1775)
To: Plateau Way (Rt. 1781), a distance of: 0.11 miles.

Recordation Reference: Book 71 Page 70

Right of Way width (feet) = 50 ft.

► Rolling Reach, State Route Number 1780

Old Route Number: 0

- From: Plateau Way (Rt. 1781)
To: Cul-de-sac, a distance of: 0.05 miles.

Recordation Reference: Book 71 Page 70

Right of Way width (feet) = 50 ft.

► Plateau Way, State Route Number 1781

Old Route Number: 0

- From: Rolling Reach (Rt. 1780)
To: Hillside Way (Rt. 1782), a distance of: 0.06 miles.

Recordation Reference: Book 90 Page 75

Right of Way width (feet) = 50 ft.

► Shoreline Court, State Route Number 1777

Old Route Number: 0

- From: Durfey's Mill Road (Rt. 1775)
To: Cul-de-sac, a distance of: 0.05 miles.

Recordation Reference: Book 72 Page 47

Right of Way width (feet) = 50 ft.

► Pierside Reach, State Route Number 1778

Old Route Number: 0

- From: Durfey's Mill Road (Rt. 1775)
To: Blue Lake Court (Rt. 1779), a distance of: 0.07 miles.

Recordation Reference: Book 74 Page 99

Right of Way width (feet) = 50 ft.

Report of Changes in the Secondary System of State Highways

► Blue Lake Court, State Route Number 1779

Old Route Number: 0

- From: Pierside Reach (Rt. 1779)
To: Cul-de-sac, a distance of: 0.06 miles.

Recordation Reference: Book 74 Page 99

Right of Way width (feet) = 50 ft.

► Hillside Way, State Route Number 1782

Old Route Number: 0

- From: Plateau Way (Rt. 1781)
To: Rook Pawn Reach, a distance of: 0.14 miles.

Recordation Reference: DOC #000003826

Right of Way width (feet) = 50 ft.

► Pierside Reach, State Route Number 1778

Old Route Number: 0

- From: Blue Lake Court (Route 1779)
To: Cul-de-sac, a distance of: 0.06 miles.

Recordation Reference: Book 74, Page 98

Right of Way width (feet) = 50 ft..

► Hillside Way, State Route Number 1782

Old Route Number: 0

- From: Plateau Way (Route 1781)
To: Cul-de-sac, a distance of: 0.05 miles.

Recordation Reference: DOC. #030019880

Right of Way width (feet) = 50 ft..



DEDICATION OF STREETS IN LAKE POWELL POINTE SUBDIVISION, PHASES 1 - 4



Streets Being
Dedicated

0

250

500

1,000

1,500

Feet



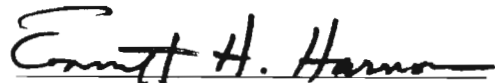
1,500
Feet

MEMORANDUM

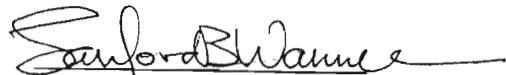
DATE: July 10, 2007
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Police Chief
SUBJECT: Virginia Department of Alcoholic Beverage Control (ABC) Grant Award - \$4,999

The Virginia Department Alcoholic Beverage Control has approved James City County Police Department's grant application for supplies and equipment for the Department's underage alcohol consumption enforcement and educational efforts. The grant is in the amount of \$4,999 and requires no match.

Staff recommends acceptance and approval of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/gb
ABCgrant.mem

Attachment

RESOLUTION

VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)

GRANT AWARD - \$4,999

WHEREAS, the Virginia Department Alcoholic Beverage Control (ABC) has approved James City County Police Department's grant application for supplies and equipment for the Department's underage alcohol consumption enforcement and educational efforts in the amount of \$4,999; and

WHEREAS, the grant requires no match; and

WHEREAS, the grant will be administered by ABC, with a grant period of July 1, 2007, through May 31, 2008.

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

Revenue:

ABC Grant	<u>\$4,999</u>
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Expenditure:

ABC Grant	<u>\$4,999</u>
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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 10th day of July, 2007.

ABCgrant.res.res

MEMORANDUM

DATE: July 10, 2007
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Chesapeake Bay Restoration Fund Grant - \$3,720

James City County's Division of Parks and Recreation has been awarded a \$3,720 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

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

Staff recommends approval of the attached resolution to accept the \$3,720 grant for the special marine camp, and to appropriate the funds as described in the attached resolution.


Needham S. Cheely, III

CONCUR:


Doug Powell

NSC/nb
ChesBayFnd.mem

Attachment

RESOLUTION

CHESAPEAKE BAY RESTORATION FUND GRANT - \$3,720

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$3,720 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenues:

From the Commonwealth	<u>\$3,720</u>
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Expenditures:

Special Projects/Grant Fund – Chesapeake Bay Restoration Fund	<u>\$3,720</u>
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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 10th day of July, 2007.

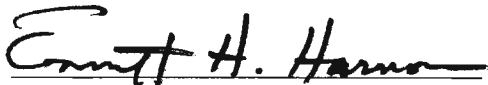
ChesBayFnd.res

MEMORANDUM

DATE: July 10, 2007
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Department of Criminal Justice Services Grant Award - \$62,801

The Virginia Department of Criminal Justice Services (DCJS) has advised that James City County Police Department's Crime Analyst Continuation grant application in the amount of \$62,801 has been approved (DCJS Share \$47,101; County Match \$15,700). The matching funds are available in the County's Grants Match Account. The grant is to be used towards the continuation of the full-time Crime Analyst position within the Police Department hired under the original grant and related expenses.

Staff recommends adoption of the attached resolution to accept the grant and appropriate funds from the County's Grant Match Fund.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/gs
crimeanaly.mem

Attachment

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES GRANT AWARD - \$62,801

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant for the Police Department in the amount of \$62,801, with a State share of \$47,101 for the continuation of the Crime Analyst position and related expenses; and

WHEREAS, the grant requires a cash local match of \$15,700, which is available in the County's Grants Match Account; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2007, through June 30, 2008.

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

Revenues:

DCJS - Crime Analyst	\$47,101
County Grants Match Account	<u>15,700</u>
Total	<u>\$62,801</u>

Expenditure:

DCJS - Crime Analyst	<u>\$62,801</u>
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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 10th day of July, 2007.

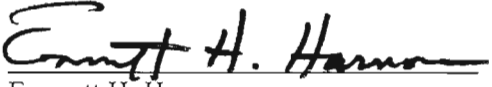
crimeanaly.res

MEMORANDUM

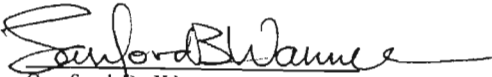
DATE: July 10, 2007
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Department of Motor Vehicles (DMV) – Highway Safety Grant - \$28,299

The Department of Motor Vehicles has approved a grant in the amount of \$28,299 for the Police Department to address traffic problems to include DUI, Speed, and Occupancy Restraint Usage. The funds will provide overtime hours for officers and equipment needed for traffic enforcement. The grant requires only a soft match, which will be borne through the normal Police Department budget.

Staff recommends adoption of the attached resolution to appropriate the funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
DMVgrantAwd.mem

Attachment

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES (DMV) - HIGHWAY SAFETY GRANT - \$28,299

WHEREAS, the Department of Motor Vehicles (DMV) has approved a grant in the amount of \$28,299 to the Police Department for traffic enforcement overtime and related equipment; and

WHEREAS, the grant only requires soft money local match, thus eliminating any additional spending by the Police Department, excluding court overtime and equipment maintenance; and

WHEREAS, the grant is administered by the DMV according to the Federal government fiscal year which runs from October 1 through September 30, thus allowing any unspent funds as of June 30, 2008, to be carried forward to the next fiscal year.

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

Revenues:

DMV – Highway Safety	<u>\$28,299</u>
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Expenditures:

DMV – Highway Safety	<u>\$28,299</u>
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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 10th day of July 2007.

DMVgrantAwd.res

REZONING CASE NO. 3-07. 3435 Old Stage Road
Staff Report for the July 10, 2007, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

June 6, 2007, 7:00 p.m.
July 10, 2007, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Todd Koob

Land Owner: Mr. Todd Koob

Proposal: Applicant is requesting to change the zoning on his property from B-1, General Business, to R-1, Limited Residential.

Location: 3435 Old Stage Road

Tax Map/Parcel Nos.: 1220100011A

Parcel Size: 1.23 acres

Existing Zoning: B-1, General Business

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to be generally consistent with the land use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the rezoning application and accept the voluntary cash proffers.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted 7-0 recommending approval of the application.

Proposed Changes made since Planning Commission Meeting

Proffers have been offered for any additional lots created by future subdivisions. The staff report has been revised to reflect this change.

Proposed Changes made by the Planning Commission

No changes have been proposed; however, the Planning Commission discussed the possibility of cash proffers or a proffer forbidding further subdivision. The applicant has agreed to limited cash proffers but has not agreed to a proffer forbidding subdivisions. The Planning Commission did not make a recommendation regarding cash proffers or future subdivisions in their motion for approval of the application.

Proffers: The applicant proposes to pay cash contributions for any lot(s) created from future subdivisions per the County’s cash proffer policy for schools.

PROJECT DESCRIPTION

Mr. Todd Koob is requesting a rezoning of his currently vacant property from General Business (B-1), to Limited Residential (R-1), to build up to two single-family detached housing units on the parcel. The parcels in this area of Old Stage Road are zoned General Business but 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 does not support it. Single-family detached housing is not a permitted use in B-1. The adjacent parcel to the right of Mr. Koob’s property was rezoned to R-1 in May.

SURROUNDING ZONING AND DEVELOPMENT

Staff notes that many properties in this section of Old Stage Road are zoned B-1 and are currently being used for single family detached homes and that the current zoning may be inappropriate. Staff has contacted the residents of the B-1 strip on Old Stage Road to see if other residents were interested in rezoning as well. Mr. Koob is the second property owner to file for a rezoning on the B-1 strip. Others have shown interest but have yet to apply. The property behind Mr. Koob’s lot is a portion of Whitehall (zoned R-2). The property is subject to a binding Master Plan and would not be affected by the rezoning.

PUBLIC IMPACTS

Environmental

- **Watershed:** Ware Creek
- **Staff Comment:** The Environmental Division has no comment at this time.

Public Utilities

Even though the lot is inside the PSA, public water and sewer service are not currently available. From the Health Department’s perspective, the property can support a septic system, which is adequate to serve a single three-bedroom house.

- **Staff Comment:** The applicant has told staff that he has an agreement with White Hall to provide water and sewer to the property. Until these utilities are available, the Virginia Health Department will regulate the well and septic field on this site.

Transportation

VDOT has not yet commented on the application, however, changes to the current traffic counts will be negligible. The ITE Trip Generation Manual average rate for single-family detached housing is 9.57 trips per day. Traffic counts on the section of Old Stage Road near the applicant’s property are not available. Old Stage Road is not on the 2026 Comprehensive Plan watch list nor is there any predicted need for future improvements. Many of the commercial uses permitted under the present zoning (B-1) would generate more traffic than the proposed use.

COMPREHENSIVE PLAN

Land Use Map

Designation	Low Density Residential (Page 120): Low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. Residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community.
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	Staff Comment: Staff believes that the property meets the intent of Low Density Residential land use designation. While not recognized by the Comprehensive Plan, a public benefit of this proposal would be the restrictions associated with R-1. The R-1 zoning district would prohibit many of the more intense land uses associated with B-1. This would help insure that the character of the area would not be disturbed by businesses permitted in B-1.
Goals, strategies and actions	<i>Strategy #1-Page 138:</i> Promote the use of land in a manner harmonious with other land uses and the environment.
	Staff Comment: Rezoning the property to limited residential would be consistent with the land uses of adjacent properties and would ensure adjoining residences are not negatively impacted by commercial development. The rezoning would also make the property consistent with the Comprehensive Plan Land Use Map, which designates the area Low Density Residential.
Comprehensive Plan- Zoning Map Inconsistencies	<i>Anderson's Corner Area- Page 131:</i> The County recognizes this property's zoning and Comprehensive Plan land use designations are inconsistent. The Comprehensive Plan also states reasons why the land use map is not changed to reflect the B-1 zoning and that the parcels involved are not appropriate for commercial use.
	Staff Comment: The Comprehensive Plan acknowledges the B-1 strip and its surrounding residential uses. The Anderson's Corner designation acknowledges businesses are not appropriate in this area but should they occur it recommends to "...mitigate the impacts of businesses that may relocate to this area through the SUP process." Staff believes the intent of the Comprehensive Plan is to discourage uses that would impact nearby residences. The proposed rezoning would accomplish this, thereby contributing to a public goal. Therefore, staff believes the rezoning is generally consistent with the Comprehensive Plan. The Comprehensive Plan also acknowledges there is a substantial amount of other residential uses in the surrounding area.

Comprehensive Plan Staff Comments

Staff believes that this application, as proposed, is in general compliance with the Comprehensive Plan. One impact of rezoning this property to residential would be to require the adjacent B-1 property, if it were ever to be developed or redeveloped to accommodate a business use set forth in B-1, to comply with a 50-foot side yard setback from the Koob property instead of the currently required 20 feet, as it would now abut a residential district. The adjacent B-1 parcel has a single-family house on it, which is a nonconforming use. There are processes that deal with reduction of setbacks for business use and expansion of a nonconforming use that can address the setback issue. To modify a nonconforming structure (such as the single-family house on the neighbor's property) its status would have to be verified in writing and the Zoning Administrator would determine if there is the ability to rebuild or modify. Furthermore, if the neighbor were to start a business on their site, they would be required to construct a transitional screening buffer between the two land uses. The neighbor has been informed of the affects of the 50-foot setbacks.

Mr. Koob has an agreement with White Hall to provide water and sewer to his property. If and when water and sewer become available, Mr. Koob would have the ability to subdivide his parcel into two lots since minimum lot sizes are smaller for properties with those amenities. Mr. Koob has expressed interest in subdividing his parcel creating two lots. The Comprehensive Plan designation of Low Density Residential recommends a density of one unit per acre and up to four units per acre if particular public benefits are offered.

Should Mr. Koob take advantage of water and sewer from White Hall, the density on this lot could become higher than the base density recommendation of the Comprehensive Plan without providing certain public benefits. Even though staff understands that, the final density of this parcel may become higher than what the Comprehensive Plan recommends as a base density, staff recommends approval of the rezoning. While this case does not provide the specific public benefits as outlined in the Comprehensive Plan to go above one dwelling unit per acre, it does provide other public and community benefits. The development impacts of uses permitted in R-1 are substantially less than those in its current zoning of B-1. Many by-right uses in B-1 may

not fit with the residential character of this area. Reduced impacts are a benefit to the surrounding residential community and to the traveling public using Old Stage Road. In addition, the proposed rezoning addresses a Comprehensive Plan/Zoning inconsistency.

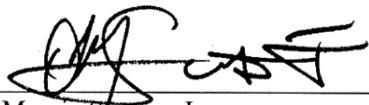
The current cash proffer policy commonly used by the Board to guide its decisions in residential zoning applications is \$4,011 (2005 dollars) per single-family detached housing unit. The cash proffers offered are for additional lots created after the rezoning only. Staff's interpretation of the cash proffer policy is that the \$4,011 should be collected for each residential lot created. Should the rezoning application pass, one residential lot would be created; after the proposed subdivision there would then be two lots. Mr. Koob argues that since the neighboring parcel that was rezoned to R-1 in May offered no proffers, he should not have to pay the cash proffers for the originally rezoned lot.

RECOMMENDATION

Staff finds the proposal to be generally consistent with the land use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the rezoning application and accept the voluntary cash proffers.

Luke Vinciguerra, Planner

CONCUR:



O. Marvin Sowers, Jr.

LV/gs
z-3-07

ATTACHMENTS:

1. Location Map
2. Map of Setbacks
3. Zoning Map
4. Proffers
5. Cash proffer policy for schools
6. Letter of understanding for the 50-foot side setback (the signed letter has not yet been received)
7. Planning Commission Minutes

REZONING CASE NO. 3-07. 3435 Old Stage Road

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Planning Commission:

Board of Supervisors:

Building F Board Room; County Government Complex

June 6, 2007, 7:00 p.m.

July 10, 2007, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Todd Koob

Land Owner:

Mr. Todd Koob

Proposal:

Applicant is requesting to change the zoning on his property from B-1, General Business, to R-1, Limited Residential.

Location:

3435 Old Stage Road

Tax Map/Parcel Nos.:

1220100011A

Parcel Size:

1.23 acres

Existing Zoning:

B-1, General Business

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal to be generally consistent with the land use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the rezoning application and accept the voluntary cash proffers.

Staff Contact:

Luke Vinciguerra, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

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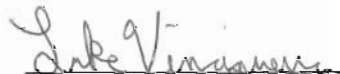
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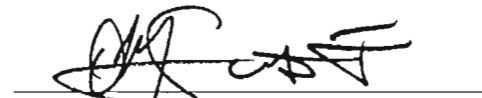
RECOMMENDATION

Staff finds the proposal to be generally consistent with the land use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the rezoning application and accept the voluntary cash proffers.



Luke Vinciguerra, Planner

CONCUR:



O. Marvin Sowers, Jr.

LV/gs
z-3-07

ATTACHMENTS:

1. Location Map
2. Map of Setbacks
3. Zoning Map
4. Proffers
5. Cash proffer policy for schools
6. Letter of understanding for the 50-foot side setback (the signed letter has not yet been received)
7. Planning Commission Minutes

RESOLUTION

CASE NO. Z-3-07. 3435 OLD STAGE ROAD

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-3-07; and

WHEREAS, Mr. Todd Koob has applied to rezone his property located at 3435 Old Stage Road, further identified on James City County Real Estate Tax Map No. 1220100011A (the "Property") from B-1, General Business, to R-1, Limited Residential, so that he may build up to two single-family houses on the Property; and

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

WHEREAS, on June 6, 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-3-07 with voluntary cash proffers as described herein.

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 10th day of July, 2007.

z-3-07.res

JCC-Z-3-07

Koob Rezoning



James City County - Proposed Setback Changes



Setbacks Under Existing Zoning

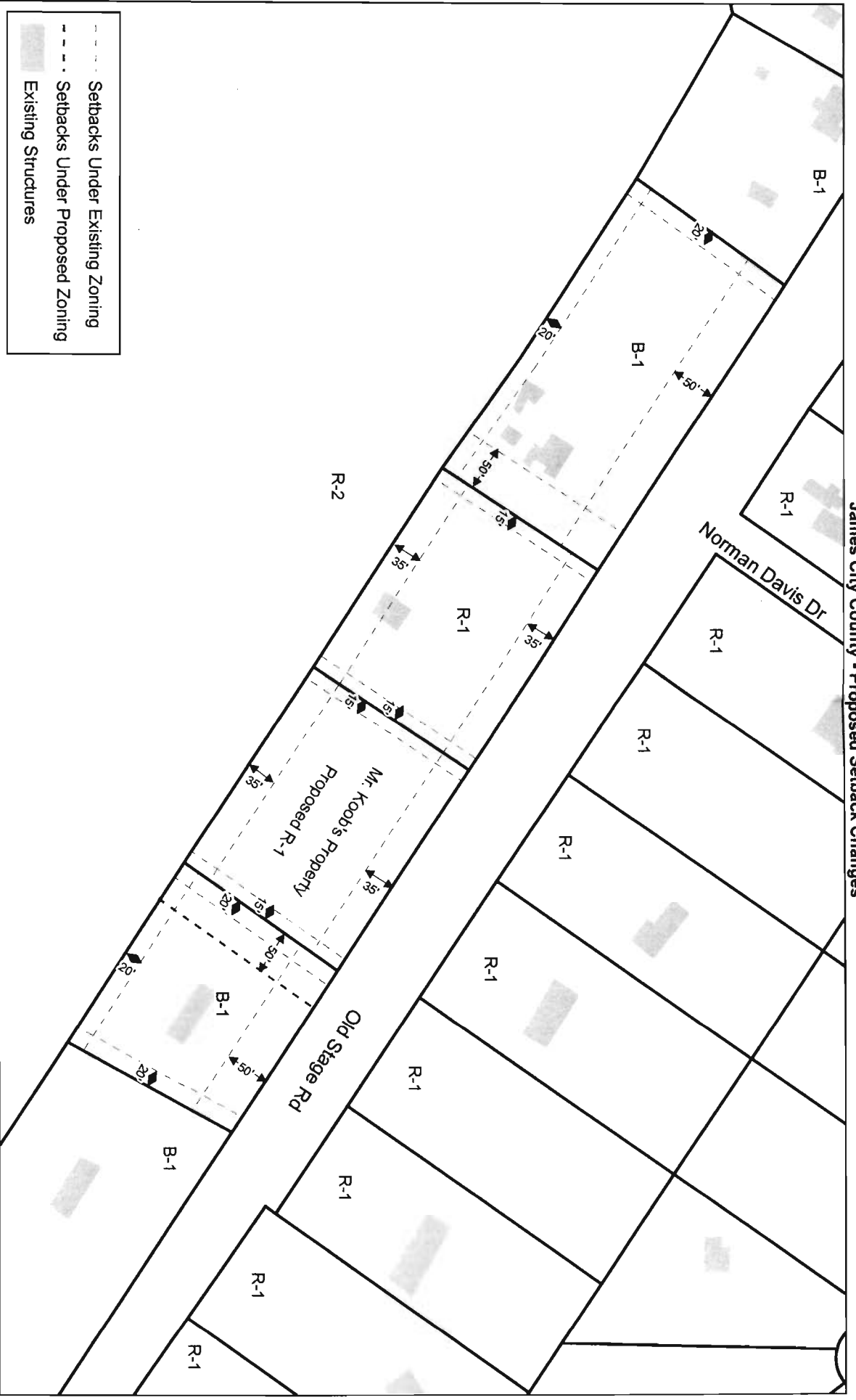
Setbacks Under Proposed Zoning

Existing Structures

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

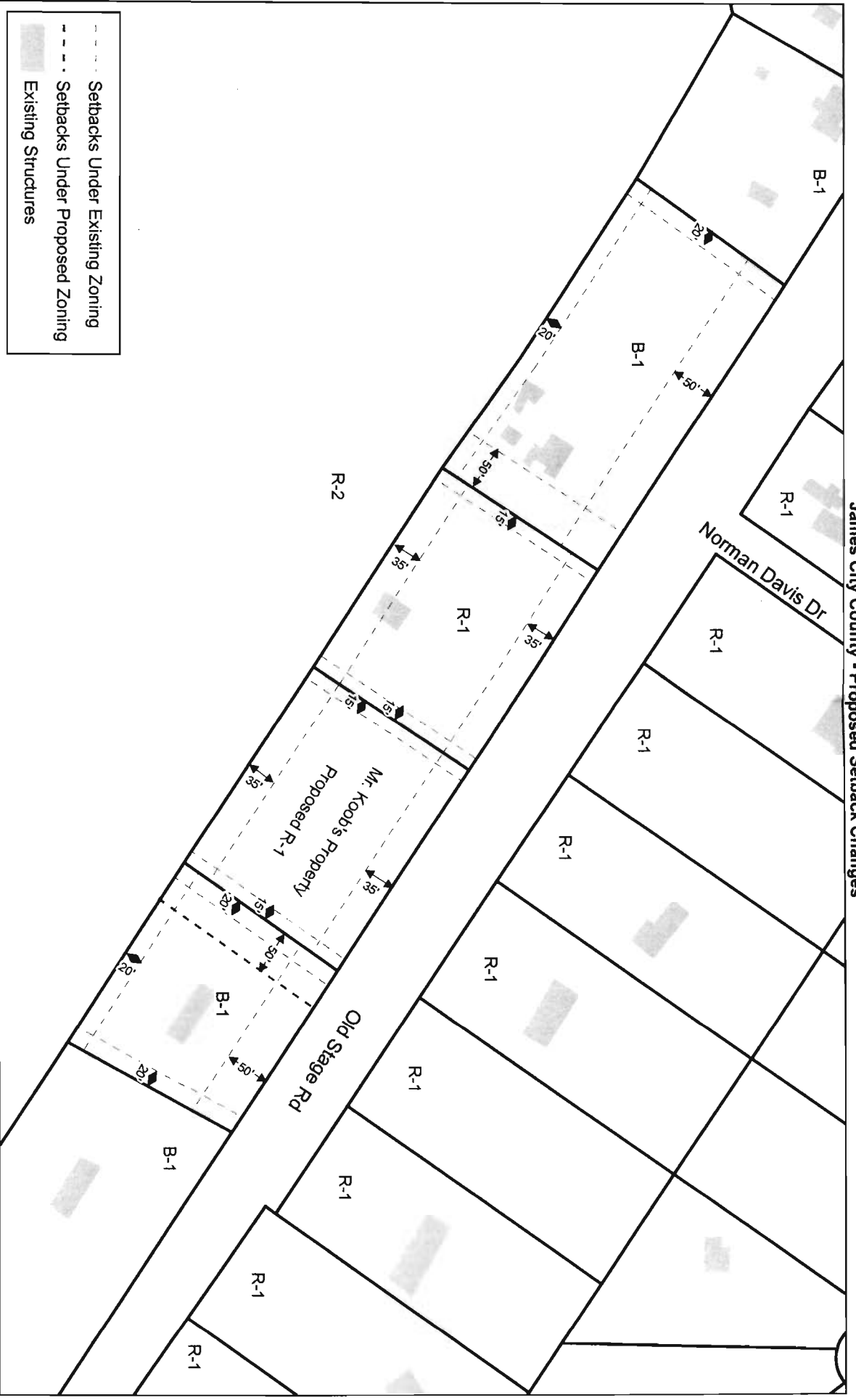


James City County - Proposed Setback Changes



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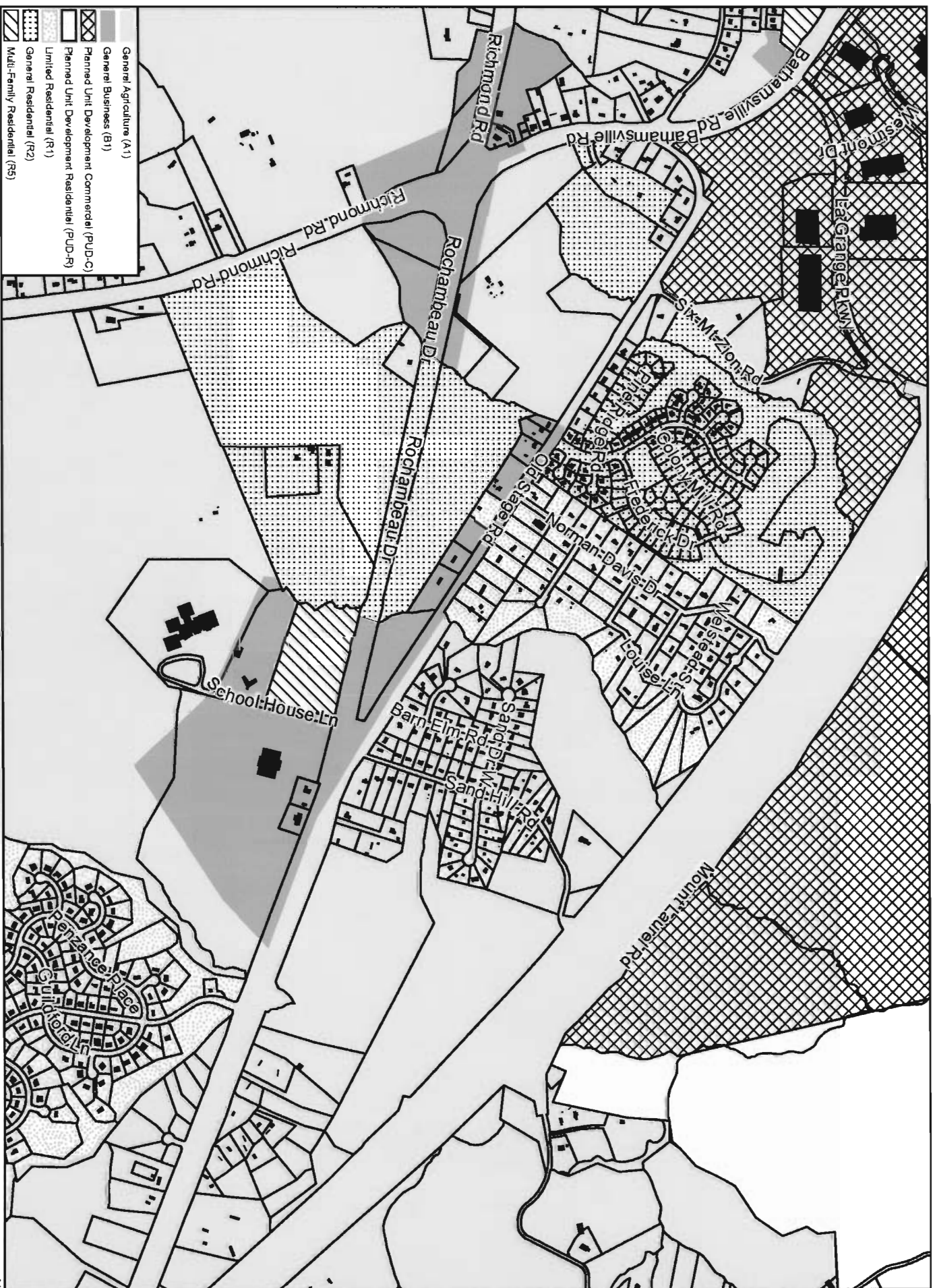
James City County - Proposed Setback Changes



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James City County - Old Stage Road Zoning Map



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PROFFERS
3435 Old Stage Road

THESE PROFFERS are made as of this 26th day of June 2007, by Todd Eugene Koob and Lisa Renee Sheldon Koob (together with their successors and assigns, the "Owner")

RECITALS

- A. The Owner is the owner of certain real property in James City County, Virginia (the "County") more particularly described as parcel 1220100011A (the "Property").
- B. The Property is located at 3435 Old Stage Road and is now zoned B-1, General Business.
- C. The Owner has applied for a rezoning of the Property from B-1, General Business, to R-1 General Residential with proffers (the "Proffers").
- D. The Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-1.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

- 1.
 - (a) A contribution of \$ 4400.00 shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

(b) The contribution described above, unless otherwise specified, shall be payable at or prior to the final approval of the site plan or subdivision plat for such lot.

(c) The contribution paid pursuant to section (a) shall be adjusted annually beginning January 1, 2008 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Costs Index (the "Index"). In no event shall the contribution be adjusted to a sum less than the amounts set forth in paragraph (a). The adjustment shall be made by multiplying the contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, then the contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services)

shall be relied upon in establishing an inflationary factor for purposes of increasing the contribution to approximate the rate of annual inflation in the County.

WITNESS the following signatures:

Lisa Renee Sheldon Koob
Lisa Renee Sheldon Koob

Prepared by:
Todd E. Koob
8913 Oak Lawn Way
Toano, VA, 23168
757-566-2009

STATE OF VIRGINIA AT LARGE

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

The foregoing instrument was acknowledged this 5th day of July, 2007,
by Lisa Renee Sheldon Koob.

Mary Frances Rieger
Notary Public

My commission expires: October 31, 2009

Notary Registration Number: 150638

Todd Eugene Koob
Todd Eugene Koob

STATE OF VIRGINIA AT LARGE

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

The foregoing instrument was acknowledged this 5th day of July, 2007,
by Todd Eugene Koob.

Mary Frances Rieger
Notary Public

My commission expires: October 31, 2009.

Notary Registration Number: 150638

RESOLUTION

CASH PROFFER POLICY FOR SCHOOLS

WHEREAS, the Virginia Commission on Local Government defines "cash proffer" as "any money voluntarily proffered in writing signed by the owner of the property subject to rezoning, submitted as a part of the rezoning application and accepted by the locality" pursuant to the authority granted in Section 15.2-2298 of the Code of Virginia, 1950 as amended; and

WHEREAS, beginning November 13, 2005, staff will use the procedures and calculation described in this Resolution to guide its recommendation to the Board of Supervisors in all residential rezoning cases. The Board of Supervisors (the "Board") will use this Resolution to guide its decision whether to accept cash proffered by applicants for a rezoning. The value of proffered land or other in-kind contributions, accepted by the County, shall be credited against the cash proffer amount for schools. In the event the value of proffered land or other in-kind contributions exceed the cash proffer amounts for schools, such excess value may be credited against cash proffers for other impacts; and

WHEREAS, any acceptance of cash proffered by an applicant shall meet a "reasonableness" or "rough proportionality" test, which requires the Board to determine in each zoning case whether the amount proffered is related both in nature and extent to the projected impact of the proposed development on public schools. State and County laws permit the Board to accept cash proffers to fund the public school needs generated by any new residential development; and

WHEREAS, a development proposal's impact on public schools will be evaluated based on the gross number of proposed dwelling units. When calculating the gross number of dwelling units, staff will not give credit for those dwelling units permitted under existing zoning and will not consider the transferring of allowable units from other properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the James City County, Virginia, adopts the following methodology and policy to be used to consider impact on public schools and proffered mitigation of proposed rezoning applications:

1. The five components to be used in calculating what a new dwelling unit will cost the County in terms of providing for new or expanded public school facilities are as follows:
 - a. Demand generators - Pupil generation rates determined by identifying the actual number of public school students residing in housing units built in the last five years in the County.
 - b. Service levels - The County's estimated costs of constructing new high, middle, and elementary schools, calculated on a per-student basis, become the service levels in the calculation of the cash proffer.

- c. Gross Cost of school facilities -The product of the expected number of students calculated as a demand generator multiplied by the per-student cost of school facilities identified as the service level.
- d. Credits - the gross cost of school facilities is reduced by a credit, representing the portion of real property taxes paid by new residents that would be used to retire debt incurred by the County for schools.
- e. Net cost - this represents the net cost per new residential unit or the maximum cash proffer for schools. This is the Gross Cost minus the Credit.

*The detailed methodology is contained in the Final Report of the James City County Cash Proffer Steering Committee dated July 7, 2005.

- 2. There must be a relationship between the rezoning itself and the need for a public facility. Since public school buildings serve the entire County and new or expanded public school buildings may result in County-wide adjustments to attendance zones, rezoning requests will be analyzed on a County-wide basis to determine the impact on public school buildings.
- 3. The County will continue to consider any unique circumstances about a proposed development that may change the way that staff and the Board view the need for cash proffers for schools. Unique circumstances may include, but not be limited to, a demonstrable effort to meet the objectives of the County's Comprehensive Plan related to affordable housing.
- 4. Timing for the dedication of property or in-kind improvements should be specified in the proffer. Cash proffers, property dedications, and in-kind improvements must be used for projects identified in the County's Capital Improvement Program. Payments shall be expended in accordance with State law.
- 5. Adjustments in the cash proffer amount may be considered in August of odd-number years, beginning in 2007. Staff will recompute net costs based on the current methodology and recommend adjustments. Any adjustments would be effective upon adoption, but no sooner than July 1 of the fiscal year following adoption.
- 6. The cash proffer amount for school construction that the Board will use to guide its decisions in residential zoning applications received after November 13, 2005, are:

Single-Family Detached	\$4,011
Single-Family Attached	\$ 0
Multi-Family	\$4,275

If payment is rendered on or after July 1, 2006, then payments will consist of the adopted cash proffer payment per unit plus any adjustment as included in the Marshall Swift Building Cost Index.

7. The amounts identified in this Resolution are general guides for rezoning applications. Determination of whether an amount proffered by an applicant for rezoning is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Proffering a set amount is in no way a requirement to obtaining a positive decision on a residential rezoning application. In addition, the acceptability of a proffered school cash proffer under this Resolution, by itself, will not result in the approval of a residential rezoning application.



Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	NAY
GOOD SON	NAY
MCGLENNON	AYE
BRAD SHAW	AYE
BROWN	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2005.

Proffer_Sch.res

James City County Cash Proffers - Schools

There are five components involved in calculating what a new dwelling will cost the County to provide new schools.

(1) **Demand generators** - the weighted average current public school enrollment of single family and multi-family homes, based on the Sept 30 official school enrollment and the number of developed units in the two categories as determined in the latest land book.

Schools - previous September 30th official enrollment:

	Elementary	Middle	High	Total
Total City/County	4,171 44.3%	2,246 23.9%	2,988 31.8%	9,405
County only	3,812 44.3%	2,050 23.8%	2,752 31.9%	8,614

Source: Official Sept 30, 2004 enrollment report, WJCC Schools

COUNTY ONLY - Developed housing units - previous land book and actual enrollment count

	Units	Elementary	Middle	High	Total
Single Family - Detached	16,907	3,159	1,704	2,292	7,155
Single Fam - Attached	2,796	198	101	156	455
Multi Family	2,477	260	155	183	598
Mobile Homes	1,254	195	90	121	406
	23,434	3,812	2,050	2,752	8,614

Source: Units and numbers of units are those reported by category in the James City County land book, published as of July 1, 2004 and the number of mobile homes taken from the personal property book, Jan 1, 2004, as maintained by the Commissioner of Revenue.

EXCLUDED - the count of residential units above does not include any residential units or beds in six senior housing facilities - Williamsburg Landing, Chambrel, Patriots Colony, Tandem, Dominion or Manorhouse, also excluded are seven homes in Colonial Heritage, the only age-restricted single-family development in the County

Student enrollment comes from the list of County public age school students captured in the Sept 30, 2004 enrollment, sorted by address and then assigned to one of the four housing categories by address.

All addresses are confirmed as legitimate County addresses to create the funding split in the School contract between the City and County.

STUDENTS PER UNIT	Elementary	Middle	High	Total
Single Family - Detached	0.20	0.10	0.15	0.45
Single Fam - Attached	0.07	0.04	0.06	0.16
Multi Family	0.10	0.06	0.07	0.24
Mobile Homes	0.16	0.07	0.10	0.32
	0.17	0.09	0.13	0.39

Source - calculated using landbook totals and WJCC School enrollment

ASSUMPTION: Used the actual student addresses against only those SF - detached units that were built in the last five years - there were 3,261 units, 1,467 students - 0.45 kids per unit. That is higher than the overall average of 0.42 - but the housing values are higher as well. Actual counts of students in multi-family housing built in the last five years mirror those found in that group in total, but the actual count for single-family attached built over the past five years is only eight students per hundred units.

James City County Cash Proffers - Schools

- (2) **Service levels** - existing service levels for each type of school for which a cash proffer will be accepted - based on estimates provided by Moseley Architects in its

February, 2005 study of school capital facility needs. Design, SF and acreage standards adopted by the WJCC School Board as part of the CIP adopted on February 15, 2005.

	Elementary	Middle	High	
Design Capacity	600	800	1,250	WJCC CIP
Core Design	700	900	1,450	WJCC CIP
County Capacity	645	830	1,336	

ASSUMPTION: "County capacity" becomes the core capacity multiplied by the current split between County and City students (92.17%).

Acres	25	35	50	Comp Plan
Land Cost Per Acre	\$25,000	\$25,000	\$25,000	Estimated
Land Cost	\$ 625,000	\$ 875,000	\$ 1,250,000	Calculated
Construction Cost	\$ 12,717,390	\$ 13,695,652	\$ 44,244,444	WJCC CIP
Engineering / Planning	\$ 1,017,390	\$ 1,095,652	included	WJCC CIP
Other project Costs	\$ 1,891,922	\$ 2,020,145	included	WJCC CIP
Site Work	\$ 1,925,000	\$ 2,054,348	included	M Rinaldi
Off-site work	\$ 153,000	\$ 153,000	included	M Rinaldi
Gross Cost	\$ 16,534,312	\$ 17,770,145	\$ 45,494,444	WJCC CIP
County Funding Share	90.37%	90.37%	90.37%	FY2006 Contract
County Cost	\$ 14,942,058	\$ 16,058,880	\$ 41,113, 329	Calculated

County Capacity (above)	645	830	1,336
County Cost Per Student	\$ 23,159	\$ 19,359	\$ 30,763

ASSUMPTIONS: "County cost" becomes the total cost multiplied by the funding split between City and County. The current split has the County paying 90.37%. "Other project costs" taken directly from the WJCC School Capital Improvement Program - and are less than the 17.1% that was tentatively agreed to by the Committee.

- (3) **Gross cost** of public facilities is then calculated per dwelling unit. The term "gross cost" is used because a credit is calculated for each dwelling unit based on future operating revenues.

	Elementary	Middle	High	
County Cost Per Student	\$ 23,159	\$ 19,359	\$ 30,763	Calculated above

Students by grade by housing unit as was previously calculated above

	Elementary	Middle	High
Single Family - Detached	0.20	0.10	0.15
Single Fam - Attached	0.07	0.04	0.06
Multi Family	0.10	0.06	0.07
Mobile Homes	0.16	0.07	0.10

Costs per:	Elementary	Middle	High	TOTAL
Single Family - Detached	\$ 4,632	\$ 1,936	\$ 4,614	\$ 11,182
Single Fam - Attached	\$ 1,640	\$ 699	\$ 1,716	\$ 4,056
Multi Family	\$ 2,431	\$ 1,211	\$ 2,273	\$ 5,915
Mobile Homes	\$ 3,601	\$ 1,389	\$ 2,968	\$ 7,959

James City County Cash Proffers - Schools

- (4) **Credits** - a credit will apply against the cost for each public school. The County has issued, and plans to issue, general obligation bonds for school construction. Residents of new developments will pay property taxes and a portion of these taxes will go to debt service. The credit is needed to avoid paying twice - through both a cash proffer and by real property taxes, for the same new schools.

SINGLE FAMILY DETACHED

Average Value - Built Last 5 Years \$ 330,627

Annual Tax Payments \$0.825/\$100 Tax Rate	Real Estate Tax Revenue	School Debt Service	Percent to Credit
Tax Payment FY2006	\$ 61,082,995	\$ 10,497,594	17.2%

Avg Value times tax rate	Tax Payment \$ 2,728
Credit	\$ 469 (portion of real property tax for school debt service)
Net Present Value of Credit	\$ 7,171
Discount Rate of 4.2% for 25 years	

May 24, 2005 sale of \$39,820,000 in County bonds had, as a low bid, an interest rate of 4.2%

- (5) **Calculate a proposed proffer** - the cost per household minus the credit per household

SINGLE FAMILY DETACHED

Avg Value

Cost for each Single family detached unit	\$ 11,182
CREDIT - calculated above	(7,171)
Proposed Proffer - single family detached	\$ 4,011

REPEAT FOR SINGLE FAMILY ATTACHED AND MULTIFAMILY

	SF Attached	Multi Family
Average Value - Built Last 5 Years	\$ 280,392	\$ 75,543

Avg Value times tax rate	Tax Payment \$ 2,313	\$ 623
Credit	\$ 398	107
Net Present Value of Credit	\$ 6,086	1,640
Discount Rate of 4.2% for 25 years		

PROFFERS

	Average SF Attached	Average Multi Family
Cost for each unit	\$ 4,056	\$ 5,915
CREDIT - calculated above	(6,086)	(1,640)
Proposed Proffer - single family detached	\$ 4,275	

May 14, 2007

Michael & Pamela Ashley
24126 The Trail
Mattaponi VA 23110

RE: Z-3-07; 3435 Old Stage Road Rezoning

Dear Adjacent property owner:

Your Neighbor, Mr. Todd Koob, has applied to rezone a 1.23 acre parcel from B-1, General Business, to R-1, Limited Residential to build a home on the site. The property is located at 3435 Old Stage Road, and is further identified as JCC Tax Map # 1220100011A. The property is designated Low Density Residential on the Comprehensive Plan Land Use Map. Recommended uses on property designated for Low Density Residential include very limited commercial establishments, single family homes, duplexes, and cluster housing.

Should Mr. Koob's property be rezoned to R-1, your property's side setback (on his side only) would be changed from 20 feet to 50 feet as stated in Sec 24-394 of the Zoning Ordinance:

Sec. 24-394. Yard regulations.

- (a) Buildings shall be located 20 feet or more from side or rear property lines. However, the minimum side yard shall be 50 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be 50 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

Setback waivers are available as stated in section 24-395 in limited situations.

Furthermore, should you decide to use your property for a business (or any use requiring a site plan) transitional screening would be required between the two land uses as stated in Sec 24-98 of the Zoning Ordinance.

The Planning Commission of James City County, Virginia, will hold a public hearing on June 6 at 7:00 p.m. in the County Government Center Board Room, 101-F Mounts Bay Road, James City County, at which time you may speak on the above application. Please call Luke Vinciguerra at the JCC Planning Department at 253-6685 if you have any questions or concerns. Please sign and return the attached form which states you understand the affects of the rezoning and where and when you can object to Mr. Koob's rezoning proposal.

Regards,

Luke Vinciguerra
Planner

Planning staff has explained to me the ramifications of the proposed rezoning from General Business (B-1) to Limited Residential (R-1) and I understand the affects of the rezoning as it relates to my property. Furthermore, I understand the Planning Commission of James City County, Virginia, will hold a public hearing on June 6 at 7:00 p.m. in the County Government Center Board Room, 101-F Mounts Bay Road, James City County, where I may voice my concerns about the rezoning application. Should I not object in writing or in person at the public hearings associated with case Z-3-07 it shall be understood that I have no objection to the proposed rezoning and its affects on my property.

Property Owners signature

**UNAPPROVED MINUTES OF THE JUNE 6, 2007 MEETING
OF THE PLANNING COMMISSION**

Z-3-07 3435 Old Stage Rezoning

Mr. Luke Vinciguerra presented the staff report stating that Mr. Todd Koob has applied to rezone a 1.23 acre parcel from B-1, General Business, to R-1, Limited Residential to build a home on the site. The property is located at 3435 Old Stage Road, is further identified as JCC RE Tax Map No. 1220100011A, and is designated Low Density Residential on the Comprehensive Plan. Parcels so designated are primarily to be used for single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments. Mr. Vinciguerra recommended approval of the application and asked the Commission to consider whether cash proffers are warranted.

Mr. Fraley stated that regarding public utilities the staff reports states that the property can support a septic system adequate to support a single three bedroom house. He asked how that related to the implication of two residences.

Mr. Vinciguerra stated that as of now the applicant can only construct one house on the site. He stated that the applicant has an agreement with White Hall to connect to their sewer when the community is developed which would mean he can have smaller lot sizes and can create two lots for the construction of two houses.

Mr. Fraley asked about the process for the applicant to get approval to have two houses.

Mr. Vinciguerra stated that if the R-1 rezoning is approved the applicant can subdivide by-right if the lot is large enough.

Mr. Sowers added that this is an administrative process. He said the applicant would only have to apply for a minor subdivision and various utility and building permits.

Ms. Jones confirmed that the Commission is being asked to consider the rezoning not the subdivision in addition to being asked to provide guidance on the public impact.

Mr. Vinciguerra said that was correct. He stated that the Commission is being asked to consider the need for cash proffers.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Mr. Billups stated his concern that the rezoning proposal is based on unforeseen projections concerning White Hall. He stated that it is the second SUP tonight dependent on alignment with White Hall. Mr. Billups said he is not sure the Commission should approve applications when they are not sure everything is in place at the time of approval. He also stated his concern about Staff contacting other property owners in the area saying he does not think it is good protocol to go around trying to get owners to apply for a zoning change.

Ms. Jones reminded the Commissioners that two months ago another parcel on Old Stage Road was rezoned from B-1 to R-1 and said Staff is moving along to change the overall zoning in that area from B-1. She stated her concerns about losing B-1 in James City County and also stated that in this case Staff is under the opinion that if the parcel is subdivided the public benefit is that it is a lower impact than other potential developments. Ms. Jones stated her support of the rezoning and recommended the applicant be required to pay school cash proffers if they chose to subdivide in the future for a second home.

Ms. Hughes concurred with Ms. Jones that if the applicant wishes to subdivide there should at least be a proffer towards schools. She stated that she does not consider the addition of another residence a public benefit consistent with a rezoning.

Mr. Fraley stated that the density for R-1 zoning is one unit per acre and asked what would permit the parcel to be subdivided through administrative review for the placement of two residences.

Mr. Sowers stated that the Comprehensive Plan says no more than one unit per acre without certain public benefits, while the Zoning Ordinance for R-1 requires a lower number of square feet per dwelling unit based on individual lot sizes. Mr. Sowers said the parcel under consideration has enough square footage to be subdivided.

Mr. Fraley said it seems like a back door method for increasing density.

Mr. Billups asked if the applicant must have enough square footage for a second septic line to be installed should the first line fail.

Mr. Sowers said that if they are relying on septic they must have enough space for a primary and a secondary drain field on each of the lots. He said this particular lot does not have enough space so they can only subdivide if they tie into public sewer which will become available when White Hall, directly behind the parcel, is developed.

Mr. Obadal asked when White Hall is expected to come on line.

Mr. Sowers said the development plan is currently under review and might be finished by the end of the year. He guessed construction might start late this year with residences being built sometime next summer.

Mr. Obadal asked how much property is normally needed with a septic system.

Ms. Hughes said she believes it is an acre. She said she believes that the intent of R-1 is larger lot sizes. She said an applicant can have lots smaller than an acre if they have the overall gross acreage.

Ms. Jones asked if Staff is requesting the Commission's recommendation regarding the subdivision in addition to the cash proffers or if the subdivision is a discussion for another time.

Mr. Fraley said it may be a discussion for another time but it affects his decision on the case. He asked Mr. Kinsman to comment on the matter.

Mr. Kinsman stated that for this particular District Section 24-234 states that all subdivisions shall have a maximum gross density of one unit per acre except for minor subdivision. Mr. Kinsman went on to say that Section 24-235 sets out the area requirements on a sliding scale depending on the type of public facilities. He said that generally the intent of the Comprehensive Plan for this Zoning District is to have larger lots sizes of generally a maximum gross density of one unit per acre; however, the Code does make exceptions for minor subdivisions.

Ms. Jones asked if Staff is in the position to deny a subdivision request.

Mr. Fraley said Staff cannot unreasonable withhold approval.

Mr. Kinsman stated that if they comply with all the components of the Zoning and Subdivision Ordinances then only administrative approval is required and cannot be withheld because the Commission's preference is to have one lot instead of two. Mr. Kinsman stated that the applicant could proffer that they would not further subdivide the lot which would eliminate the Commission's concern that there would be two houses on the lot rather than one.

Mr. Sowers added that the Commission could recommend cash proffers if the applicant is allowed to divide into two lots. He said they could also recommend to the Board a proffer that would prohibit further subdivision of the lot.

Mr. Billups confirmed that White Hall is zoned R-2 not R-1.

Mr. Sowers said it is R-2, Cluster.

Mr. Billups said his concern is not the potential for two houses. He stated that since it is dependant on White Hall's sewer system it should not be approved until the sewer system is available. Mr. Billups asked what constitutes a minor subdivision versus a major subdivision.

Mr. Kinsman explained that in the R-1 District a minor subdivision is a division of a tract into not more than five lots. He also stated that White Hall has been approved so some development will occur on that property and with that development there will be public water and sewer. Mr. Kinsman said the relationship between White Hall and this property is that if this property can connect to the White Hall public water and sewer system it can then take advantage of the reduced lot widths that are set forth in the Code that allows a minimum lot area of 15,000 square feet so that with public water and sewer they could get two lots. He stated that if they are not able to take advantage of the White Hall public system then the minimum lot size would then be 30,000 square feet so they could only have one lot.

Ms. Jones asked if the applicants for the Sheldon rezoning on this street intend to subdivide that parcel.

Mr. Sowers said there was no attempt to do so.

Mr. Billups asked if the Commission can legally approve two lots before public facilities are available.

Mr. Kinsman said the Commission will only be making a recommendation for the rezoning of the property from B-1 to R-1 not approving the number of dwellings units. He said it is Staff's intent only to give the Commission notice of the potential for there to be two dwellings on the parcel.

Mr. Billups asked what justification the applicant has to show for rezoning from B-1 to R-1.

Mr. Kinsman said the Commission will be basing its decision upon the findings Staff has presented including surrounding uses and the Comprehensive Plan as well as their thoughts on what could ultimately happen on the property.

Mr. Kennedy confirmed that any citizen has the right to apply to rezone any piece of property although that does not mean it's going to be approved.

Mr. Kinsman said that is correct.

Mr. Kennedy restated the facts of the request concerning the number of lots possible in relation to private and public water and sewer systems. He said any piece of property located within the PSA (Primary Service Area), as this site is, has the option to tie into public water and sewer. Mr. Kennedy stated that although there are long term possible ramifications he suggested not continuing to dwell too deeply into what ifs and look more at what is being presented.

Mr. Krapf stated that due to the neighboring properties being used for residential purposes and the precedent set with the Sheldon property rezoning he is inclined to support the application. He also stated that R-1 could be less invasive in some cases

than B-1. Mr. Krapf stated his support for recommending to the Board a proffer eliminating the possibility to subdivide the parcel in the future.

Mr. Obadal stated his agreement to limit the parcel to one unit.

Mr. Kennedy said the Commission cannot approve a proffer condition limiting the number of units and can only advise the Board of their wishes since the proposal being presented does not include a limitation to one unit.

Mr. Fraley said the other discussion was to encourage the Board to pursue cash proffers if no restriction is placed on the number of units.

Mr. Kennedy said that would include contributions towards schools, water and such.

Mr. Fraley said he would be in favor of that as opposed to restricting the number of lots or units.

Mr. Kennedy asked if Mr. Obadal would also be in support of the proffer consideration.

Mr. Obadal said he is more inclined to placing a limit on the number of lots.

Mr. Billups said he can only see one unit on the lot until there is confirmation that White Hall will allow connection to their system. He said he will not vote for a change in zoning without more information.

Ms. Hughes stated her concern that if it is standard operating procedure in the County to grant someone the right to subdivide their property, is it right to place a condition on this applicant.

Hearing a request from the audience the public hearing was reopened.

Mr. Todd Koob, 8913 Oaklawn Way, stated that they are only asking to rezone. He said they are not asking for permission to subdivide or tie into water and sewer lines.

Mr. Billups asked if the purpose is to build two homes.

Mr. Koob indicated that that is correct if they are able to tie into the water and sewer lines.

Mr. Billups said his concern is having a second home on a 1.23 acre parcel. He said he does not support proffers if it is something the applicant is legally allowed to do if public water is available.

Mr. Kennedy asked if Mr. Billups is concerned about the septic system.

Mr. Billups said yes.

Mr. Kennedy stated that the applicant could not build more than one unit with a septic system. He said that even with the rezoning he is still only entitled to one unless he has water and sewer.

Mr. Bert Geddy, 3200 Rochambeau, stated that he granted the Service Authority an easement to run water and sewer to the White Hall development with the condition that Mr. Koob have the ability to connect when and if White Hall builds the system.

Mr. Kennedy said the Commission is not approving two parcels. He said they are approving one parcel with a rezoning predicated on the fact that the parcel does not have water or sewer. Mr. Kennedy said they are only entitled to one parcel until such time that water and sewer is run to the property and is connected.

Mr. Fraley added that subdivision approval would be an administrative decision.

The public hearing was closed.

Mr. Fraley stated his opinion that the case should be voted on without additional recommendations and motioned to approve the application as presented.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

**SPECIAL USE PERMIT-14-07. Anderson's Corner Animal Care Facility.
Staff Report for the July 10, 2007, Board of Supervisors Public Hearing.**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

June 6, 2007, 7:00 p.m.
July 10, 2007, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Matthew G. Burton

Land Owner: ACAH, LLC

Proposal: The applicant has applied for a special use permit (SUP) to allow for the construction of a veterinary hospital and kennel facility. This application proposes a facility approximately 12,000 square feet in size. SUP-17-06 was approved in July 2006 for a similar facility of no more than 6,200 square feet.

Location: 8391 Richmond Road

Tax Map/Parcel Nos.: 1240100001

Parcel Size: 30.12 acres

Zoning: A-1, General Agriculture

Comprehensive Plan: General Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report and believes the attached conditions will adequately mitigate impacts from this development. Staff recommends approval to the James City County Board of Supervisors with the attached conditions.

Staff Contact: Kathryn Sipes

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission, by a vote of 7-0, recommended approval to the Board of Supervisors at its June 6, 2007 meeting.

Proposed Changes Made Since Planning Commission Meeting

At the request of members of the Planning Commission Condition #11 has been added, requiring the use of Low Impact Development (LID) techniques on the property. Additionally, a sentence has been added to Condition #7, requiring one-for-one replacement in the required Community Character Corridor buffer of the trees to be removed from the property as part of this proposal.

Also, the applicant has requested a modification to Condition #2. As approved by the Planning Commission,

the condition requires a Phase I Archaeological Study for the entire property. Since approximately 6 acres of the total thirty acre property are proposed for development at this time, the applicant has requested the condition be revised to require a Phase I Archaeological Study for only the disturbed area. Staff is not opposed to this change and has prepared an alternate resolution for the Board's consideration.

PROJECT DESCRIPTION

Mr. Matthew Burton has applied for an SUP to allow for the construction of a veterinary hospital and kennel facility at 8391 Richmond Road. A veterinary hospital and kennel are specially permitted uses in the A-1, General Agriculture, zoning district. The applicant is proposing to remove the existing residential structure, accessory buildings, and current driveway on the property, and redevelop the north end of the parcel with a single-story 12,000 square foot veterinary hospital with indoor kennel facilities, a fenced exercise rear yard, and 35 parking spaces.

A special use permit was approved for this property for a similar facility in July 2006; at that time the applicant proposed a facility not to exceed 6,200 square feet. The additional square feet can be attributed to expanded boarding and kenneling services and office space. According to the applicant, as design of the facility evolved it became apparent the previous proposal underestimated the need for these functions. The applicant has indicated there will be a maximum of four doctors at the hospital with a maximum of 16 employees on the largest shift; this is unchanged from the previous special use permit.

The expansion of the building is the only proposed change from SUP-17-06, approved by the James City County Board of Supervisors on July 11, 2006. This results in a proposed development area of approximately 6 acres, double the development area of the previous special use permit. All previous SUP conditions are proposed to remain.

During the public hearing for the previous application there was discussion regarding existing mature trees on the site. At that time, no condition was added to address this issue. A site plan has been submitted to the County for this project, identifying eight mature trees to be preserved. These include a 36" and 40" Oak (visible from Route 60); a 46", 38" and 20" Pecan; a 20" Maple; a 9" Apple and a 9" Cedar. The proposed plan identifies thirteen trees to be removed. These include a 36" Oak, a 28" Pecan, a 16" Maple, a 12" Holly, an 8" Magnolia, a 10" and two 5" Dogwoods, and an 18", 14", 10" and two 8" Cedars. At the request of members of the Planning Commission a sentence has been added to existing Condition #7, requiring one-for-one replacement in the required Community Character Corridor buffer of the trees to be removed.

The property fronts on Route 60 and is located across from the approved Villages of Whitehall development. Hickory Neck Church is located across Route 60 and approximately 900 feet east of the proposed veterinary hospital and kennel. Hickory Neck Church is an eighteenth century structure and on the National Register of Historic Places. Residential properties border the site to the north, east, and south, while the main line of the CSX railroad borders the property on the west. All of the bordering residential properties are designated General Industry by the Comprehensive Plan and are all zoned A-1, General Agriculture.

PUBLIC IMPACTS

Archaeology

Condition #2 is the standard Archaeological condition. An alternate resolution has been provided applying this requirement to only the disturbed area of the site.

Environmental

Watershed: Diascund Creek

Conditions: Existing Condition #10, requiring design of the BMP to enhance the removal of coliform bacteria, remains. Condition #11, requiring the use of Low Impact Development techniques on the property, has been added at the request of members of the Planning Commission.

Staff Comments: Environmental Staff has reviewed the application and notes all issues cited as outstanding during the public hearing for the previous SUP remain at this time. These include: a site-

specific perennial stream determination, delineation of slopes greater than 25% and soil suitability for the proposed infiltration type BMP. The proposed infiltration-type BMP relies on the infiltration capacity of on-site soils. During the site plan review, should the soils be found unsuitable for an infiltration-type BMP, alternative BMP types will need to be provided. Alternative BMP types will require an outfall in the nearest receiving channel and will likely have to cross through environmentally sensitive areas, including possible RPA and steep slope impacts. Therefore, a Water Quality Impact Assessment and/or steep slope waiver may be necessary. Environmental Staff has offered one additional comment, encouraging the use of Low Impact Development (LID) principles and techniques to reduce and control impacts associated with increased stormwater runoff. Condition #11 has been added requiring the use LID techniques on the property. Staff continues to believe the remaining issues can be resolved to meet environmental requirements during the site plan review and approval process.

Public Utilities

The site is served by public water and sewer.

Conditions:

Condition #5 is the standard water conservation condition.

Staff Comments: Animal waste from the outdoor fenced exercise yard shall not connect to the James City Service Authority (JCSA) system per JCSA regulations.

Transportation

The applicant has indicated that the proposed use will generate approximately 15 peak hour trips. There will be four doctors on staff with a maximum of 16 employees on the largest shift.

2005 Traffic Counts: Approximately 9,967 vehicles per day in this area of Richmond Road.

2026 Volume Projected: 24,000 vehicles per day.

Road Improvements: No road improvements are proposed.

VDOT Comments: The Virginia Department of Transportation (VDOT) has reviewed the proposal and concurs with the trip generation data provided by the applicant. VDOT staff continues to advocate alignment of the entrance for the project with the entrance to the Villages at White Hall directly across Route 60. Additionally, the design of the taper should be evaluated carefully at the site plan stage to accommodate the existing driveway on the adjacent parcel.

Staff Comments: The 2003 Comprehensive Plan states that Richmond Road's role in inter-county travel will become more important as I-64 becomes more congested; therefore, a high degree of mobility should be maintained. Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such developments would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination will be crucial.

The two nearest existing crossovers to the project are located approximately 850 feet east on Route 60 and approximately 1,000 feet west on Route 60. The approved Master Plan for the Villages of White Hall indicates a crossover on Route 60 directly across from the property associated with this SUP application. Site plans submitted for both properties indicate the approved entrances are aligned as proposed. This area of Richmond Road is note in the watch category according to the 2003 Comprehensive Plan. Staff believes that this section of Route 60 does provide good mobility due to its divided nature and low number of intersections and driveways and believes this proposal supports this section of the Comprehensive Plan by being a low traffic-generator. Staff believes the proposed use will have a minimal impact on this section of Richmond Road. Staff may, during the site plan review, recommend adjusting the building site to allow single access should the remainder of the property be developed in the future.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>General Industry - Page 123:</i> Suitable for industrial uses which, because of their potential for creating dust, noise, odors, and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses. General industrial uses usually require access to interstate and arterial highways, public water and sewer, adequate supply of electric power and other energy sources, access to a sufficient labor supply, and moderate to large sized sites with natural features such as soils, topography, and buffering suitable for intense development. Secondary uses may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p> <p>Staff Comment: The proposed use is less intense than the primary uses identified for General Industry designations. The Comprehensive Plan recognizes the importance of the rail service as a viable transportation mode and supports the continued maintenance of existing and potential industrial rail access to the County's designated industrial sites. This parcel was designated General Industry due to its proximity to the CSX railroad on the west end of the property. As was noted in the staff report for the previous SUP, due to significant RPA buffers paralleling the railroad, direct access to the property from the railroad is not possible without encroaching into a RPA buffer. It continues to be the belief of staff and the Office of Economic Development that although this parcel is designated for General Industry, it would not be economically or environmentally practical to develop this parcel for industrial uses requiring rail access. Staff finds this site consistent with the secondary uses identified for this designation.</p>
Development Standards	<p><i>General Standard #1-Page 134:</i> Permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed.</p> <p><i>General Standard #5 – Page 134-35:</i> Minimize the impact of development proposals on overall mobility, especially on major roads, by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances.</p> <p><i>Commercial and Industrial Land Use Standard #4 –Page 136:</i> Provide landscaped areas and trees along public roads and property lines, and develop sites in a manner that retains or enhances the natural, wooded character of the County.</p> <p>Staff Comment: Staff believes the proposal is compatible with adjoining uses. The entrance to the approved veterinary clinic is aligned with the entrance to the approved White Hall development across Route 60 from the project property. Condition #7 provides enhanced landscaping in the CCC buffer.</p>
Goals, strategies and actions	<p><i>Strategy #1 – Page 138:</i> Promote the use of land in a manner harmonious with other land uses and the environment.</p> <p><i>Strategy #2-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.</p> <p>Staff Comment: With appropriate architectural design, staff finds the proposed use to be consistent with the surrounding area. Staff further believes the location across Route 60 from the approved White Hall development maximizes access control.</p>

Community Character

General	<p><i>Richmond Road Community Character Corridor-Page 83-84:</i> 50 foot buffer requirement for commercial uses along this road. This also includes parking and other auto-related areas clearly as a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the urban corridor.</p> <p>Staff Comment: A 50-foot setback and landscaped buffer was approved with the previous SUP and is proposed to remain with this proposal. An approved condition requires a minimum of 125 percent of the size required in the ordinance for landscaping in this buffer.</p>
Goals,	<p><i>Strategy #2 – Page 95:</i> Ensure that development is compatible in scale, size, and location to</p>

strategies and actions	<p>surrounding existing and planned development.</p> <p><i>Strategy #3 – Page 95:</i> Ensure that development along CCC areas protects the natural views of the area, promotes the historic, rural, or unique character of the area, maintains greenbelt networks and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Strategy #6 - Page 95:</i> Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery, and scenic views.</p> <p><i>Action #11-Page 96:</i> Continue to require underground utilities in all new developments.</p> <p><i>Action #24(g) – Page 98:</i> Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County.</p> <hr/> <p>Staff Comment: Staff finds the proposed expanded single-story structure with an extensively landscaped CCC buffer will be compatible with the surrounding existing structures on Route 60 and protect the view from Route 60 onto the property. Staff also finds the preservation of several large trees visible from Route 60 protects natural and scenic views. The site plan will require that all new utilities be placed underground, and the trips generated from this expansion are not projected to increase from the approved SUP.</p>
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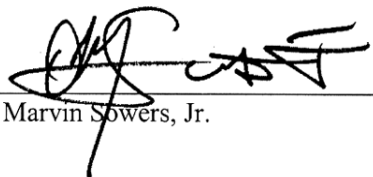
Staff believes the proposed use, with the attached conditions, is generally consistent with the secondary uses for land designated General Industry in the Comprehensive Plan. The property associated with this application is located on the northern edge of the General Industry land use designation and the adjacent properties are residential dwellings, which are neither primary nor secondary uses for land designated as General Industry. Considering the entire area designated General Industry, which include the 157 acre Hankins Industrial Park and the 7 acre Toano Business Center, the proposed use constitutes only a small portion of the industrially designated area. The proposed use also helps retain the transportation objectives of the Comprehensive Plan. Staff believes that given the surrounding uses and land use designations, the proposed veterinary hospital will not have any adverse impacts on the surrounding properties.

RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report and believes the attached conditions will adequately mitigate impacts from this development. Staff recommends approval to the James City County Board of Supervisors with the attached conditions.

Kathryn Sipes

CONCUR:



O. Marvin Sowers, Jr.

KS/gb
Sup14-07.doc

ATTACHMENTS:

1. Location Map
2. Planning Commission Minutes
3. Applicant request for modification of Condition #2 (2 pages)
4. Resolution (Condition #2 applies to “entire property”)
5. Alternate Resolution (Condition #2 applies to “disturbed area”)
6. Master Plan (under separate cover)

RESOLUTION

CASE NO. SUP-14-07: ANDERSON'S CORNER ANIMAL CARE FACILITY

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

WHEREAS, the applicant has proposed to construct a 12,000 square foot veterinary hospital and kennel facility; and

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

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

WHEREAS, on June 6, 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 the issuance of SUP-14-07 as described herein with the following conditions:

1. This Special Use Permit shall be valid for a 12,500 square foot veterinary hospital and kennel facility. Development of the property shall be generally in accordance with the submitted master plan as determined by the Development Review Committee of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. A Phase I Archaeological Study for the entire property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or

construction activities thereon.

3. Prior to final site plan approval, architectural elevations, building materials and colors shall be submitted to the Director of Planning for review and approval for compatibility with Hickory Neck Church and the Village of Toano in terms of design, scale, materials, and colors.
4. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare defined as 0.1 footcandle or higher shall extend outside the property lines.
5. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. A landscaping plan shall be approved by the Director of Planning prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the fifty-foot Community Character Corridor buffer along Richmond Road so that the required size of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4 of the James City County Code. A minimum of fifty percent of the plantings within the Community Character Corridor buffer shall be evergreen. Community Character Corridor buffer plantings shall include one-for-one replacement of trees to be removed from the site as identified on the site plan.
8. Only one entrance shall be allowed onto Route 60.
9. All parking shall be located either behind the proposed building or to the side, behind the front building face line with a 42 inch non-chain link vinyl or wood fence.
10. The BMP shall be designed to enhance the removal of coliform bacteria in addition to the standard water quality provisions in accordance with the Powhatan Creek Stormwater Master Plan, pages 69 to 71.
11. The owner shall use Low Impact Development (“LID”) techniques such that the total extent of the LID on the property shall equal or exceed three unit measures as defined by *Special Stormwater Criteria in James City County* (adopted December 14, 2004). The proposed LID techniques to be implemented shall be approved by the Environmental Director prior to site plan approval. All approved LID techniques shall be constructed on the property prior to the release of the posted erosion and sediment control surety.

12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 10th day of July, 2007.

Sup14-07.res1

RESOLUTION

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5. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. A landscaping plan shall be approved by the Director of Planning prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the fifty-foot Community Character Corridor buffer along Richmond Road so that the required size of plants and trees equals, at a minimum, 125 percent of the landscaping otherwise required in Chapter 24, Article II, Division 4 of the James City County Code. A minimum of fifty percent of the plantings within the Community Character Corridor buffer shall be evergreen. Community Character Corridor buffer plantings shall include one-for-one replacement of trees to be removed from the site as identified on the site plan.
8. Only one entrance shall be allowed onto Route 60.
9. All parking shall be located either behind the proposed building or to the side, behind the front building face line with a 42 inch non-chain link vinyl or wood fence.
10. The BMP shall be designed to enhance the removal of coliform bacteria in addition to the standard water quality provisions in accordance with the Powhatan Creek Stormwater Master Plan, pages 69 to 71.
11. The owner shall use Low Impact Development ("LID") techniques such that the total extent of the LID on the property shall equal or exceed three unit measures as defined by *Special Stormwater Criteria in James City County* (adopted December 14, 2004). The proposed LID techniques to be implemented shall be approved by the Environmental Director prior to site plan approval. All approved LID techniques shall be constructed on the property prior to the release of the posted erosion and sediment control surety.

12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

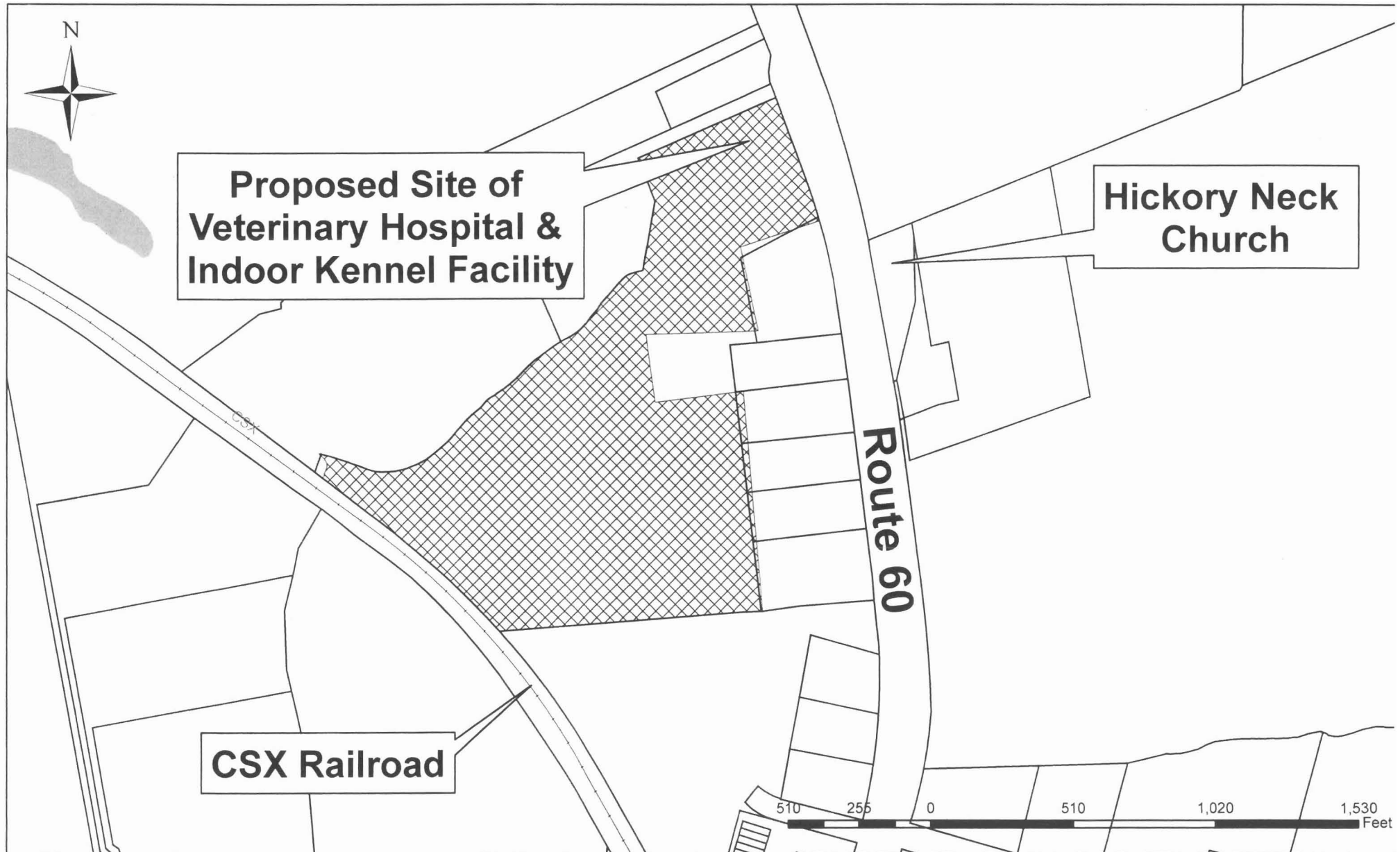
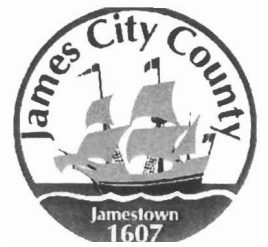
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of July,
2007.

Sup14-07.res2

SUP-14-07

Anderson's Corner Animal Care



UNAPPROVED MINUTES OF THE JUNE 6, 2007 MEETING OF THE PLANNING COMMISSION

SUP-14-07 Anderson's Corner Animal Care Facility

Ms. Kathryn Sipes presented the staff report stating that Mr. Matthew Burton has applied for a Special Use Permit on the parcel located at 8391 Richmond Road, which is zoned A-1, General Agriculture. An SUP was previously approved for the construction of a veterinary hospital on this site; this application proposes an increase in the building square footage. The property can be further identified as JCC RE Parcel No.1240100001 and is designated as General Industrial by the JCC Comp Plan. Recommended uses for General Industrial land include industrial uses while secondary uses include office uses and a limited amount of commercial development to support the primary use. Staff recommended approval of the application and attached conditions.

Mr. Obadal asked about the effect on impervious surface cover should portions of the property be sold.

Ms. Sipes stated that if a subdivision application is submitted all proposed lots would be reviewed for consistency with Ordinance regulations including the Chesapeake Bay Ordinance requirement that no more than 60% of the lot contain impervious cover.

Mr. Obadal said his concern is that the project site would no longer meet the Ordinance requirement.

Ms. Sipes stated that any new smaller parcel containing the facility that would be created would be required to meet the impervious cover requirement.

Mr. Obadal said it would not need to cover the 60% for the original animal hospital site itself.

Mr. Sowers said this is not a unique situation where portions of property are subdivided for other developments. He stated Staff's opinion that any future subdivision would be adequately covered under current Ordinance requirements and that an additional condition is not necessary.

Mr. Obadal said an additional condition would not hurt. He said it would just make certain that impervious cover ratios would be maintained.

Ms. Jones said it is covered in the Ordinance so that subdivision can only be done with the assurance that it does not violate the Chesapeake Bay Ordinance. She stated that the additional condition would be redundant.

Mr. Sowers said Staff does not usually recommend conditions that are redundant with the Ordinance and that Staff feels that there is adequate protection. He also stated

that if it is the Commission's desire Staff could draft a condition prior to Board of Supervisors' review of the case.

Ms. Hughes asked about a statement in the staff report allowing staff to recommend adjusting the building site during site plan review to allow single access should the remainder of the property be developed in the future. She asked in which direction it would be adjusted.

Ms. Sipes stated that given the narrow part of the parcel that has road frontage onto Richmond Road staff may want to consider talking to the applicant at the site plan stage about accommodating a possible future subdivision of the back parcel so that a single driveway access could be used as a shared driveway for both the animal care facility and to provide access to the rear of the lot.

Ms. Hughes stated that someone would have to bridge the RPA (Resource Protection Area) and wetlands.

Ms. Sipes stated this was identified as a possible solution that could be implemented at the site plan stage to ensure that future subdivision of the parcel is not prevented because of access issues.

Ms. Hughes said the driveway location is closer to an existing residential driveway than previously proposed. She asked if landscaping between the two driveways would create visibility issues for the adjacent property owner.

Ms. Sipes said Staff did not receive comments concerning visibility and deferred the question to the applicant. She also stated that the driveway was moved to align the entrance with White Hall across the street as required by a condition of the previous SUP.

Mr. Sowers said a perimeter buffer would be required and would be reviewed at site plan stage.

Ms. Hughes asked if visibility would be addressed.

Mr. Sowers said it would.

Mr. Billups asked if there is an agreement between White Hall and this property owner concerning the crossover.

Ms. Sipes said she does not know if there is a written agreement. She stated that VDOT (Virginia Department of Transportation) commented on both projects that alignment of the two entrances would provide better traffic circulation.

Mr. Sowers said he is not aware of a written agreement.

Mr. Billups asked if the location of the crossover would have to be considered as build-out occurred.

Mr. Sowers said the crossover still has to be designed. He stated that a subdivision plan in for White Hall is currently under review by VDOT and staff.

Mr. Billups asked about the primary and secondary uses and general industries referred to on the land use map.

Mr. Sowers stated that general industries are principally heavier industry such as manufacturing and secondary uses could include a retail component that would serve the employees such as a restaurant or office space for the manufacturing use.

Mr. Krapf stated his concerns about the number and size of mature trees that will be removed and the lack of a mandate for the use of low impact design (LID) features.

Ms. Sipes stated that she did share Mr. Krapf's concerns with the applicant.

Mr. Kennedy confirmed that the property is zoned A-1, General Agriculture and asked if timbering is allowed.

Ms. Sipes and Mr. Sowers answered yes.

Mr. Kennedy said the trees could be timbered.

Mr. Obadal asked if there will be an LID condition.

Mr. Sipes said the BMP (best management pond) that was previously proposed is an infiltration facility. She said she has discussed with Mr. Krapf the possibility of adding language requiring additional measures.

Mr. Obadal stated his thought that a condition was being prepared prior to tonight's meeting.

Ms. Sipes stated that although it is not part of Staff's recommendation, a condition with language concerning the use of LID has been prepared should the Commission desire to add it.

Mr. Obadal stated that he and Ms. Sipes had discussed the use of pervious concrete on the parking lot and driveway and the possible expense of that in comparison to the use of LID on the property. He stated his support of a condition requiring LID.

Mr. Krapf stated his thought that after the applicant and public spoke they could have a discussion on an LID condition.

Mr. Obadal indicated his agreement.

Mr. Kennedy opened the public hearing.

Mr. Dan De Young with DJG represented the applicant. He referred to graphics of the vegetation plan and preliminary site configuration and showed the trees that would be removed and those being preserved. Mr. De Young stated the applicant's agreement to the use of LID and additional landscaping. He also stated that they will consider visibility concerns and will select lower growing plantings in the driveway buffer area.

Mr. Obadal asked about the use of pervious concrete.

Mr. De Young stated his opinion that it would not be a good application of that product in this location due to the amount of leafy vegetation that can clog the pervious pavement and take root. In his opinion, a better application for that product is in larger areas with less debris. He stated there may be opportunities for other LID measures to be used and preferred the Commission not mandate a specific solution that may burden the owner by requiring a lot of maintenance.

Mr. Obadal stated that pervious concrete has gone through a series of improvements that may eliminate some of the applicant's concerns and objections and asked the applicant to look into it.

Mr. De Young agreed to look into it.

Mr. Kennedy asked if Mr. Krapf's concerns had been adequately addressed.

Mr. Krapf answered yes. He said Ms. Sipes has the proposed additional condition as well as an amendment to a previously approved condition.

Mr. De Young stated their agreement with the proposed additional condition and amended condition.

Mr. Billups asked if the applicant is experiencing difficulty with the transfer of the entrance from Route 60 to the new proposed entrance.

Mr. De Young stated he understood that VDOT asked for the entrance to be aligned with White Hall and that the request was not a problem.

Mr. Allen Owens, 8395 Richmond Road, stated his concern about his privacy, safety and the proximity of the proposed driveway to his driveway. He also stated his concern that the applicant did not approach the neighbors earlier in the process about the proposal.

Ms. Jones asked if Mr. Owens received notice of the public hearing from the County.

Mr. Owens said yes.

Ms. Hughes asked if Mr. Owens is aware that an SUP already exists permitting the facility.

Mr. Owens said yes. He said they understood it was a smaller facility.

Ms. Hughes asked if it was the expansion itself that concerned Mr. Owens.

Mr. Owens said his concern is also the traffic, and the new location of the driveway.

Ms. Hughes said the traffic is not expected to be greater than the original proposal. She said the internal space has been increased to keep more animals inside and the fenced area has been decreased so that it is farther away from the property boundaries.

Mr. Owens said he appreciated the landscaping between the driveway and Mr. De Young's offer to show them the landscaping plan.

Ms. Jones told Mr. Owens that Ms. Sipes would be happy to meet with him to discuss the specifics of the proposal.

Mr. Sowers stated that assuming the Board (Board of Supervisors) approves the case it will go through the County's site plan approval process. He said Ms. Owens will

receive notice when the site plan is filed and they will have an opportunity to participate in that process as well.

Ms. Michelle Owens, 8395 Richmond Road, stated her concern that she had envisioned living in the county and raising her children without neighbors looking through their windows. She said she does not want the project and feels as though she is going to be living in an industrial zone. Mr. Owens stated that their house is for sale and asked that the final product be aesthetically pleasing for a future buyer.

Ms. Elizabeth McKenna, 123 Old Stage Road, stated her support for the application. She said there needs to be more choices for veterinary care.

Ms. Kendall McCaw, 123 Old Stage Road, stated her support for the application.

Ms. Meredith Averitt of Toano Animal Care stated her objection. She said she has a large, strong practice and this will bring competition less than a quarter mile down the street.

Mr. Rob Murphy, 113 Astrid Lane, stated that he and his father are the property owners. He stated that the project will be multi-phased with the first phase being 6,000-7,000 square feet. Mr. Murphy stated that it is not his goal to cause conflict with neighbors or colleagues. He said that the Stonehouse area is growing quite fast and that studies show a big demand for more veterinarians. He also stated that the exterior will look like a house, is compatible to surrounding uses, and will have fencing around the perimeter.

Mr. Obadal asked the reason for the expansion request so soon after approval of the original SUP.

Mr. Murphy stated that once a certain level of profit is reached they can expand the kennel and grooming facilities and office space. He stated that they are requesting approval for the future expansion in order to have peace of mind as they move forward.

Hearing no other requests; the public hearing was closed.

Mr. Krapf addressed Mr. and Mrs. Owens concerns and stated that growth does not come without a price and that there are various degrees of trade-off. He stated that the Commissioners' roles are to manage growth as best as they can consistent with the Comprehensive Plan. Mr. Krapf said the parcel is designated for general industries and can be a lot more invasive in terms of traffic and noise than what the applicant is proposing. He stated that he is in favor of the proposal with the two additions discussed previously.

Ms. Jones stated her agreement with Mr. Krapf and motioned for approval with the attached conditions.

Mr. Krapf seconded the motion.

Mr. Obadal asked for inclusion of the applicant's agreement to look into pervious pavement.

Mr. Kennedy said the applicant has addressed the issue and said he will look into it.

Ms. Jones said she does not want to add it as a condition.

Mr. Kennedy asked Ms. Sipes to ensure that Mr. Obadal's concerns are addressed.

Ms. Sipes stated that as the conditions are currently worded pervious pavement has the potential to be utilized and asked for confirmation from Mr. Woolson of the Environmental Division.

Mr. Woolson agreed.

Ms. Sipes confirmed that the motion included the amended conditions discussed by Mr. Krapf mentioned earlier.

Mr. Kennedy answered yes.

In a unanimous roll call vote the application and amended conditions were recommended for approval AYE: (7) Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy; NAY (0).



ENGINEERS • ARCHITECTS • PLANNERS

449 McLaws Circle, Williamsburg, VA 23185 • P. O. Box 3505, Williamsburg, VA 23187

Phone: 757.253.0673 • Norfolk-Virginia Beach: 757.874.5015 • Fax: 757.253.2319

E-mail: williamsburg@djginc.com • Web: www.djginc.com

June 26, 2007

Ms. Kathryn Sipes
Planner
James City County Planning Division
PO Box 8784
Williamsburg, VA 23187

RE: Anderson's Corner Animal Care
SUP-14-07 & SUP-17-06
DJG #2060810

Dear Ms. Sipes,

Condition #2 for the special use permit for the subject project requires that a Phase I Archaeological Study be completed for the entire site. The site is over 30 acres and such an undertaking is proving to be both costly and time-consuming. Considering that the proposed development area is only about six acres and is confined to one corner of the site, we request that Condition #2 for the Phase I Archaeological Study be modified to only require investigation in the development area. The remainder of the site will remain undisturbed as a result of this project. Please see the attached sketch illustrating the proposed limits for the Phase I Archaeological Study.

Thank you for your consideration in this matter. If you have any questions regarding this request, please do not hesitate to call.

Sincerely,

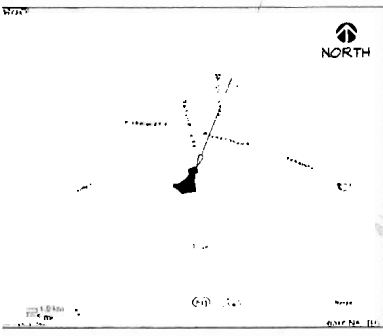
A handwritten signature in dark ink, appearing to read 'Matthew G. Burton'.

Matthew G. Burton, AIA
Architecture Group Manager

CC: ACAH, LLC



PROJECT SITE:
8541 RICHMOND ROAD
TOANO, VA 23168

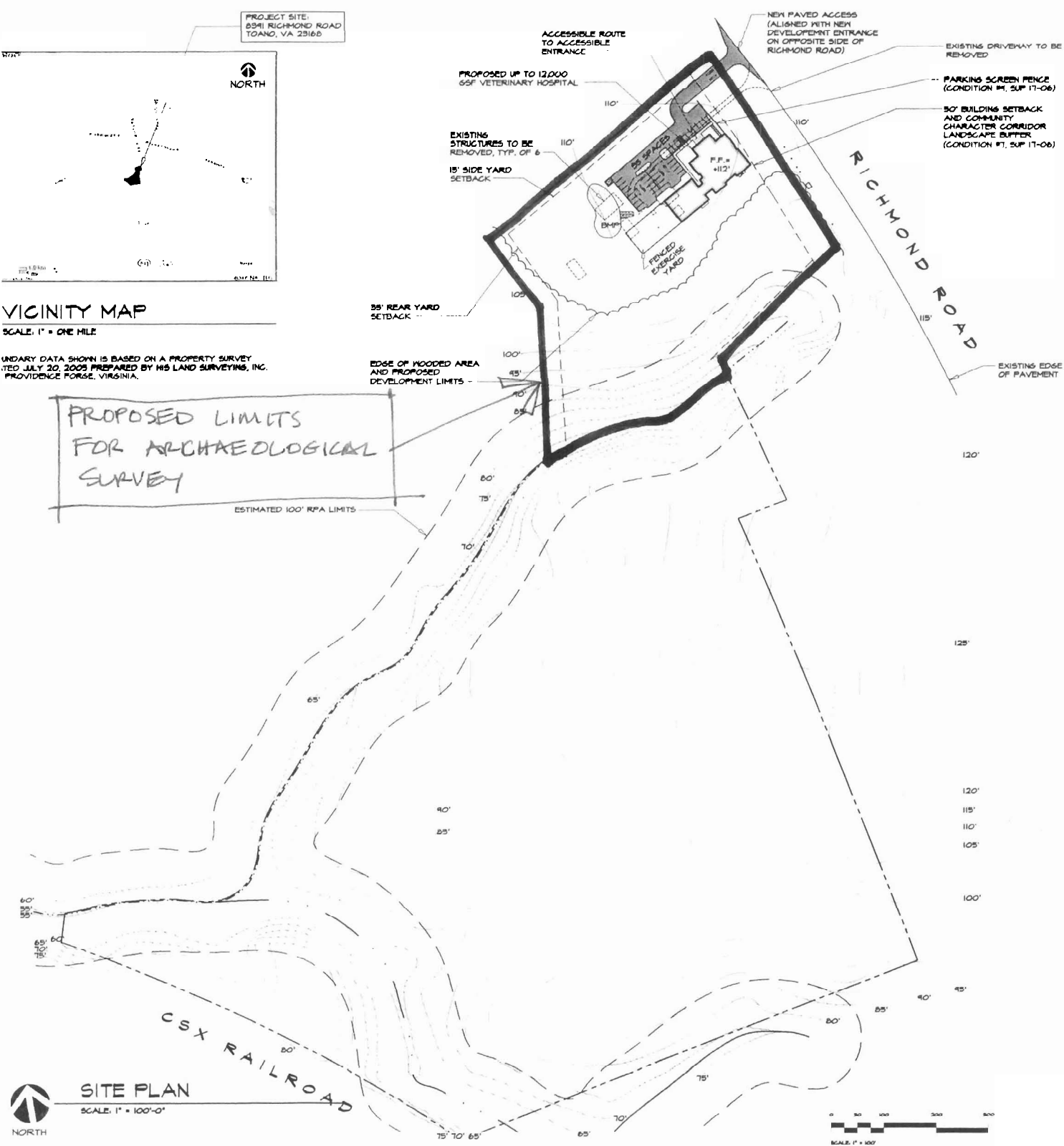


VICINITY MAP
SCALE: 1" = ONE MILE

BOUNDARY DATA SHOWN IS BASED ON A PROPERTY SURVEY
DATED JULY 20, 2008 PREPARED BY HIS LAND SURVEYING, INC.
PROVIDENCE FORSE, VIRGINIA.

PROPOSED LIMITS
FOR ARCHAEOLOGICAL
SURVEY

ESTIMATED 100' RPA LIMITS



SITE PLAN
SCALE: 1" = 100'-0"



**SPECIAL USE PERMIT-15-07. Precious Moments Playhouse, Inc. SUP Renewal
Staff Report for the July 10, 2007, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

June 6, 2007, 7:00 p.m.
July 10, 2007, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Evangelina B. Crump

Land Owner: Evangelina B. and Timothy F. Crump

Proposal: To renew an existing Special Use Permit (SUP-18-04), which expires on August 10, 2007, for the continued use of a children's day care center in a residential area.

Location: 103 Indigo Terrace

Tax Map/Parcel Nos.: 3840200002

Parcel Size: 0.494 acres

Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

Planning Staff finds that this proposal creates no new significant burdens on neighboring properties or uses. The proposal seeks only to continue an existing use which has been in operation since 1980 without recorded complaints or problems. Staff recommends that the Board of Supervisors approve this application, with the conditions listed at the end of this report, to renew the subject Special Use Permit.

Staff Contact: David W. German

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted 7-0 to recommend approval of this Special Use Permit application to the Board of Supervisors, with the inclusion of the conditions listed at the end of this report.

PROJECT DESCRIPTION

Ms. Evangelina Crump has applied for a renewal of an existing Special Use Permit (SUP) to allow for the continued operation of a children's day care facility in an existing single family detached house located at 103 Indigo Terrace. This property is zoned R-2, General Residential, which requires an SUP for the operation of a children's day care facility. The house includes the area set aside for the operation of the day care facility, and a living space that is physically separated from the day care environment, and accessed through a separate entrance.

A day care facility has been in operation on the property since 1980. It was first authorized by the Board of Supervisors on September 6, 1980 with SUP-4-80, which allowed for the care of 15 children at the facility. In March of 2003, the applicant purchased the property and began to run the Precious Moments Playhouse, Inc. day care at the subject property in July of 2003. On August 10, 2004, the Board of Supervisors approved a new Special Use Permit (SUP-18-04) which provided for an expansion of the operation to accommodate the care of up to thirty children at the facility. One of the conditions of approval of this SUP was that it would require renewal every thirty-six months, in keeping with the *Child Day Care Centers Located in the Interior of Residential Neighborhoods* policy adopted by the Planning Commission's Policy Committee on June 22, 2001. This SUP application is for a renewal of the existing SUP, in accordance with this condition.

The current operation provides care for up to thirty children, (no more than nine of which may be under 2½ years old), and is staffed by four full-time adult employees. The hours of operation are from 7 a.m. to 6 p.m. Monday through Friday. The applicant seeks only to renew the existing Special Use Permit approval, and does not wish to expand or amend the current operation in any fashion.

PUBLIC IMPACTS

Environmental Division

Staff Comments: Environmental staff has reviewed the application and has indicated that this proposed SUP renewal is approved by the Environmental Division with no comments or concerns. A Land Disturbing permit is not required.

Public Utilities

Staff Comments: This project lies inside the Primary Service Area (PSA), and is served with public water and sewer facilities by the James City Service Authority (JCSA). The JCSA has indicated that a condition to create a water conservation plan previously placed on this applicant (on SUP-18-04) will no longer be sought by JCSA and may be removed as a condition. JCSA believes that this condition may have been placed upon the original SUP in error, as such a condition would typically not be sought for this type of proposal. The proposed SUP renewal is approved by JCSA with no further comments or concerns.

Transportation

VDOT Comments: The Virginia Department of Transportation had no concerns with the proposed SUP renewal. No traffic improvements were recommended or proposed by VDOT. VDOT noted only that a Land Use Permit would be required prior to performing any work in the State's Right-of-Way; no such work is proposed by the applicant at this time.

Staff Comments: Staff offers that, due to varying parental schedules, children will be picked-up and dropped off at varying times, thus helping to ease congestion in the morning and evening hours. Ms. Crump has noted previously that many of the children arrive together in carpools with their siblings, which also eases the traffic associated with the operation of the day care.

Virginia Department of Health (VDH)

Staff Comments: The VDH is responsible for monitoring food preparation and cleanliness standards at the day care facility. The VDH expressed no concerns with the continued operation of the facility, or with the renewal of the Special Use Permit.

Virginia Department of Social Services (DSS)

Staff Comments: The DSS is responsible for monitoring and licensing the day care facility. The DSS expressed no concerns with the continued operation of the facility, or with the renewal of the Special Use Permit. A copy of the current license for this day care facility is included as an attachment at the end of this Staff Report.

COMPREHENSIVE PLAN

Land Use Map

Land Use Designation	<p><i>Low Density Residential (Page 120-121): "Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan...Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments."</i></p> <p>Staff Comment: While a day care center is not identified as a desirable use in Low Density Residential areas, it has been in place at the subject property since 1980 without record of complaints or problems, and that it is relatively close to an Arterial Road, as recommended by the Comprehensive Plan.</p>
Goals, strategies and actions	<p><i>Strategy #1 (Page 138): Promote the use of land in a manner harmonious with other land uses and the environment.</i></p> <p>Staff Comment: The proposed use has not adversely affected adjacent properties. A day care facility provides a needed community service, and operations at this location have been a part of the subject community for nearly twenty- seven years.</p>

RECOMMENDATION

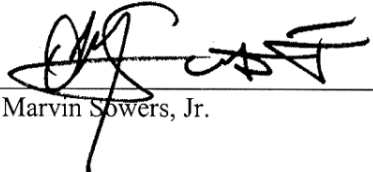
Planning Staff finds that this proposal creates no new significant burdens on neighboring properties or uses. The proposal seeks only to continue an existing use which has been in operation since 1980 without recorded complaints or problems. Staff recommends that the Board of Supervisors approve this application, with the conditions listed below, to renew the subject Special Use Permit.

1. Day Care Capacity: No more than 30 children shall be cared for at the child day care facility.
2. Hours of Operation: Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. Validity of Special Use Permit: This SUP shall be valid for a period of 36 months from the date of approval during which the day care owner shall maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility.
4. Signage: No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. Lighting: No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, "commercial food preparation or laundry services" shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff."
7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause,

sentence, or paragraph shall invalidate the remainder.

David W. German

CONCUR:



O. Marvin Sowers, Jr.

DWG/gb
Sup15-07.doc

ATTACHMENTS:

1. Unapproved Minutes from the June 6, 2007 Planning Commission Meeting
2. Resolution
3. Location Map
4. Copy of Current Day Care Center License
5. Copy of *Child Day Care Centers Located in the Interior of Residential Neighborhoods* policy adopted by the James City County Planning Commission's Policy Committee on June 22, 2001.

RESOLUTION

CASE NO. SUP-15-07. PRECIOUS MOMENTS PLAYHOUSE, LTD. – SUP RENEWAL

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Special Use Permit (SUP) Case No. 15-07, for renewing the existing SUP-18-04 for the Precious Moments Playhouse, Ltd. Day Care operation; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 6, 2007, recommended approval, by a vote of 7 to 0; and

WHEREAS, the subject property is located at 103 Indigo Terrace, is zoned R-2, General Residential, and can be further identified as James City County Real Estate Tax Parcel ID No. 3840200002.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. SUP-15-07 with the following attached conditions of approval:

1. Day Care Capacity: No more than 30 children shall be cared for at the child day care facility.
2. Hours of Operation: Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. Validity of Special Use Permit: This SUP shall be valid for a period of thirty-six months from the date of approval during which the day care owner shall maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility.
4. Signage: No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. Lighting: No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, "commercial food preparation or laundry services" shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff."
7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 10th day of July,
2007.

Sup-15-07.res

**UNAPPROVED MINUTES OF THE JUNE 6, 2007 MEETING
OF THE PLANNING COMMISSION**

SUP-15-07 Precious Moments Playhouse Renewal

Mr. David German presented the staff report stating that Ms. Evangelina Crump has applied for a renewal of an existing Special Use Permit (SUP-0018-2004) which will expire on August 10, 2007. This SUP renewal would allow for the continued operation of a 30-child day care center, to be operated out of Ms. Crump's home, located at 103 Indigo Terrace. The property is also known as Parcel 3840200002, and is zoned R-2, General Residential. The parcel is designated as Low Density Residential in the Comprehensive Plan. Parcels so designated are primarily to be used for single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments. Staff recommended approval of the application and attached conditions.

Mr. Kennedy opened the public hearing.

Hearing no requests to speak the public hearing was closed.

Mr. Fraley motioned to approve the application.

Mr. Billups asked about the inconsistency between the SUP and the license concerning the hours of operation.

Mr. German stated that Department of Social Services has re-issued the license to be consistent with the SUP hours of 7 a.m. until 6 p.m. He stated that although the hours of operation are 7 a.m. until 5 p.m., there may be children on-site until 6 p.m. that are waiting to be picked up by their parents.

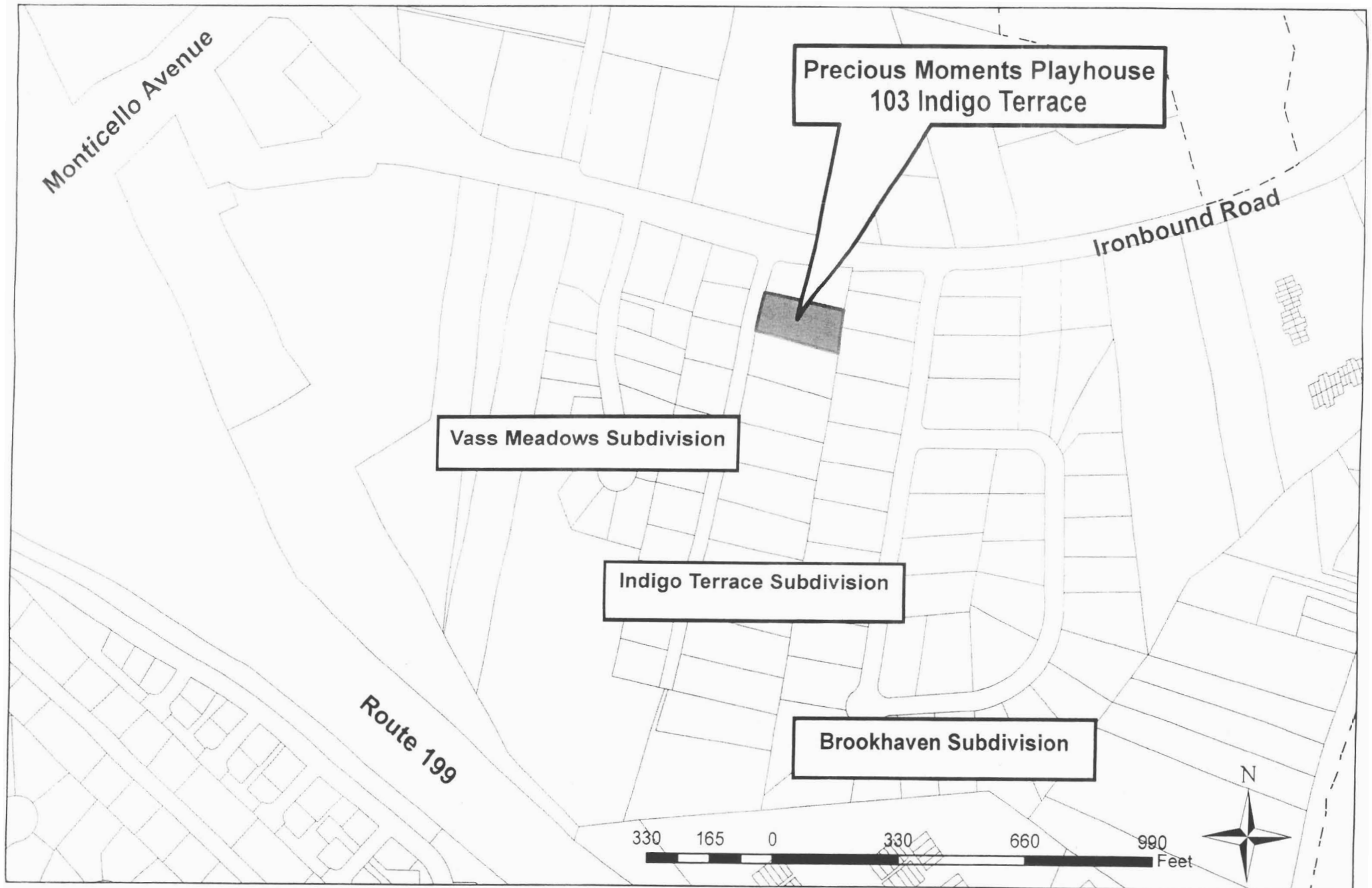
Mr. Fraley restated his motion for approval.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

JCC-SUP-0015-2007

Precious Moments Playhouse SUP Renewal



Commonwealth of Virginia

DEPARTMENT OF SOCIAL SERVICES

MODIFIED

LICENSE CHILD DAY CENTER

Issued to PRECIOUS MOMENTS PLAYHOUSE, Operated by Precious Moments Playhouse, Ltd.

Address 103 Indigo Terrace, Williamsburg, Virginia 23188

This license is issued in accordance with provisions of Chapters 1, 17 and 18, Title 63.2, Code of Virginia as amended, the established rules and regulations of the Child Day-Care Council and the specific limitations prescribed by the Commissioner of Social Services as follows:

Capacity 30		<ol style="list-style-type: none">1. No more than 9 children under 2 ½ years in Room 3 and 4 with an exit door directly to the exterior.2. This center is licensed to operate from 7:00 a.m. to 6:00 p.m. Monday – Friday.
Sex M/F	Age INFANCY THROUGH 5 YEARS	

This license is not transferable and will be in effect from APRIL 6, 2006 through APRIL 5, 2008 unless revoked for violations of the provisions of law, or failure to comply with the limitations stated above.

ISSUING OFFICE:

Virginia Department of Social Services
Peninsula Licensing Office
2600 Washington Avenue, Suite 202
Newport News, Virginia 23607
Telephone: (757) 247-8020

PLO-06-076
License Number

ANTHONY CONYERS, JR.

COMMISSIONER OF SOCIAL SERVICES

By: 

Title: LICENSING ADMINISTRATOR

Date: MAY 31, 2007

05/05/2007

James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. ~~Should the Planning Commission and Board of Supervisors choose to recommend~~ approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a **three-year time limit** in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

**REZONING-09-06/MASTER PLAN-10-06. Ironbound Square Redevelopment - Phase II
Staff Report for the July 10, 2007, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:

Planning Commission:

Board of Supervisors:

Board of Supervisors:

Building F Board Room; County Government Complex

March 7, 2007, 7:00 p.m. (deferred)

April 4, 2007, 7:00 p.m.

June 26, 2007, 7:00 p.m. (deferred)

July 10, 2007, 7:00 p.m. (continuing from June 26 meeting)

SUMMARY FACTS

Applicant:

Mr. Rick Hanson, James City County Office of Housing and Community Development

Land Owner:

Williamsburg Redevelopment Housing Authority (WRHA);

Ms. Beatrice Banks Bailey;

Ms. Rhoda Brown;

Mr. and Mrs. Kenrick Williams and Joan P. Williams;

Mr. and Mrs. Cecil Collier and Delores Collier;

Mr. and Mrs. Douglas F. Canaday and Ivy Canaday;

Mr. and Mrs. Robert White and Louise White;

Ms. Gloria Merritt;

Ms. Inez White;

Mr. William L. Jones; and

James City County

Proposal:

To rezone approximately 9.34 acres from R-2, General Residential, to MU, Mixed use, with proffers. The area of this proposal consists of forty existing parcels (thirty-seven residential parcels, two parcels are designated as "alleys," and therefore non-residential, and the remaining parcel is owned by James City County) and it is located within the Ironbound Square Redevelopment Area. If approved, this rezoning application will allow the re-subdivision of the existing forty parcels to create up to 52 parcels and three new streets. Because the James City County Office of Housing and Community Development (OCHD) was unable to obtain signatures from the owners of five of the parcels located in the site, the Board of Supervisors approved a resolution on February 13, 2007, initiating the rezoning process for the five parcels within the Ironbound Square Redevelopment Area. The 5 property owners' names, location, tax map and parcel numbers are underlined in the staff report. The rezoning of the five parcels will be considered concurrently with the James City County OHCD rezoning application.

Locations: 105, 107, & 109 Carriage Road; 4338, 4340, 4342, 4344, 4346, 4348, 4352, 4354, 4356, 4358, 4362, 4364, 4366, 4368, 4370, 4372, 4374, 4376, 4378, 4380, 4382, 4384, 4386, & 4388 Ironbound Road; 99, 100, 101, 102, 104, 106, 113, 117, 119, 121, 123, 125, and 125A Watford Lane

Tax Map/Parcel Nos.: (39-1) (1-72), (39-1) (1-73), (39-1) (1-74), (39-1) (1-97), (39-1) (1-96), (39-1) (1-95), (39-1) (1-94), (39-1) (1-93), (39-1) (1-92), (39-1) (1-90A), (39-1) (1-90B), (39-1) (1-89), (39-1) (1-88), (39-1) (1-81), (39-1) (1-80), (39-1) (1-79), (39-1) (1-78), (39-1) (1-77), (39-1) (1-76), (39-1) (1-75B), (39-1) (1-75), (39-1) (1-75A), (39-1) (1-70), (39-1) (1-68), (39-1) (1-67), (39-1) (1-66), (39-1) (1-65), (39-1) (1-99), (39-1) (1-103), (39-1) (1-86), (39-1) (1-104), (39-1) (1-105), (39-1) (1-102), (39-1) (1-85), (39-1) (1-84), (39-1) (1-83), (39-1) (1-82), (39-1) (1-87), (39-1) (1-69), & (39-1) (1-71)

Parcel Size: 9.34 acres

Existing Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff finds the proposal, as part of the overall Ironbound Square Redevelopment Area, consistent with surrounding land uses, the Land Use and Housing policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve the rezoning application for Phase II of the Ironbound Square Redevelopment Plan and the acceptance of the voluntary proffers.

Staff Contact: Jose Ribeiro, Planner Phone: 253-6685

Proffers: Are signed by the property owners and submitted in accordance with the James City County Proffer Policy

PLANNING COMMISSION RECOMMENDATION

On April 04, 2007, the Planning Commission voted 7-0 to recommend denial of the rezoning application for Phase II of the Ironbound Square Redevelopment Plan.

Proposed Changes Made Since Planning Commission Meeting

Members of the Planning Commission expressed concerns that the proposed placement of Road 1, as shown on the Master Plan, would negatively impact the property owners of parcels located at 4344, 4346, and 4348 Ironbound Road (shown in the Master Plan as Parcels Nos. 1, 2, and 3) by “taking” portions of the rear of these properties. The property owners of the above-referenced parcels have not agreed to sign the rezoning application for this case.

The OHCD has continued to negotiate with these property owners the voluntary purchase of Parcels Nos. 1, 2, and 3. However, to this date, a purchase agreement between the applicant and the property owners has not been secured. The Office of Housing and Community Development has presented an alternate to the current design of Road 1. The alternate design for Road 1 is shown on the attached plan titled: “Ironbound Square Phase 2-Alternate Plan-A2” and proffered by the applicant (please refer to Proffer No. 6). This plan shall be instituted as a binding option in the event that an agreement between the property owners of Parcels Nos. 1, 2, and 3 and the applicant is not secured prior to submittal of subdivision plans for Phase II of the Ironbound Square Redevelopment Plan. If an agreement between the applicant and the property owners is reached prior

to submittal of subdivision plans for County review, Road 1 will be designed as shown on the Master Plan.

The alternate design for Road 1 requires the road be shifted further eastward and the cul-de-sac bulb flipped in orientation. Road 1 has a 35-foot right-of-way with 28 foot pavement width on the stem of the cul-de-sac. The cul-de-sac has a 42.5 radius right-of-way with a 39-foot pavement radius. Further, there is a 436 square feet utility easement outside the entire right-of-way for Road 1. The re-design of Road 1 eliminates the partial taking of property from Parcel Nos. 1, and 2, and reduces the partial taking of property from Parcel No. 3 (the Master Plan requires that Road 1 use approximately 4,144 square feet from Lot 3, while the alternate design of Road 1 requires approximately 1,010 square feet from Lot 3). In order to accommodate these changes to Road 1, Lot No. 12 on the Master Plan will have to be eliminated as a viable residential lot.

Staff notes that the placement of Road 2, as shown on the Master Plan, also impacts the property owner of the parcel located at 4362 Ironbound Road (shown on the Master Plan as Parcel No. 24) by encroaching in a portion of the rear of the property (approximately 2,857 square feet). Road 2 will be re-designed, as shown on the attached plan titled: "Ironbound Square Phase 2-Alternate Plan A-2" with the same dimensions as the alternate Road 1 except that Road 2 will have a 50 foot right-of-way in the stem but with no easements on the stem. The placement of Road 2, as shown on the alternate plan, will require approximately 2,938 square feet of the rear property of Parcel No. 24. Staff notes that the property owner of the parcel located at 4362 Ironbound Road is a signatory party of the rezoning application.

PROJECT DESCRIPTION

Mr. Rick Hanson of the James City County OHCD has applied to rezone approximately 9.34 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use for the development of 52 single-family residential parcels and 3 new streets. The area subject to this rezoning covers two blocks fronting on Ironbound Road south of Carriage Road and is located in a portion of the section of the Ironbound Square Neighborhood designated as the Ironbound Square Redevelopment Area. Properties located to the north (Phase I of the Ironbound Square Redevelopment) and west (New Town parcels) of this area are zoned mixed use. Properties located to the east are zoned R-2. Properties to the south are located within the limits of the City of Williamsburg.

In February 2000, the James City County Board of Supervisors authorized a multi-year Community Development Block Grant (CDBG) Agreement with the Virginia Department of Housing and Community Development (VDHCD) to undertake the Ironbound Square Residential Revitalization CDBG Project. The agreement is known as the Ironbound Square Revitalization Agreement. On February 26, 2002, to advance the objectives of the Revitalization Agreement, the Board of Supervisors adopted the Ironbound Square Redevelopment Plan to reduce or eliminate various blighted, unsanitary, unsafe, and substandard housing conditions within the Ironbound Redevelopment Area. The Redevelopment Plan included among its objectives to "develop sites for additional housing for families and senior citizens" and included among its authorized undertakings "clearance of areas acquired and installation, construction, or reconstruction of streets, utilities, and sites for use in accordance with the Redevelopment Plan." The applicant has provided a memorandum (attachment No.9 to this staff report), which provides a history of the planning process, a summary of changes to the plan, and actions taken by County officials regarding the Ironbound Square Residential Revitalization Project.

The Ironbound Square Redevelopment Area consists of approximately 19.34 acres of land master planned as a mixed-use development with various residential types and a recreational area. On May 10, 2005, the James City County Board of Supervisors approved the rezoning of Phase I of the Ironbound Square Redevelopment (Z-02-05/MP-03-05) from R-2, General Residential, to MU, Mixed Use, which allowed for the construction of a 67 unit age- and-income restricted apartment facility, 5 single-family residential lots, and a park on approximately 6.04 acres of land.

Phase II of the Ironbound Square Redevelopment proposes to rezone the remaining lands within the Redevelopment Area (approximately 9.34 acres) and is proposed as a re-subdivision of the existing 40 parcels into a total of 52 parcels. There are currently 13 single-family units located within the Phase II redevelopment

area and they will remain on the Property. According to voluntary proffers submitted by the applicant, a minimum of 20 of the new single-family units developed on the Property and designated single-family parcels will be sold to households with incomes no greater than 80% of the Area Median Income (AMI) adjusted for household sizes as determined by the U.S. Department of Housing and Urban Developments (HUD). This maximum qualifying income for a household of four is currently computed to be \$48,250.

The site of Phase II of the Ironbound Square Redevelopment is designated by the 2003 Comprehensive Plan as Low Density Residential. Further, the site is located within the New Town Community Character Area and Ironbound Road is designated as a Community Character Corridor.

PUBLIC IMPACTS

Archaeology

Staff Comment: The subject Property has been previously disturbed and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment. Staff believes that given the size and nature of the site, no archaeological studies are necessary.

Fiscal

Staff Comment: A fiscal impact analysis was not required for this project. The applicant did submit a community impact statement and has acknowledged that the net fiscal impact of the proposal will be negative. However, the proposal addressed goals of the Housing section of the Comprehensive Plan specifically related to the Ironbound Square neighborhood by providing affordable housing. Staff concurs that this analyses was not required and that the nature of the project is consistent with the Comprehensive Plan.

Public Utilities

Staff Comment: The site is located within the Primary Service Area (PSA) and will be served by public water and sewer. Water conservation measures have been proffered and shall be submitted to and approved by the James City Service Authority (JCSA) prior to final subdivision or site plan approval. The JCSA staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards. Since this is an affordable housing project, JCSA has not requested water system reimbursements.

Water Conservation Proffer: Water conservation standards for the Property shall be submitted to and approved by the JCSA. The owner shall be responsible for enforcing these standards. The standards shall address such conservation measures as limitations on the installation and use of irrigation systems and irrigations wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

Housing

Phase II of the Ironbound Square Redevelopment consists of the re-subdivision of 40 existing parcels into a total of 52 parcels. A minimum of 20 of the new single-family units to be developed on the Property shall be dedicated to affordable housing. The remainder of the lots will be dedicated to mixed cost and sold through the County's affordable incentive program.

Affordable Housing Proffer: A minimum of 20 of the single-family units developed on the Property shall be used to house sold to households with incomes no greater than 80% of the Area Median Income (AMI) adjusted for household size as determined by the U.S Department of Housing and Urban Development (HUD).

All new homes within the Redevelopment Area will be quality built, energy efficient homes. These homes will be built by competitively selected private builders as well as by non-profit housing organizations, including Peninsula Area Habitat for Humanity and Housing Partnerships, Inc. The OHCD will select house plans and solicit builders to construct homes designed to meet the needs of work force homebuyers and to qualify for a variety of workforce housing financing products. Among these programs is the County's Employer Assisted Home Ownership Program, which is currently available to County employees with incomes at or below 110% of area median income adjusted for family size. The use of non-profit building partners as well as the use of low-interest mortgages and down payment assistance will enable OHCD to meet and most likely exceed the proffer of a minimum of 20 homes to be sold to low- and moderate-income households whose incomes are at or below 80% of the area median income adjusted for family size. Staff finds that this proposal is consistent with the 2003 Comprehensive Plan affordable housing goals.

Public Facilities

According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through rezoning, a special use permit (SUP), or other development processes the: 1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities; and 2) encouraging the equitable participation by the developer in the provision of needed services. With respect to Item No. 1, the Board of Supervisors has adopted the adequate public school facilities policies for schools, recreation, and water supply facilities.

The Ironbound Square Area is located within the Clara Byrd Baker Elementary, Berkeley Middle School, and Jamestown High School districts. Under the proposed Master Plan, a maximum of 52 single-family units are proposed for this project. Per the adequate public school facilities policy adopted by the Board of Supervisors, all SUP or rezoning applications should meet the policy for adequate public school facilities. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County Schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the applicant offers the following information, which pertains to the entire redevelopment area (Phase I and II):

“The Impact of the development subject to this rezoning will have a negligible impact on the Williamsburg James City County School system. Few, if any students will be added to the population because the majority of the development is limited to households with at least one member being 62 years of age, and the single family lots will be marketed to persons who currently reside or work in James City County, Williamsburg, and the upper Bruton section of York County.”

The site of Phase II of the redevelopment consists of 37 residential parcels with thirteen of the parcels currently occupied by single-family homes. The average student generation rate for single-family houses is 0.45 students per single-family unit. The existing 37 single-family parcels could provide a total of 16 school children ($37 \times 0.45 = 16$).

The proposed re-subdivision of 37 residential parcels into 52 residential parcels is projected to generate 23 school children ($52 \times 0.45 = 23$) or 7 additional students above these generated by the existing 37 residential parcels. The expected distribution of the 23 school children are listed below on Table 1:

Table 1**Schools serving Ironbound Square**

School	Design Capacity	Effective Capacity	Current 2006 Enrollment	Projected Students Generated	Enrollment plus Projected Students
Clara Byrd Baker Elementary School	804	660	752	<u>10</u>	762
Berkeley Middle School	725	816	865	<u>6</u>	871
Jamestown High School	1,250	1,177	1,591	<u>7</u>	1,598
Total	2,779	2,653	3,208	<u>23</u>	3,231

Staff Comment: The adequate public schools facility policy is based on design capacity. There is design capacity for this development at Clara Byrd Baker; therefore, this development meets the policy guidelines at the elementary school level. Both design and effective capacities are exceeded at Berkeley Middle School and Jamestown High School. Although the design capacity of Jamestown High School is clearly exceeded, the adequate public school facilities policy states that if physical improvements have been programmed through the County's Capital Improvements Program (CIP) then the application will meet the policy guidelines. On November 2, 2004, voters approved the third high school referendum and the new high school is scheduled to open in September 2007; therefore, this proposal meets the policy guidelines for the high school level. The proposal does not meet the policy guidelines at the middle school level.

Transportation

2005 Traffic Counts: From Monticello Avenue to Watford Lane, 10,764 average daily trips.

2026 Volume Projected: From Monticello Avenue to Williamsburg CL, projected 14,000 average daily trips

Road Improvements Proffer: Owner shall install, in accordance with VDOT recommendations, standards and specifications the following road improvements: a) curb, gutter and paving, and sidewalks on the eastern side of Watford Lane at 120 Watford to Watford Lane's turn to the west; and on the northern side of Watford Lane from the turn to its intersection with Ironbound Road; and b) curb, gutter, and paving along 3 new roads, all as shown on the Master Plan. The preceding road improvements and dedications shall be: i) completed or ii) the contract for the construction of these improvements shall have been approved by the James City County Board of Supervisors prior to issuance of any certificates of occupancy for dwelling units on rezoned parcels fronting on Watford Lane.

VDOT Comment: VDOT staff concurs with the trip generation, distributions, and turn lane analysis as provided in the submitted traffic study. The study concludes that left-turn lanes are warranted on Ironbound Road at Watford Lane, Carriage Road, and Magazine Road. However, VDOT notes that these left-turn lanes are included in VDOT's Ironbound Road widening project, which is currently scheduled to be advertised for construction in mid-2008. Further, it is worth noting that all driveways that currently have access on Ironbound Road will be shifted to internal access from the proposed cul-de-sac streets. This shift in vehicular access will promote improvements on road capacity and overall traffic safety.

Staff Comment: Staff concurs with VDOT findings and believes that with the Ironbound Road widening project traffic improvements will be adequately mitigated. Staff also notes that according to VDOT, a traffic signal is proposed for the intersection of Watford Lane and Ironbound Road. Further, a pedestrian crosswalk at the intersection of Ironbound Road and Watford lane and Ironbound Road and Magazine Road will be provided. The crosswalk at Magazine Road will have a pedestrian refuge in the center lane to assist with safe crossing.

Environmental

Watershed: College Creek

The applicant has provided two scenarios for treatment of stormwater runoff from the site: a regional BMP and integrated practices within the development. A regional stormwater management pond is planned immediately downstream of the Phase 1 Watford Lane BMP. Because of its impacts on perennial streams and Resource Protection Buffer, the regional pond required approval from the James City County Chesapeake Bay Board. The Board approved the BMP at its regular meeting on February 14, 2007. This regional facility would modify the Phase 1 BMP to act as a sediment forebay and this pond and would be designed to provide adequate water quality volume for the entire development and upstream drainage from Ironbound Road. If the regional stormwater management pond is delayed beyond the construction of the neighborhood or not constructed, combined Low Impact Development (LID) measures and the use of the two dry detention basins in series will provide stormwater treatment for the proposed development.

Environmental Comment: Staff acknowledges that the proposed regional BMP east of the County Type F-1 BMP has received regulatory approval from the James City County Chesapeake Bay Board under Chesapeake Bay Exception CBE-07-033. This approval, along with previous Army Corps of Engineers' approval and imminent Virginia Department of Environmental Quality approval, suggests the regional BMP may now be feasible. Under this regional stormwater management approach, and similar to that for the Bay Aging portion of the project Z-02-05/SP-100-05, a Land Disturbing Permit cannot be issued for this project (Ironbound Square Redevelopment Phase 2) until the downstream regional stormwater management facility is in place and functional.

Environmental Protections Proffers: The project shall contain a Low Impact Development (LID) component for stormwater management purposes. LID measures shall be situated in common areas associated with the project. If a downstream, off-site regional stormwater basin is used to meet stormwater management requirements for the project, then on-site LID measures as shown on the Master Plan drawing shall be provided to further minimize water quality impacts associated with the project. If a downstream, off-site regional stormwater basin cannot be used for the project, then on-site LID measures as shown on the Master Plan drawing shall be used in order to achieve compliance under the County's 10-point system for water quality.

Staff Comment: Staff concurs with the Environmental Division findings. In the event that the regional BMP project does not come to full fruition prior to issuance of land disturbance permits for Phase II of the project, the applicant will utilize a combination of proposed LID measures, as shown on the Master Plan, and dry detention basins to provide adequate stormwater treatment for the proposed development.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Low Density Residential (Page 120): Low-density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the Property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. The location criteria for low density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p>Staff Comment: This phase of the redevelopment area creates a gross density of 5.4 dwelling units per acre. However, the overall Ironbound Square Revitalization Area, exclusive of Ironbound Village, encompasses approximately 57.54 acres with a total of 215 existing and planned units, thus creating a total gross density of 3.8 dwelling units per acre. Furthermore, staff finds that Phase II of the redevelopment area will offer a specific public benefit to the community by providing affordable and mixed-cost housing. Staff also notes that Phase I and II of the redevelopment area will provide approximately 3.32 acres of open space, which includes 1.6 acres of parkland.</p>
Development Standards	<p><i>General Land Use Standards #5 (Page 134):</i> Minimize the impact of development proposals on overall mobility, especially on major roads by limiting access points and providing internal, on-site collector and local roads, side street access and joint entrances...integrate sidewalks into the design of streets so that pedestrian movement is safe, comfortable and convenient. Pedestrian activity should be given an equal priority to motor vehicle activity.</p> <p><i>Residential Land Use Standards #1 (Page 137):</i> Ensure that gross densities are compatible with the local environment, the scale and capacities of public services, facilities and utilities available or planned, and the character of development in the vicinity. When evaluating development proposals, permit gross densities at the higher end of the allowed range based on the degree to which the proposed development achieves the goals, strategies, actions, and standards of the Comprehensive Plan. During such evaluations, emphasis would be placed on mixed cost housing; affordable housing; provision of open space; protection of the environment and historical and archaeological resources; preservation of farm and forestal lands and the ability to meet the public needs of the development.</p> <p>Staff Comment: All lots that currently have access on Ironbound Road are being shifted to internal access (through access easements) from the three proposed new cul-de-sac streets improving road capacity and traffic safety. Sidewalks will be provided on one side of Watford Lane and Carriage Road abutting the Property. A multi-use path will be proposed along Ironbound Road as part of VDOT's project. No sidewalks are proposed on the three new cul-de-sacs. However, a pedestrian trail will connect Cul-de-sac 2 to Cul-de-sac 3 and a second trail will connect to the proposed multi-use path at Ironbound Road. Staff believes that the 5.4 gross density proposed for Phase II of the redevelopment is consistent with the intent of Ironbound Square Revitalization Plan, comparable with adjacent residential developments (New Town and Phase I of the Redevelopment Area) and justifiable considering the public benefits that it will offer to the County.</p>

Goals, strategies and actions	<i>Action #16 (Page 14):</i> Identify target areas for infill, redevelopment, and rehabilitation within the PSA.
	Staff Comment: The Ironbound Square Area was designated a “Community Development Focus Area” by the 2003 Comprehensive Plan. Focus areas, such as Ironbound Square are slated for consideration for neighborhood rehabilitation and blight removal.

Environment

Goals, strategies, and actions	<i>Action # 5 (Page 66):</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.
	<i>Action # 5(h) (Page 66):</i> To continue to encourage the development of regional best management practice (BMPs) wherever feasible.
	Staff Comments: The applicant has proffered Low Impact Development (LID) practices for this project. The following LID practices are being considered for use in Ironbound Square Plan Phase II:
	<ul style="list-style-type: none"> • Dry Swale • Bioretention Filter/ Basin • Chamber Infiltration Bed • Bottomless and Sumped Inlets • Disconnected Roof Leaders (promoting infiltration and increasing time of concentration) • Pervious Pavement (for shared driveways)
	All of these are possible LID features but are subject to detailed analysis of the construction process and geotechnical engineering analysis of the soils infiltration capacity. Further, a regional best management practice (BMP) is proposed for this project.

	<i>Action # 23 (Page 67):</i> Encourage residential and commercial water conservation, including the reuse of grey water where appropriate.
	Staff Comments: Water conservation standards have been proffered by the applicant.

Transportation

General	<i>Ironbound Road (Page 78):</i> Since traffic volumes are projected to increase to 14,000 vehicle trips per day by 2026, Ironbound Road will be improved to four lanes in the section from Strawberry Plains Road to just north/west of the Longhill Connector Road. This section is planned to be widened to four lanes.
	Staff Comment: This segment of Ironbound Road is included in the Six-Year Secondary Road Plan with a bid date of 2008 for widening to four lanes. Left-hand turn lanes from Ironbound Road will be provided for all intersections included in this Phase II at that time as well as for a multi-use path and bike lanes on Ironbound Road.

Housing

General	<i>Assistance Programs (Page 103):</i> The Ironbound Square Revitalization Project is located in one of the James City County Housing Revitalization Focus Areas. This is a multi-million dollar project designed to improve housing conditions and eliminate blight and to preserve Ironbound Square as a viable single-family residential neighborhood. In addition to the rehabilitation of existing homes, this project intends to provide approximately 100 additional affordable housing units including single-family homes and rental units for senior citizens.
	Staff Comment: Staff believes that Phase II of the Redevelopment Plan is consistent with the goals of the Housing Revitalization Focus Areas by increasing the number of affordable housing available to the residents of the County and by maintaining Ironbound Square Neighborhood as a viable single-family residential area.
Goals	Goal # 2 (Page 106): Eliminate substandard housing conditions. Goal # 3 (Page 106): Increase the availability of affordable housing.
	Staff Comment: Since the fall of 1999, the James City County Office of Housing and Community Development has used Community Development Block Grants (CDBG) to assist with the implementation of a redevelopment effort in Ironbound Square to rehabilitate existing and remove blighted structures from the area. Phase I of this redevelopment area will add sixty-seven multi-family, affordable units to the County's housing stock. Phase II of the Redevelopment Plan will add a minimum of twenty affordable single-family units to the County's housing stock.
Strategies	<i>Strategy # 1- Page 106: Target publicly funded or publicly sponsored housing programs toward County residents and persons employed in the County.</i> <i>Strategy # 11-Page 107: Promote infill residential development to minimize site development costs and unnecessary sprawl, and maximize the development potential of land convenient to public facilities and services.</i>
	Staff Comment: The Ironbound Square Redevelopment Plan will provide affordable housing for County residents and also for the persons who work in for James City County, the Bruton section of York County, and the City of Williamsburg. Phase II of the Redevelopment Plan will re-subdivide and modify the layout of the existing 40 parcels and create a total of 52 single-family residential parcels. Staff finds that this redevelopment strategy will minimize site development costs and maximize the development potential of the area. Further this residential redevelopment will not contribute to sprawl since no additional land will be required for this proposal.
Action	<i>Action #5 (Page 107): Allow increased densities in development proposals that address the need for housing determined to be affordable to families with low and moderate incomes.</i>
	Staff Comment: Phase II of the Ironbound Square Redevelopment Plan will provide a residential density of 5.57 dwelling units per acre, slightly higher than what is recommended by the Comprehensive Plan. However, staff believes that this proposal will accomplish a necessary public benefit to the County by offering twenty affordable residential units to low- and moderate-income households.

Community Character

Goals, Strategies. And actions	<i>Goal #1 (Page 95): Improve the overall appearance of the County's urban and rural environment.</i> <i>Strategy# 5 (Page 95): Encourage beautification of existing development to improve the overall visual quality of the County.</i>
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	<p>Staff Comment: According to the 2003 Comprehensive Plan, Ironbound Road is designated as a Community Character Corridor. Currently many vacant and blighted lots front along this section of the Ironbound Road. Staff finds that this proposal will enhance the aesthetic of this segment of Ironbound Road corridor by rehabilitating blighted lots and allowing for the construction of new single-family units. Staff notes that substantial improvements are occurring across Ironbound Road in New Town and that the improvements proposed by Phase II of the Redevelopment Plan will compliment these efforts.</p>
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Staff Comment: Because of the project’s mixed-cost and affordable housing components, staff finds the proposal, as part of the overall Ironbound Square Redevelopment Plan, consistent with the Land Use section and Housing policies of the Comprehensive Plan. Further, staff finds that the proposed infill development is consistent with the objectives of the Housing Revitalization Focus Areas as described in the Housing Section of the Comprehensive Plan.

SETBACK REDUCTION REQUEST

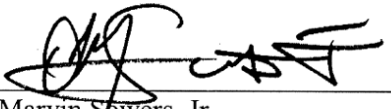
The applicant is proposing a request for modifications to the setback requirements in Sections 24-527(a) and (b), as amended, and the landscape requirements in Section 24-96(a) of the Zoning Ordinance. These requests are pursuant to Section 24-527, paragraphs (c)(1) and (d), as amended, and according to the applicant are necessary to integrate the proposed development with the surrounding neighborhood. The request for modification to the setback requirements will be considered by the Planning Commission (Development Review Committee) when development plans are submitted. The Planning Division is supportive of these modifications and believes that this project meets the criteria for a modification. This is an infill project and is consistent with surrounding neighborhood and the New Town development across Ironbound Road. Staff notes that the Master Plan as currently configured, shows the site with the modified setbacks. Further, staff notes that a proposed amendment (ZO-01-07) to Section 24-527 of the Zoning Ordinance was approved by the Board of Supervisors on May 22, 2007. This amendment intends to clarify the circumstances and the process whereby a setback waiver from Mixed Use Districts can be granted by the Planning Commission.

RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal, as part of the overall Ironbound Square Redevelopment, consistent with the surrounding lands uses, the Land Use and Housing policies of the Comprehensive Plan, and with the Comprehensive Plan Land Use Map designation. Staff also finds that the added benefit of affordable and mixed-cost housing will meet an important need in James City County. Staff recommends that the Board of Supervisors approve the Rezoning and Master Plan applications for the entire Phase II of the Ironbound Square Redevelopment Plan. Staff also recommends that the Board of Supervisors approve the alternate design for Roads 1 and 2 under the plan titled “Ironbound Square Phase 2 Alternate Plan-A2” attached to the Master Plan.

Jose Ribeiro, Planner

CONCUR:



O. Marvin Sowers, Jr.

JR/gs

Z-09_MP-10-06 (071007)

ATTACHMENTS (The following attachments were submitted for the June 26, 2007, Board of Supervisors meeting)

1. Approved Minutes from the March 7, 2007, meeting of the Planning Commission
2. Approved Minutes from the April 4, 2007, meeting of the Planning Commission
3. Resolution
4. Location Map
5. Master Plan and Alternate Plan-A2 (under separate cover)
6. Community Impact Statement (under separate cover)
7. Traffic Impact Analysis
8. Resolution Approved by the Board of Supervisors on February 13, 2007, Titled: Initiation of the Rezoning of Five Parcels within the Ironbound Square"
9. Proffers
10. Memorandum from the Office of Housing and Community Development describing the history of the planning process and actions taken by County officials regarding the Ironbound Square Residential Revitalization Project
11. Copy of the Redevelopment Plan approved by the Board of Supervisors dated February 2002
12. Questions and responses regarding the Ironbound Square Redevelopment Plan
13. Statistical information on Property Acquisitions
14. Two maps showing approximate planned VDOT acquisitions

RESOLUTION

CASE NO. Z-09-06/MP-10-06-IRONBOUND SQUARE REDEVELOPMENT-PHASE II

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing scheduled on Zoning Case No. Z-09-06 and Master Plan Case No. MP-10-06 for rezoning 9.34 acres from R-2, General Residential District, to MU, Mixed-Use District with proffers; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on April 4, 2007, recommended denial of Case No. Z-09-06/MP-10-06, by a vote of 7 to 0; and
- WHEREAS, the properties are located at 105, 107, and 109 Carriage Road; 4338, 4340, 4342, 4344, 4346, 4348, 4352, 4354, 4356, 4358, 4362, 4364, 4366, 4368, 4370, 4372, 4374, 4376, 4378, 4380, 4382, 4384, 4386, and 4388 Ironbound Road; 99, 100, 101, 102, 104, 105, 106, 113, 117, 119, 121, 123, 125, and 125A Watford Lane, and further identified as Parcels Nos. (1-72), (1-73), (1-74), (1-97), (1-96), (1-95), (1-94), (1-93), (1-92), (1-90A), (1-90B), (1-89), (1-88), (1-81), (1-80), (1-79), (1-78), (1-77) (1-76), (1-75B), (1-75), (1-75A), (1-70), (1-68), (1-67), (1-66), (1-65), (1-99), (1-103), (1-86), (1-104), (1-105), (1-101), (1-102), (1-85), (1-84), (1-83), (1-82), (1-87), (1-69), and (1-71) on James City County Real State Tax Map No. (39-1); and
- WHEREAS, The applicant is requesting that in the event that an agreement between the applicant and the property owners of Lots 1, 2, and 3 as shown on the Master Plan, more commonly known as 4344, 4346, and 4348 Ironbound Road is reached prior to submitting a subdivision plan to James City County, Road 1, as labeled on the Master Plan, will be designed as shown on the Master Plan. In the event that an agreement cannot be reached between the applicant and the property owners of Lots Nos. 1, 2, and 3, as shown on the Master Plan, the applicant will submit a subdivision plan to James City County for approval using the alternate design for Road 1 shown on the plan titled "Ironbound Square Phase 2 Alternate Plan-A2" prepared by AES Consulting Engineers, and dated May 21, 2007.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-09-06 and MP-10-06, accepts the voluntary proffers, and approves the plan titled "Ironbound Square Phase 2 Alternate Plan-A2."

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 10th day of July,
2007.

z-09-06_mp-10-06(071007).res

MEMORANDUM

DATE: July 10, 2007

TO: The Board of Supervisors

FROM: Adam R. Kinsman, Assistant County Attorney
Shirley Anderson, Animal Control Officer

SUBJECT: An Ordinance to Repeal Chapter 3, Animal Control, by Deleting Section 3-1 through Section 3-86; and Replacing Them with New Section 3-1 through 3-61

Over the past several years, the General Assembly has made a number of changes to the Commonwealth's comprehensive animal laws. It is now necessary to amend Chapter 3 of the County Code to incorporate many of those changes. While most of these changes are relatively minor, they are scattered throughout the various sections of Chapter 3; consequently, we have recommended that the entire Chapter of the County Code be repealed and replaced to avoid unnecessary confusion.

The General Assembly has limited the ability of localities to adopt animal control laws that go beyond those already imposed by the State. Accordingly, our proposed changes to Chapter 3 generally mirror the corresponding animal control sections of the State Code.

There are a few comprehensive changes, including strengthened regulations to control dangerous and vicious dogs, enhanced penalties for persons convicted of cruelty to animals, and the imposition of civil penalties for those that violate various sections of Chapter 3. At its 2007 session, the General Assembly adopted certain laws that require veterinarians to forward copies of dog rabies vaccinations to the Treasurer, who must then use the vaccination information to determine if the dog has a current license. These provisions have been incorporated into Chapter 3 and have been reviewed and approved by the Treasurer.

The proposed ordinance has been forwarded to the Heritage Humane Society (the "HHS"). The HHS has reviewed the proposed ordinance and has indicated its approval.

Staff recommends adoption of the attached ordinance to repeal and replace Chapter 3 of the County Code to bring it into compliance with the State Code.

Adam R. Kinsman

Shirley Anderson

ARK/SA/gs
Animal_lawsord.mem

Attachments

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMAL CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY RENAMING CHAPTER 3, ANIMAL LAWS; BY REPEALING SECTIONS 3-1 THROUGH 3-86; AND REPLACING THEM WITH NEW SECTIONS 3-1 THROUGH 3-61.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 3, Animal Laws, is hereby amended and reordained by adding new Article I, In General, Section 3-1, Definitions; Section 3-2, Enforcement of animal laws; Section 3-3, Dogs and cats deemed personal property; Section 3-4, Wild animals not to be brought into or kept within the county; Section 3-5, Exotic or poisonous animals prohibited from running at large; Section 3-6, Nuisances; Section 3-7, Disposal of dead animals; Section 3-8, Dangerous and vicious animals; Section 3-9, Cruelty to animals; Section 3-10, Penalties; Article II, Dogs, Division 1, In General, Section 3-20, Running at large prohibited; Section 3-21, Running at large prohibited April fifteenth through July fifteenth; Section 3-22, Dog injuring or killing other companion animals; Section 3-23; Dogs killing or injuring livestock or poultry; Section 3-24, Compensation for livestock and poultry killed by dogs; Division 2, Licenses, Section 3-30, Unlicensed dogs prohibited; Section 3-31, Dog licenses; Section 3-32, Disposition of funds; Section 3-33, Veterinarians to provide treasurer with rabies certificate information; civil penalty; Section 3-34, Evidence showing inoculation for rabies prerequisite to obtaining dog or cat license; Section 3-35, Display of license and receipt; Section 3-36, Duplicate license tags; Section 3-37, Annual fee imposed on dogs and kennels; Section 3-38, Dog license fee; exemption for certain dogs; Section 3-39, Presumption for dog not wearing collar; Article III, Impoundment, Section 3-45, Impoundment generally; Section 3-46, Impoundment and disposition of certain dogs; Section 3-47, Disposition of animals other than those in the county pound; Article IV, Rabies Control, Section 3-55, Report of existence of rabid animal; Section 3-56, Vaccination of dogs and cats; Section 3-57, Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large; Section 3-58, Running at large without current rabies vaccination prohibited; Section 3-59, Confinement or destruction of dogs or cats showing signs of or suspected of having rabies; Section 3-60, Destruction or confinement of dog or cat bitten by rabid animal; and Section 3-61, Confinement or destruction of animal which has bitten a person or been exposed to rabies.

Chapter 3

ANIMAL LAWS

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Sec. 3-61. Confinement or destruction of animal which has bitten a person or been exposed to rabies.

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

For the purposes of this chapter, the following words shall have the meaning given herein.

Abandon. To desert, forsake, or to absolutely give up an animal without having secured another owner or custodian or failing to provide the following basic elements of care for a period of five consecutive days: adequate feed, water, shelter, exercise, space in the primary enclosure for the particular type of animal depending on its age, size and weight; care, treatment, and transportation; and veterinary care when needed to prevent suffering or disease transmission.

Adequate care or care. The responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

Adequate exercise. The opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size and condition of the animal.

Adequate feed. The access to and the provision of food which is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by

excrement and pests; and is provided at suitable intervals for the species, age and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter. The provision of and access to shelter that is suitable for the species, age, condition, size and type of each animal; provides adequate space for each animal, is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floor mat or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space. Sufficient space to allow each animal to (i) easily stand, sit, lie, turn about and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water. Provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume and at suitable intervals, but at least once every 12 hours to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Adoption. The transfer of ownership of a dog or cat or any other companion animal from a releasing agency to an individual.

Agricultural animals. Livestock and poultry.

Animal. Any nonhuman vertebrate species except fish. For the purposes of article IV, “animal” means any animal susceptible to rabies. For the purposes of section 3-9, “animal” means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer. A person appointed by the board of supervisors as an animal control officer or deputy animal control officer.

Animal shelter. A facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated or maintained by a nongovernmental entity including, but not limited to, a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

Boarding establishment. A place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed and watered in exchange for a fee.

Clearly visible sign. A sign that is (i) unobstructed from view, (ii) contains legible writing, and (iii) may be read by an ordinary person without assistance while standing ten feet away from the sign.

Companion animal. Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Direct and immediate threat. Any clear and imminent danger to an animal’s health, safety or life.

Dump. Knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

Emergency veterinary treatment. Veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

Enclosure. A structure used to house, or restrict animals from running at large.

Euthanasia. The humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia produced by an agent which causes painless loss of consciousness and death during unconsciousness.

Foster care provider. An individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

Kennel. Any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Livestock. Includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in section 3.1-73.6 of the Code of Virginia; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Owner. Any person who:

- (1) Has a property right in an animal;*
- (2) Keeps or harbors an animal;*
- (3) Has an animal in his care; or*
- (4) Acts as a custodian of an animal.*

Person. Any individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity.

Poultry. Includes all domestic fowl and game birds raised in captivity.

Pound. A facility operated by the commonwealth or county for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals or a facility operated for the same purpose under a contract with any county, city, town or incorporated society for the prevention of cruelty to animals.

Primary enclosure. Any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment or hutch. For tethered animals, this term includes the shelter and the area within reach of the tether.

Properly cleaned. Carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

Releasing agency. A pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that releases companion animals for adoption.

Sterilize or sterilization. A surgical or chemical procedure performed by a licensed veterinarian that renders an animal permanently incapable of reproducing.

Treatment or adequate treatment. The responsible handling, or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

Veterinary treatment. Treatment by or on the order of a duly licensed veterinarian.

State law reference-Similar provisions, Code of Va., § 3.1-796.66.

Sec. 3-2. Enforcement of animal laws.

Enforcement of this chapter is vested in an animal control officer, deputy animal control officers appointed by the board of supervisors. When in uniform or upon displaying a badge or other credentials of office, such officers shall have the power to issue a summons to any person found in the act of violating this chapter.

State law reference-Position of animal control officer created, Code of Va., § 3.1-796.104.

Sec. 3-3. Dogs and cats deemed personal property.

(a) All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners may maintain any action of the killing of any such animal, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.

(b) An animal control officer or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal control officer or other officer shall deliver the dog or cat to its owner.

(c) The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner and the animal control officer may take such animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay the actual cost of keeping such animal while the animal is in the possession of the animal control officer.

State law reference-Similar provisions, Code of Va., § 3.1-796.127.

Sec. 3-4. Wild animals not to be brought into or kept within the county.

It shall be unlawful for any person to bring or keep any wild animals within the county; provided, however, that wild animals shall be permitted to be brought into and kept within the county for purposes of exhibit or as a part of a permanent animal show when the wild animals are located within a thematic park situated in the county. As used in this section, "wild animals" means any animal which by nature or disposition is untamed.

State law reference-General powers of counties, Code of Va. § 15.2-1200; Regulation of keeping of animals and fowl, Code of Va. § 3.1-796.94:1

Sec. 3-5. Exotic or poisonous animals prohibited from running at large.

(a) Exotic or poisonous animals shall not run at large in the county. For purposes of this section, "at large" shall mean roaming, running, or self-hunting off the premises of the owner or custodian and not under the immediate control of the owner or his agent.

(b) Any exotic or poisonous animal observed or captured while unlawfully running at large shall be disposed of in accordance with sections 3-45 through 3-47.

(c) For any exotic or poisonous animal identified as to ownership, if such exotic or poisonous animal is captured and confined by the animal control officer or other officer appointed under the provisions of this chapter, the owner shall be charged with the county's actual expenses incurred in locating, capturing, and impounding or otherwise disposing of the animal.

State code reference-Similar provision, Code of Va., § 3.1-796.94:1.

Sec. 3-6. Nuisances.

(a) All animal owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby, biting or attacking any person without provocation on one or more occasions, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property shall be deemed a nuisance. Repeated running at large after citation of the owner by any animal control officer shall also be deemed a nuisance.

(b) Any such person owning any animal constituting a nuisance shall be summoned before the general district court to show cause why such animal should not be confined, destroyed, removed, or the nuisance otherwise abated and upon proof that the animal constitutes a public nuisance the animal in question shall, by order of the general district court, either be confined, destroyed, removed or the nuisance otherwise be abated as such court shall order; the court may also impose a fine up to \$100.00 to be paid by the owner or custodian of such animal. It shall be unlawful and shall constitute contempt of court for any person to harbor or conceal any animal which has been ordered destroyed or removed by the general district court or to fail to confine or restrain an animal when such an order has been entered by the court.

(c) If any animal control officer or his duly authorized agent has reason to believe that any animal has, without provocation, attacked or bitten any person, such animal may be taken into custody and confined by the animal control officer pending determination of the courts pursuant to this section.

(d) Any person who owns any dog, cat or other animal that has been adjudged a nuisance pursuant to this section by the general district court and who appeals that decision to the circuit court shall be responsible for the fees connected with the impounding of the animal by the animal warden control officer. The animal control officer or owner shall confine such dog, cat or other animal during pendency of the appeal to prevent a reoccurrence of the nuisance. If on appeal the circuit court determines that the dog, cat or other animal is not a nuisance, no such fees for the impounding of the animal shall be imposed.

State law reference-*General powers of counties, Code of Va. § 15.2-1200.*

Sec. 3-7. Disposal of dead animals.

(a) Companion animals. The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury, or sanitarily dispose of the same. If, after notice, any owner fails to do so, the animal control officer or other officer shall bury or cremate the companion animal, and he may recover on behalf of the county from the owner his cost for this service.

(b) Other animals. When the owner of any animal or grown fowl other than a companion animal which has died knows of such death, such owner shall forthwith have its body cremated or buried, and, if he fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed five dollars, to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Nothing in this subsection shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

(c) Penalty. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

State law references-*Disposal of dead companion animals, Code of Va., § 3.1-796.121; burial or cremation of animals or fowl which have died, Code of Va., § 18.2-510.*

Sec. 3-8. Dangerous and vicious animals.

(a) As used in this section:

“Dangerous dog.” A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog’s owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

“Vicious dog.” A canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by local ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the county is a dangerous dog or vicious dog shall apply to a magistrate of the county for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal’s owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of section 3-45. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (Section 19.2-260 et seq.) of Chapter 15 of Title 19.2 of the Code of Virginia. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the

threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

(d) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(e) The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$50, in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

(f) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, (ii) that the animal has been neutered or spayed, and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

(g) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(h) The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under Section 3.1-796.93:3 of the Code of Virginia, within 45 days of such a finding by a court of competent jurisdiction. The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

(i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(k) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

(l). All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the county for the purpose of paying the expenses of any training course required pursuant to Section 3.1-796.104:1 of the Code of Virginia.

State law reference-*Authority to control dangerous and vicious dogs, Code of Va., § 3.1-796.93:1.*

Sec. 3-9. Cruelty to animals.

(a) Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another; or (ii) deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purposes of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

(b) Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection (a), shall be guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection (a) resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection (a).

(c) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(d) For purposes of this section, the word “animal” shall be construed to include birds and fowl.

(e) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the county code or the Code of Virginia, or to farming activities as provided by the county code or the Code of Virginia.

(f) In addition to the penalties provided in subsection (a), the court may, in its discretion, require any person convicted of a violation of subsection (a) to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(g) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a Class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a Class 6 felony.

(h) Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, shall be guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule sections 3-8, 3-22, or 3-23.

(i) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

State law references-Ordinances prohibiting cruelty to animals, Code of Va., § 3.1-796.122.

Sec. 3-10. Penalties.

(a) Unless otherwise specified, any violation of a provision of this chapter shall constitute a Class 4 misdemeanor, punishable by a fine of up to \$250.00.

(b) Payment of the annual dog license fee required by this chapter subsequent to a summons to appear before a court for failure to pay such fee within the time specified in section 3-49 shall not operate to relieve the owner from the penalties provided.

(c) Civil penalties:

1. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

<i>a.</i>	<i>Not displaying a current county dog license:</i>	
<i>i.</i>	<i>First offense.....</i>	<i>\$20.00</i>
<i>ii.</i>	<i>Second offense.....</i>	<i>\$30.00</i>
<i>iii.</i>	<i>Third and Subsequent Offenses.....</i>	<i>\$40.00</i>

b.	No current rabies vaccination:	
i.	First offense.....	\$30.00
ii.	Second offense.....	\$45.00
iii.	Third and Subsequent Offenses.....	\$60.00

State law references-Payment of license tax, subsequent to summons, Code of Va., § 3.1-796.103; Governing body of county, city, or town may adopt certain ordinances, Code of Va., § 3.1-796.94.

Secs. 3-11-3-19. Reserved.

ARTICLE II – DOGS

Division 1. In General

Sec. 3-20. Running at large prohibited.

(a) Dogs shall not run at large in the county except in those areas zoned A-1, General Agricultural; provided, however, even within A-1 areas dogs shall not run at large in platted subdivisions consisting of five (5) or more lots, of which at least three lots have occupied dwellings or in manufactured home parks.

(b) For purposes of this section, “at large” shall mean roaming, running or self-hunting off the premises of the owner or custodian and not under the immediate control of the owner or his agent. However, a dog shall not be considered at large if during the hunting season it is on a bona fide hunt in the company of a licensed hunter or during field trials or training periods when accompanied by its owner.

(c) Any dog observed or captured while unlawfully running at large shall be disposed of in accordance with sections 3-45 through 3-47.

(d) For any dog identified as to ownership, if such dog is captured and confined by the animal control officer or other officer appointed under the provisions of this chapter, the owner shall be charged with the actual expenses incurred in keeping the animal impounded. Owners of dogs not impounded shall be issued a summons for violation of this provision. Each day thereafter that this section is not complied with shall be a separate offense.

State law references-Governing body of county may prohibit dogs from running at large, Code of Va., § 3.1-796.93; county or city pounds, confinement and disposition of stray animals, Code of Va., § 3.1-796.96.

Sec. 3-21. Running at large prohibited April fifteenth through July fifteenth.

(a) Notwithstanding section 3-20 above, dogs are prohibited from running at large in the county in each calendar year during the period from April fifteenth to July fifteenth. During this time all dogs shall be kept on a leash or under direct control of the owner to ensure that the dog is not roaming, running or self-hunting off the property of the owner.

(b) The provisions of subsections (b), (c) and (d) of section 3-20 shall be likewise applicable to this section.

State law reference-Governing body of county may prohibit dogs from running at large, Code of Va., § 3.1-796.93.

Sec. 3-22. Dog injuring or killing other companion animals.

The owner of any companion animal that is injured or killed by a dog shall be entitled to recover damages consistent with the provisions of 3-3 from the owner of such dog in an appropriate action at law if (i) the injury occurred on the premises of the companion animal's owner, and (ii) the owner of the offending dog did not have the permission of the companion animal's owner for the dog to be on the premises at the time of the attack.

State law reference-Similar provisions, Code of Va. § 3.1-796.127:1.

Sec. 3-23. Dogs killing or injuring livestock or poultry.

(a) It shall be the duty of the animal control officer or an animal control officer who may find a dog in the act of killing, injuring or chasing livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog in the act of killing or injuring livestock or poultry shall also have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian or harbinger of the dog to produce the dog.

(b) If the animal control officer has reason to believe that a dog is killing livestock or poultry, he shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. The animal control officer or any other person who has reason to believe that a dog is killing livestock or committing any of the depredations mentioned in this section shall apply to a magistrate of the county, who shall issue a warrant requiring the owner, if known, to appear before the general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer or has committed any of the depredations mentioned herein, the general district court shall order that the dog be (i) killed immediately by the animal control officer or other officer designated by the court or (ii) removed to another

state which does not border on the commonwealth and prohibited from returning to the commonwealth. Any dog ordered removed from the commonwealth which is later found in the commonwealth shall be ordered by a court to be killed immediately.

State law reference-Dogs killing, injuring or chasing livestock or poultry, Code of Va., § 3.1-796.116.

Sec. 3-24. Compensation for livestock and poultry killed by dogs.

(a) Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400.00 per animal or \$10.00 per fowl; provided, that:

(1) The claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reason the claimant believes that death or injury was caused by a dog;

(2) The animal control officer or other officer shall have been notified of the incident within 72 hours of its discovery; and

(3) The claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. "Exhaustion" shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied. These claims shall be paid from the proceeds allocated for such claims in the dog license fund. The claims shall be paid in the order they are received.

(b) Upon payment under this section, the county shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

(c) Any person presenting a false claim or receiving any money on a false claim for livestock or poultry killed by dogs under the provisions of this section shall be guilty of a Class 1 misdemeanor.

State law reference-Similar provisions, Code of Va., §§ 3.1-796.118, 3.1-796.128.

Secs. 3-25-3-29. Reserved.

Division 2. Licenses

Sec. 3-30. Unlicensed dogs prohibited.

It shall be unlawful for any person to own a dog four months old or older in the county unless the dog is licensed, as required by the provisions of this article.

State law references-Unlicensed dogs prohibited, Code of Va., § 3.1-796.85.

Sec. 3-31. Dog licenses.

(a) *Required; application.* Every owner of a dog over the age of four months owned, possessed, or kept in the county shall obtain a dog license by making an oral or written application with the county treasurer or his designee.

(b) *License fee and vaccination certificate.* Each application shall be accompanied by the amount of the license fee and current certificate of vaccination as required by this chapter or satisfactory evidence that such certificate has been obtained.

(c) *Authority of treasurer, issuance of license receipt.* The treasurer, or his designee, shall only have authority to license dogs of resident owners who reside within the boundary limits of the county and may require information to this effect from any applicant. Upon receipt of proper application and rabies vaccination certificate, the treasurer or his designee shall issue a license receipt for the amount on which, he shall record the name and address of the owner, the date of payment, the year for which issued, the serial number of the tag, whether male or female, whether spayed or neutered, or whether a kennel, and deliver the metal license tags or plates provided for herein. The tag shall be stamped or otherwise permanently marked to show the name of the county and bear a serial number or other identifying information as may be prescribed by the board of supervisors.

(d) *Retention of information; treasurer to destroy unsold tags.* The information thus received shall be retained by the treasurer, open to public inspection during the period for which such license is valid. All unsold tags shall be recorded and the unissued tags destroyed by the treasurer at the end of each calendar year.

(e) *False statements.* It shall be unlawful for any person to make a false statement verbally or on an application in order to secure a dog license to which he is not entitled.

State law references-Unlicensed dogs prohibited, Code of Va., § 3.1-796.85; How to obtain licenses, Code of Va., § 3.1-796.86; what dog or cat licenses shall consist of, Code of Va., § 3.1-796.90.

Sec. 3-32. Disposition of funds.

(a) *The county treasurer shall keep all money collected for dog license fees pursuant to section 3-31 in a separate account from all other funds collected by him. The county shall use the dog license funds for the following purposes:*

- (1) *The salary and expenses of the animal control officer and necessary staff;*
- (2) *The care and maintenance of a pound;*
- (3) *The maintenance of a rabies control program;*

(4) Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of the license fee as provided in section 3-31;

(5) Payments for compensation as provided in section 3-24; and

(6) Efforts to promote sterilization of dogs and cats.

(b) Any part or all of any surplus remaining in such account on December 31 of any year may be transferred into the general fund of the county.

State law references-*Disposition of funds, Code of Va., § 3.1-796.101; supplemental funds, Code of Va., § 3.1-796.102.*

Sec. 3-33 Veterinarians to provide treasurer with rabies certificate information; civil penalty.

Each veterinarian who vaccinates a dog against rabies or directs a veterinary technician in his employ to vaccinate a dog against rabies shall provide the owner a copy of the rabies vaccination certificate. The veterinarian shall forward within 45 days a copy of the rabies vaccination certificate or the information contained in such certificate to the treasurer of the locality in which the vaccination occurs.

The rabies vaccination certificate shall include at a minimum the signature of the veterinarian, the animal owner's name and address, the species of the animal, the sex, the age, the color, the primary breed, the secondary breed, whether or not the animal is spayed or neutered, the vaccination number, and expiration date. The rabies vaccination certificate shall indicate the locality in which the animal resides.

It shall be the responsibility of the owner of each vaccinated animal that is not already licensed to apply for a license for the vaccinated dog. If the treasurer determines, from review of the rabies vaccination information provided by veterinarians, that the owner of an unlicensed dog has failed to apply for a license within 90 days of the date of vaccination, the treasurer shall transmit an application to the owner and request the owner to submit a completed application and pay the appropriate fee. Upon receipt of the completed application and payment of the license fee, the treasurer or other agent charged with the duty of issuing the dog licenses shall issue a license receipt and a permanent tag.

The treasurer shall remit any rabies vaccination certificate received for any animal owned by an individual residing in another locality to the local treasurer for the appropriate locality.

Any veterinarian that willfully fails to provide the treasurer with a copy of the rabies vaccination certificate or the information contained in such certificate shall be subject to a civil penalty of \$10.00 per certificate. Monies raised pursuant to this subsection shall be placed in the county's general fund for the purpose of animal control activities including, but not limited to, spay or neuter programs.

State law reference-*Similar provision, Code of Va., § 3.1-796.87:1.*

Sec. 3-34 - Evidence showing inoculation for rabies prerequisite to obtaining dog or cat license.

No license tag shall be issued for any dog unless there is presented to the treasurer or his designee satisfactory evidence that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian or currently licensed veterinary technician who was under the immediate and direct supervision of a licensed veterinarian on the premises.

State law reference-*Evidence showing inoculation for rabies prerequisite to obtaining dog or cat license, Code of Va., § 3.1-796.97.*

Sec. 3-35. Display of license and receipt.

Dog license receipts shall be carefully preserved by licensees and exhibited promptly upon request for inspection by the animal control officer or other officer of the county. The animal control officer or other duly appointed officers may check such receipts door-to-door at any time during the license year. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when (i) the dog is engaged in lawful hunting, (ii) the dog is competing in a dog show, (iii) the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) the dog is confined or; (v) the dog is under the immediate control of its owner.

State law reference-*Similar provision, Code of Va., § 3.1-796.92.*

Sec. 3-36. Duplicate license tags.

If a dog license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the county treasurer, or his designee, for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner before the county treasurer, or his designee, that the original license tag has been lost, destroyed, or stolen, the treasurer shall issue a duplicate license tag which shall be immediately affixed to the collar of the dog by its owner. The treasurer, or his designee, shall endorse the number of the duplicate license tag and the date of issuance on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar.

State law reference-*Similar provisions, Code of Va., § 3.1-796.91.*

Sec. 3-37. Annual fee imposed on dogs and kennels.

There is hereby imposed an annual dog license fee upon all dog kennels and all dogs over the age of four months which are owned, possessed or kept in the county, as follows:

- | | |
|------------------------------------|--------|
| (1) Male, female dogs..... | \$8.00 |
| (2) Spayed/neutered dogs..... | 5.00 |
| (3) Kennel for up to ten dogs..... | 15.00 |

(4) Kennel for up to 20 dogs.....	25.00
(5) Kennel for up to 30 dogs.....	35.00
(6) Kennel more than 30 dogs.....	50.00
(7) Duplicate for lost, destroyed or stolen tags.....	1.00

It shall be unlawful for any person to conceal or harbor any dog on which any required license fee has not been paid.

State law references-Amount of license tag, Code of Va., § 3.1-796.87; duplicate license tags, Code of Va., § 3.1-796.91.

Sec. 3-38. Dog license fee; exemption for certain dogs.

(a) *The license tax as prescribed in this chapter is due not later than 30 days after a dog has reached the age of four months, or not later than 30 days after an owner acquires a dog four months of age or older and each year thereafter.*

(b) *Any kennel license tax prescribed pursuant to this chapter shall be due on January 1 and not later than January 31 of each year.*

(c) *No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person or that is trained and serves as a service dog for a mobility-impaired person.*

As used in this section, “hearing dog” means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and “service dog” means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

State law references-Amount of license tag, Code of Va., § 3.1-796.87; when license tax payable, Code of Va., § 3.1-796.88.

Sec. 3-39. Presumption for dog not wearing collar.

Any dog not wearing a collar bearing a valid license tag shall prima facie be deemed to be unlicensed, and in any proceedings under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

State law reference-Effect of dog or cat not wearing collar as evidence, Code of Va., § 3.1-796.89.

Secs. 3-40-3-44. Reserved.

Article III. Impoundment

Sec. 3-45. Impoundment generally.

(a) Any humane investigator, law-enforcement officer, or animal control officer, may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety, or health. Before seizing or impounding any agricultural animal, such humane investigator, law-enforcement officer, or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal, provided, however, that the seizure or impoundment of an equine resulting from a violation of subdivision (a) (iii) or subdivision (b) (ii) of section 3-9 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses equivalent to that required by 9 C.F.R. Part 11.7 and that is approved by the State Veterinarian. The humane investigator, law-enforcement officer, or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;

2. A general district court so orders; or

3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer, or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer, or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, and any other information required by the State Veterinarian.

Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county wherein the animal is seized for a hearing. The hearing shall be not more than ten business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care or is unfit for use within the county and shall petition any general district court in the county for a hearing which shall be in the nature of a criminal proceeding. The hearing shall be set not more than ten days from the date of the seizure of the animal to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal. The humane

investigator, or animal control officer, shall cause to be served upon the owner, if known and residing within the county, written notice at least five days prior to the hearing of the time and place of the hearing. If the owner is known but residing out of the county, written notice by any method of service of process as provided by the Code of Virginia shall be given. If the owner is not known, the humane investigator shall cause to be published in a newspaper of general circulation in the county notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the courthouse wherein such hearing shall be held.

(b) The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

(c) The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in article 4 of chapter 15 of title 19.2 of the Code of Virginia, and the commonwealth shall be required to prove its case beyond a reasonable doubt.

(d) The humane investigator, law enforcement officer, or animal control officer, shall provide for such animal until the court has concluded the hearing. The owner of any animal held pursuant to this section for more than thirty days shall post a bond in surety with the County for the amount of the cost of boarding the animal for a period of nine months. Such bond shall not prevent the animal's custodian from disposing of such animal at the end of the nine month period covered by the bond unless the person claiming an interest posts an additional bond in surety with the County to secure payment of the costs of caring for the animal for an additional nine months and does so prior to the expiration of the previous nine month period. At the conclusion of the case, the bond shall be forfeited to the County unless there is a finding that the owner is able to adequately provide for the animal and is a fit person to own the animal. If the animal is returned to the owner or other individual despite a violation of this section, the person posting the bond will be entitled to a return of the bond less the incurred expenses of boarding, medical care and impounding the animal.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care, then the court shall order that the animal be: (i) sold by the county; (ii) humanely destroyed, or disposed of by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of

another state, or a licensed federal dealer having its principal place of business located within the Commonwealth; (iii) delivered to any local humane society or shelter, or to any person who is a resident of the county or city where the animal is seized or an adjacent county or city in the Commonwealth and who will pay the required license fee, if any, on such animal; or (iv) delivered to the person with a right of property in the animal as provided in subsection.

(e) In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care; however, the court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

(f) The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

(g) The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

(h) If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

(i) Any person who is prohibited from owning or possessing animals pursuant to subsection (g) or (h) may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

(j) When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund of the state treasury.

(k) Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

State law reference-Similar provisions, Code of Va., § 3.1-796.115.

Sec. 3-46. Impoundment and disposition of certain dogs.

(a) The county shall maintain or cause to be maintained a pound in which dogs found running at large without the tag required by section 3-35 or dogs found in violation of sections 3-20 or 3-21 shall be confined. Nothing in this section shall be construed to prohibit confinement of other companion animals in such pound.

(b) An animal confined pursuant to this section shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof.

The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded.

(c) If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection B, it shall be deemed abandoned and become the property of the pound.

Such animal may be humanely destroyed or disposed of by the methods set forth in subdivisions 1 through 5. No pound shall release more than two animals or a family of animals during any 30-day period to any one person under subdivisions 2, 3, or 4.

(1) Release to any humane society, animal shelter, or other releasing agency within the commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;

(2) Adoption by a resident of the county or city for which the pound is operated and who will pay the required license fee, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(3) Adoption by a resident of an adjacent political subdivision of the commonwealth, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(4) Adoption by any other person, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and provided that no animal may be adopted by any person who is not a resident of the county or city

for which the pound is operated, or of an adjacent political subdivision, unless the animal is first sterilized, and the pound may require that the sterilization be done at the expense of the person adopting the animal; or

(5) Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency: (i) maintains records that would comply with § 3.1-796.105 of the Code of Virginia; (ii) requires that adopted dogs and cats be sterilized; (iii) obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has provided to the pound, animal shelter, or other releasing agency within the Commonwealth a statement signed by an authorized representative specifying the entity's compliance with clauses (i) through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of this chapter.

For purposes of recordkeeping, release of an animal by a pound to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

(d) Nothing in this section shall prohibit the immediate euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

(e) Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subdivisions 1 through 5 of subsection C of an animal that has been released to a pound, animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement (i) surrendering all property rights in such animal, (ii) stating that no other person has a right of property in the animal, and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subdivisions 1 through 5 of subsection C.

(f) Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written statement of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The statement of the disinterested person shall be kept with the animal as required by § 3.1-796.105 of the Code of Virginia. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal.

(g) No pound shall place a companion animal in a foster home with a foster care provider unless the foster care provider has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and each pound shall update such statement as changes occur. The pound shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the pound has an affiliation with the foster care provider.

(h) A pound that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.1-796.68 of the Code of Virginia.

(i) If a pound finds a direct and immediate threat to a companion animal placed with a foster care provider, it shall report its findings to the animal control agency in the locality where the foster care provider is located.

(j) For purposes of this section:

“Animal” shall not include agricultural animals.

“Rightful owner” means a person with a right of property in the animal.

State law reference-County or city pounds, confinement and disposition of stray animals, Code of Va., § 3.1-796.96.

Sec. 3-47. Disposition of animals other than those in the county pound.

(a) No animal bearing a tag, license or tattooed identification shall be used or accepted by any person for the purpose of medical research or experimentation, unless the individual who owns such animal consents in writing.

(b) No person who acquires an animal from an animal shelter in the county shall sell such animal within a period of six months from the time the animal is acquired from the shelter. Violation of this section shall constitute a Class 4 misdemeanor.

State law references-Disposition of animals other than those in county or city pounds, Code of Va., § 3.1-96.96:1; Regulation of sale of animals procured from animal shelters, Code of Va. § 3.1-796.94:2

Secs. 3-48-3-54. Reserved.

Article IV. Rabies Control

Sec. 3-55. Report of existence of rabid animal.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department the existence of such animal, the place where seen, the owner’s name, if known, and the symptoms suggesting rabies.

State law reference-Similar provision, Code of Va., § 3.1-796.98.

Sec. 3-56. Vaccination of dogs and cats.

(a) Vaccination required; exception. The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal control officer, humane investigator, law-enforcement officer, State Veterinarian's representative, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

(b) Application to persons transporting dogs/cats into county. Any person transporting a dog or domesticated cat into the county from some other jurisdiction shall comply with the requirements of subsection (a) of this section within 30 days subsequent to bringing such animal into the county.

(c) Issuance of certificate. A veterinarian vaccinating a dog or domesticated cat as required by this section shall issue to the owner of the animal a rabies vaccination certificate showing:

(1) Date of vaccination;

(2) Expiration date of vaccination;

(3) Sex and breed of the animal;

(4) The animal's weight, color and marks;

(5) Name of the owner;

(6) Amount and kind of vaccine injection;

(7) Method of injection; and

(8) The signature of the licensed veterinarian.

(d) Preservation and exhibition of certificate. Rabies vaccination certificates shall be carefully preserved by owners of dogs and domesticated cats and exhibited promptly upon request for inspection by the animal control officer or other officer of the county. The animal control officer or other duly appointed officers may check such certificates door-to-door at any time during the year.

(e) Inoculation of adopted dogs/cats by animal technicians. Dogs and domesticated cats being adopted from an animal shelter during the period an emergency ordinance is in force, as provided in section 3-57, may be inoculated for rabies by a certified animal technician at such shelter, if the certified animal technician is under the immediate and direct supervision of a licensed veterinarian.

State law references-Rabies inoculation of dogs and domesticated cats, Code of Va., § 3.1-796.97:1; inoculation for rabies at animal shelters, Code of Va., § 3.1-796.99; regulations to prevent spread of rabies and running at large of vicious dogs, Code of Va., § 3.1-796.100.

Sec. 3-57. Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large.

When there is sufficient reason to believe that a rabid animal is at large, the board of supervisors shall have the power to pass an emergency ordinance, which shall become effective immediately upon passage, requiring owners of all dogs and cats in the county to keep the same confined on their premises unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten by the rabid animal. Any emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed 30 days unless renewed by the board of supervisors.

State law reference-Rabid animals, Code of Va., § 3.1-796.98.

Sec. 3-58 Running at large without current rabies vaccination prohibited.

(a) Dogs or cats shall not run at large in the county without a valid rabies vaccination as required by this chapter.

(b) For purposes of this section, “at large” shall mean roaming, running, or self-hunting off the premises of the owner or custodian and not under the immediate control of the owner or his agent.

(c) For any dog or cat identified as to ownership, if such dog or cat is captured and confined by the animal control officer or other officer appointed under the provisions of this chapter, the owner shall be charged with the actual expenses incurred in keeping the animal impounded.

(d) A violation of this section shall constitute a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or a subsequent violation.

State law reference-Rabid animals, Code of Va., § 3.1-796.98.

Sec. 3-59. Confinement or destruction of dogs or cats showing signs of or suspected of having rabies.

At the discretion of the local health director, dogs or cats showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. The local health director shall determine the location and conditions of confinement for such animal. If confinement is impossible or impracticable,

such dog or cat shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

State law reference-Rabid animals, Code of Va., § 3.1-796.98.

Sec. 3-60. Destruction or confinement of dog or cat bitten by rabid animal.

Any dog or cat for which no proof of current rabies vaccination is available and which is exposed to rabies through a bite or through saliva or central nervous system tissue in a fresh open wound or mucous membrane by an animal believed to be afflicted with rabies shall be confined in a pound, kennel or enclosure approved by the health department for a period not to exceed six months at the expense of the owner; however, if this is not feasible, the dog or cat shall be euthanized as provided in section 3-45 of this chapter. A rabies vaccination shall be administered prior to release. Inactivated rabies vaccine may be administered at the beginning of confinement. Any dog or cat so bitten or exposed to rabies through saliva or central nervous system tissue in a fresh open wound or mucous membrane with proof of a valid rabies vaccination shall be revaccinated immediately following the bite and shall be confined to the premises of the owner, or other site as may be approved by the health department, for a period of 45 days.

State law reference-Rabid animals, Code of Va., § 3.1-796.98.

Sec. 3-61. Confinement or destruction of animal which has bitten a person or been exposed to rabies.

(a) At the discretion of the director of health, any animal which has bitten a person shall be confined under competent observation for at least ten days, unless the animal develops active symptoms of rabies or expires before that time. A seriously injured or sick animal may be humanely euthanized as provided in section 3-45 of this chapter and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services, or the local health department, for evaluation. The director of health shall determine the location and conditions of confinement for such animal.

(b) When any potentially rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, that animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized as provided in section 3-45 of this chapter and its head sent to the Division of Consolidated Laboratory Services of the Department of General Services or the local health department for evaluation.

(c) When any animal, other than a dog or cat, is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, that newly exposed animal shall be confined at the discretion of a local health director in a manner approved by the health department or humanely euthanized pursuant to section 3-45 of this chapter.

State law reference-Rabid animals, Code of Va., § 3.1-796.98.

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 10th day of July, 2007.

AnimalLawsNew.ord

Chapter 3

ANIMAL CONTROL

Article I. In General

Sec. ~~3 1.~~ Definitions.
Sec. ~~3 2.~~ Enforcement of animal laws.
Sec. ~~3 3.~~ Penalties.
Sec. ~~3 4.~~ Wild animals not to be brought into or kept within the county.
Sec. ~~3 5.~~ Disposition of carcasses.
Sec. ~~3 6.~~ Nuisances.
Sec. ~~3 7.~~ Dangerous and vicious animals.
Sec. ~~3 8.~~ Reserved.
Sec. ~~3 9.~~ Cruelty to animals; penalty.
Sec. ~~3 10.~~ Duties of humane investigators; disposition of animals.
Sec. ~~3 11.~~ Dogs and cats deemed personal property.
Secs. ~~3 12 3 22.~~ Reserved.

Article II. Dogs in General

Sec. ~~3 23.~~ Running at large prohibited.
Sec. ~~3 24.~~ Running at large prohibited April fifteenth through July fifteenth.
Sec. ~~3 25.~~ Impoundment, disposition and redemption of animals.
Sec. ~~3 26.~~ Duty of pound to locate owner.
Sec. ~~3 27.~~ Disposition of impounded animals.
Sec. ~~3 28.~~ Disposition of animals other than those in the county pound.
Sec. ~~3 29.~~ Stray and dangerous dogs.
Sec. ~~3 30.~~ Dogs killing or injuring livestock or poultry.
Sec. ~~3 31.~~ Dogs killing domestic animals.
Sec. ~~3 32.~~ Compensation for livestock and poultry killed by dogs.
Sec. ~~3 33.~~ Disposition of funds.
Sec. ~~3 34.~~ Female dogs in season.
Secs. ~~3 35 3 43.~~ Reserved.

Article III. Dog Licenses

Sec. ~~3 44.~~ Unlicensed dogs prohibited.
Sec. ~~3 45.~~ Dog licenses.
Sec. ~~3 46.~~ Display of license and receipt.
Sec. ~~3 47.~~ Duplicate license tags.
Sec. ~~3 48.~~ Annual fee imposed on dogs and kennels.
Sec. ~~3 49.~~ Dog license fee; exemption for certain dogs.
Sec. ~~3 50.~~ Presumption for dog not wearing collar.
Secs. ~~3 51 3 61.~~ Reserved.

State law reference—Cruelty to animals and fowl, Code of Va., § 18.2-392 et seq.

Article IV. Rabies Control

- ~~Sec. 3 62. Report of existence of rabid animal.~~
~~Sec. 3 63. Vaccination of dogs and cats.~~
~~Sec. 3 64. Emergency ordinance requiring confinement or restraint of dogs and cats when rabid animal at large.~~
~~Sec. 3 65. Confinement or destruction of dogs or cats showing signs of or suspected of having rabies.~~
~~Sec. 3 66. Destruction or confinement of dog or cat bitten by rabid animal.~~
~~Sec. 3 67. Confinement or destruction of animal which has bitten a person or been exposed to rabies.~~
~~Secs. 3 68 3 78. Reserved.~~

Article V. Beekeeping

- ~~Sec. 3 79. Location of apiaries.~~
~~Sec. 3 80. Number of hives regulated.~~
~~Sec. 3 81. Water supply for bees.~~
~~Sec. 3 82. Type of bees.~~
~~Sec. 3 83. Manipulating bees restricted.~~
~~Sec. 3 84. Exceptions from article.~~
~~Sec. 3 85. Violation of article as nuisance.~~
~~Sec. 3 86. Penalty.~~

AnimalLawsOld.ord

MEMORANDUM

DATE: July 10, 2007

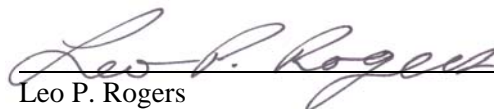
TO: The Board of Supervisors

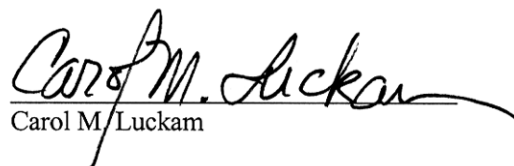
FROM: Leo P. Rogers, County Attorney
Carol M. Luckam, Human Resources Manager

SUBJECT: Ordinance to Amend and Reordain Chapter 2, Administration of the Code of County of James City Virginia, Section 2-5.2, Homeownership Grants for County Employees

The County's 2007 Legislative Program included a request for the General Assembly to amend § 15.2-958 of the Code of Virginia by deleting the requirement that each employee homeownership grant be approved by the local governing body by an ordinance advertised on its regular agenda. The State's amendment became effective July 1, 2007. The attached ordinance reflects the State's amendments.

Staff recommends adoption of the attached ordinance.


Leo P. Rogers


Carol M. Luckam

LPR/tlc
HOgrantord.mem

Attachment

M E M O R A N D U M

DATE: July 10, 2007

TO: The Board of Supervisors

FROM: Jason Purse, Planner
Leanne Reidenbach, Planner

SUBJECT: Case No. ZO-4-07. Ordinance Amendment for Public Land District

In response to the initiating resolution passed by the Board of Supervisors on April 24, 2007, staff has drafted an Ordinance to create a Public Land District. The purpose of this District is to establish a special classification for all significant publicly owned land, which is used for a public purpose. Currently, publicly owned parcels are spread throughout all of the established zoning districts as either permitted or specially permitted uses.

A Public Land District will make the Zoning Ordinance more consistent with the Comprehensive Plan and more clearly identify the intended uses for a property on the Zoning Map. With the creation of a specific district for these parcels, the County can facilitate full utilization of the property for the public benefit. Because the current zoning of most public use sites also allows a wider range of uses, a Public Land District can also permit the greatest certainty regarding the character of potential uses of those parcels based on the Comprehensive Plan and surrounding land uses.

Currently, the majority of the public use parcels are designated either *Federal, State, County Land* or *Park, Public or Semi-public Open Space* on the 2003 Comprehensive Plan Land Use Map. These designations are not intended to include parcels anticipated for commercial or residential development but are meant to be utilized for the development of parks, schools, government facilities, and institutions, and other uses which fulfill the needs of the general public. Having a Public Land District will provide the County with the ability to assimilate residential and commercial uses with the public uses that accompany those areas. Permitted and specially permitted uses, setbacks, and buffer requirements are typically tailored to meet the needs of the residential and commercial districts in which they are located. The Public Land District will allow for the better integration of public uses based on their size, scale, and impacts.

If a Public Land District is created, all publicly owned land of a size and use, which could have notable impacts to adjacent properties, will need to be rezoned to come into compliance with the Ordinance. If this Ordinance is approved, the Board will consider an initiating resolution to rezone relevant parcels later this evening. The rezonings would still be required to go through public hearings before the Planning Commission and Board of Supervisors in the coming months. If a parcel is no longer publicly owned or used for a public purpose, it must be rezoned before other private uses are allowed, providing opportunity to more carefully review proposed changes.

All existing uses will remain in the other districts but future public uses will only be permitted in the Public Land District. For instance, private schools, libraries, and community recreation facilities will still be listed and permitted in the other districts as they currently stand as long as they are privately owned and operated.

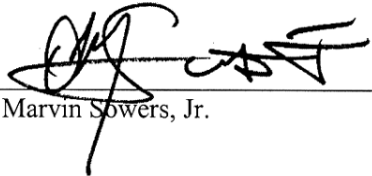
At its meeting on May 22, 2007, the Policy Committee voted 4-0 to recommend approval of this Ordinance, subject to conversations with the County Attorney. All outstanding questions were addressed and clarified prior to the Planning Commission hearing. At its meeting on June 6, 2007, the Planning Commission voted 7-0 recommending approval of this Ordinance.

Staff recommends approval of the attached Ordinance.

Jason Purse

Leanne Reidenbach

CONCUR:



O. Marvin Sowers, Jr.

JP/LR/gs
ZO-4-7PLDord.mem

Attachments:

1. Ordinance
2. Unapproved Minutes from the Policy Committee meeting on May 8, 2007
3. Unapproved Minutes from the Policy Committee meeting on May 22, 2007
4. Unapproved Minutes from the June 6, 2007, Planning Commission meeting

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, BY ADDING DIVISION 16, PUBLIC LAND DISTRICT, PL, SECTION 24-535, STATEMENT OF INTENT; SECTION 24-535.1, PERMITTED USES; SECTION 24-535.2, USES PERMITTED BY SPECIAL USE PERMIT ONLY; SECTION 24-535.3, AREA REQUIREMENTS; SECTION 24-535.4, SETBACK REQUIREMENTS; SECTION 24-535.5, MINIMUM LOT WIDTH; SECTION 24-535.6, YARD REGULATIONS; SECTION 24-535.7, SPECIAL PROVISIONS FOR CORNER LOTS; SECTION 24-535.8, SPECIAL PROVISIONS FOR THE MODIFICATION OF AREA, SETBACK, LOT WIDTH, OR YARD REQUIREMENTS; SECTION 24-535.9, HEIGHT LIMITS; SECTION 24-534.10, SIGN REGULATIONS; AND SECTION 24-535.11, BMP REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article V, Districts, is amended by adding Division 16, Public Land District, PL, Section 24-535, Statement of intent; Section 24-535.1, Permitted uses; Section 24-535.2, Uses permitted by special use permit only; Section 24-535.3, Area requirements; Section 24-535.4, Setback requirements; Section 24-535.5, Minimum lot width; Section 24-535.6, Yard regulations; Section 24-535.7, Special provisions for corner lots; Section 24-535.8, Special provisions for the modification of area, setback, lot width, or yard requirements; Section 24-535.9, Height limits; Section 24-534.10, Sign regulations; and Section 24-535.11, BMP requirements.

ARTICLE V. DISTRICTS
DIVISION 16. PUBLIC LAND DISTRICT, PL

Section 24-535. Statement of intent.

The purpose of the public land district is to establish a special classification for certain parcels of publicly owned property which are used for a public purpose. It is intended to identify significant publicly owned parcels in order to facilitate full utilization of the property for the public benefit and to permit the greatest certainty regarding the character of potential uses of those parcels based on the Comprehensive Plan and surrounding land uses. In order to operate in harmony with this plan, the Public Land District should include publicly owned land of a size and use which could have notable impacts to adjacent properties. The District is generally not intended to include publicly owned parcels with limited public impacts including, but not limited to, pump stations, well lots, land intended for economic development and other lands not meant for a public purpose, and certain residential and commercial accessory uses.

Section 24-535.1. Permitted uses.

In the public land district, structures to be erected or land to be used shall be for the following public uses:

Accessory buildings and structures.

Accessory uses, as defined in section 24-2 and including privately owned uses that are either limited to a fully enclosed building and encompassing less than 25 percent of the floor area of the public use or are a free-standing building or area covering less than 10 percent of the overall land area.

Communication towers and tower mounted wireless communication facilities, up to a height of 35 feet.

General Agriculture, dairying, forestry, general farming and specialized farming, excluding the raising of hogs, but not commercial livestock or poultry operations which require a special use permit in the General Agricultural District, A-1.

Governmental or non-profit offices under 30,000 square feet.

Neighborhood resource centers.

Non-profit medical clinics or offices under 30,000 square feet.

Off-street parking as required by section 24-53.

Petroleum storage on a farm as an accessory use and not for resale.

Preserves and conservation areas for protection of natural features and wildlife.

Public meeting halls under 30,000 square feet.

Rest homes for fewer than 15 adults.

Storage and repair of heavy equipment as accessory use to a farm.

Timbering in accordance with section 24-43.

Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.

Wayside stands for seasonal sale of agricultural products, limited in area to 500 square feet.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Section 24-535.2. Uses permitted by special use permit only.

In the public land district, structures to be erected or land to be used for the following public uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter:

Adult day care centers.

Airports and landing fields, helistops or heliports and accessory uses.

Campgrounds.

Cemeteries and memorial gardens, not accessory to a church or other place of worship.

Communication towers over 35 feet in height.

Community recreation facilities, public, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.

Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

Farmers markets, temporary or seasonal.

Fire stations or rescue squad stations, volunteer or otherwise.

Flea markets, temporary or seasonal.

Golf courses and country clubs.

Governmental institutions.

Governmental or non-profit offices over 30,000 square feet.

Horse show areas, polo fields.

Hospitals.

Marinas, docks, and waterfront recreation facilities.

Mental health facilities.

Non-profit medical clinics or offices over 30,000 square feet.

Nursing homes and facilities for the residence and/or care of the aged.

Post offices.

Public meeting halls over 30,000 square feet.

Publicly owned operational centers including equipment storage/warehouses.

Radio and television stations or towers.

Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines, which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways, and track and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.

Rest homes for 15 or more adults.

Retreat facilities.

Riding stables.

Sanitary landfills in accordance with section 24-40, waste disposal or publicly owned solid waste container sites.

Schools, libraries, museums and similar institutions.

Solid waste transfer stations.

Telephone exchanges and telephone switching stations.

Tower-mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, over 35 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

Utility substations.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (1) private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;*
- (2) distribution lines and local facilities within a development, including pump stations.*

Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.

Wayside stands for sale of agricultural products over 500 square feet in area.

Yacht clubs and marinas and commercial and service facilities accessory thereto.

Section 24-535.3. Area requirements.

No area requirements.

Section 24-535.4. Setback requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line," all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.

Section 24-535.5. Minimum lot width.

- (a) Lots of up to 43,560 square feet shall have a minimum width at the setback line of 100 feet.*
- (b) Lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet.*

Section 24-535.6. Yard regulations.

(a) Side. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

(b) Rear. Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

Section 24-535.7. Special provisions for corner lots.

- (a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 35 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 125 feet or more.

Section 24-535.8. Special provisions for the modification of setback, lot width, or yard requirements.

(a) *Modifications; criteria for determination.* Reduction of the width of the setbacks, lot width, yard regulation, or corner lot provisions (sections 24-535.4 through 24-535.7) for areas in a public land district may be approved upon finding that the proposed reduction, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall not result in additional adverse impacts 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 no instance shall a modification be approved that is less restrictive than what is required by the adjacent zoning districts. In addition, a request for a modification must meet one or more of the following criteria:

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

(b) *Requests for modifications.* Requests for modifications from sections 24-535.4 through 24-535.7 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 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.

Section 24-535.9. Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 60 feet, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (2) Spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and non accessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless

communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:

- a. Such structure will not obstruct light to adjacent property;*
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;*
- c. Such structure will not impair property values in the surrounding area;*
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and*
- e. Such structure will not be contrary to the public health, safety and general welfare.*

- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed the height of the main structure and may exceed 45 feet in height.*
- (4) Communication towers permitted by a special use permit by the board of supervisors may be in excess of 35 feet in height.*

Section 24-535.10. Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the public land district, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

Section 24-535.11. BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the public land district, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

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 10th day of July, 2007.

ZO-4-7PLD.ord

POLICY COMMITTEE MEETING

Public Land District Presentation

May 8, 2006 1:00PM, Building A Large Conference Room

A. Roll Call

PRESENT:

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

OTHERS PRESENT:

Ms. Leanne Reidenbach, Planner
Mr. Jason Purse, Planner
Mr. Bill Porter, Assistant County Administrator
Ms. Ellen Cook, Senior Planner
Mr. John Horne, Development Manager
Ms. Terry Costello, Development Management Assistant
Mr. Adam Kinsman, Assistant County Attorney

B. New Business

Mr. Fraley called the meeting to order.

Mr. Purse went over the statement of intent of creating the new district. Mr. Kinsman added that essentially a new district will be created by this change but will not contain any land. Then the second part of the process will be to identify those parcels and have them rezoned. This will come as a group or part of a group to the Planning Commission and then the Board of Supervisors.

Mr. Obadal questioned where the language was drawn from. Mr. Purse stated that the language was taken from the language already in the Ordinance that applied to other districts. There were numerous meetings with various members of staff to determine what already existed in the County and was appropriate to include in this district. Mr. Obadal wanted to make sure that the language was consistent with language already in the Ordinance, and Mr. Purse assured him that it was.

Mr. Fraley questioned whether the Board of Supervisors would be more involved in approving special waiver provisions. On the same note Mr. Krapf questioned whether the County would have more latitude in approving special provisions. Mr. Fraley felt that some of the uses might seem more reasonable as permitted if some of the criteria for approval were performance based.

Mr. Fraley questioned some of the uses such as flea markets. Ms. Reidenbach stated that the committee reviewed current government facilities and based their findings on what was currently in the County. Mr. Billips made the point that the perception may be that the County is purchasing property for these intended uses. Staff reiterated that the County does not actively seek property for these uses. Mr. Porter also stated that currently the County does not rent their facilities to anything other than non-profit organizations. Mr. Kinsman stated that the committee had to list in the permitted uses and those requiring a Special Use Permit what already existed on County property and was anticipated to be included in the proposed district.

Mr. Fraley questioned the permitted use of wineries. Mr. Kinsman believed that state code mandated this but will check for further clarification.

Ms. Jones felt that the list of permitted uses should be very minimal and that most uses should be listed as specially permitted unless they were clearly public uses.

Ms. Jones stated she felt uncomfortable with the uses riding stables and general agriculture. Committee members also expressed a desire to limit medical clinics to non-profit governmental entities.

Mr. Obadal questioned what would happen if the County sold land. Staff stated that the purchaser would buy it with the zoning designated for public use. The purchaser would have to go through the rezoning process to change. The parcel would also be designated as State, County, and Federal Land in the Comprehensive Plan.

Mr. Obadal listed items he wanted to see addressed, including the addition of non-profit and institutional uses (such as churches), limitations on permitted uses to make them clearly government related, re-examination of specially permitted uses, and incorporation of a waiver request based on new statutes.

Mr. Fraley also added a desire to see the incorporation of performance standards and further limits on the use list to include fewer potential uses.

Mr. Kinsman would like the Policy Committee members to review the permitted uses and those requiring Special Use Permits and report back to staff.

It was also noted that the Board of Supervisors initiated this request to create a new district and has given direction to staff and the Planning Commission to undertake this project.

The meeting was adjourned at 2:35 pm.

Jack Fraley
Chairman

POLICY COMMITTEE MEETING
Public Land District Presentation
May 22, 2006 3:00PM, Building A Large Conference Room

A. Roll Call

PRESENT:

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

OTHERS PRESENT:

Ms. Leanne Reidenbach, Planner
Mr. Jason Purse, Planner
Ms. Ellen Cook, Senior Planner
Ms. Terry Costello, Development Management Assistant

B. Old Business

Mr. Fraley called the meeting to order.

Mr. Purse went through the changes that were made to the Public Land District Ordinance. There were some grammatical changes as well as some clarifications on medical clinics and institutions.

Ms. Jones expressed an interest in including parking lot expansions in the list of specially permitted uses. A discussion of the circumstances a parking lot would be required to be reviewed by the DRC or Planning Commission followed.

The committee agreed they were comfortable with the use list and ordinance as provided.

The list of properties that may or may not be included in the district was discussed. Ms. Reidenbach reiterated that the intent was not to include all properties listed in the District. Mr. Purse stated that the first criteria for determination will be the size of the property. The zoning classification of small parcels such lift station or well location are not intended to be rezoned.

Mr. Fraley questioned whether all federal land would be included in the District such as Camp Perry. Mr. Obadal also questioned whether a military base fits the criteria of public use. Mr. Purse stated that although the use of a military base is restrictive it would be added to the District for consistency purposes.

Mr. Fraley felt the Policy Committee should review the list after staff has reviewed what properties they felt should be included. Mr. Obadal felt the ordinance phase should

simultaneously coincide with the inventory of uses.

Mr. Fraley questioned what would happen if the Planning Commission does not want to rezone a certain parcel to governmental use. Ms. Reidenbach stated that to make it legally defensible it is important to have a standard baseline. Ms. Cook also clarified by stating that during the Comprehensive Plan update a land designation may be changed.

Mr. Fraley believed that the Policy Committee should not only look at current uses of the property but also consider future uses. Mr. Obadal felt that it might be unlawful if a private entity were to buy government land and then be restricted as to its use. Mr. Purse reiterated that the County Attorney's office has been consulted on all these issues. Staff also clarified that a private owner should not have the expectation to develop a parcel designated and zoned for public use. Mr. Obadal is to contact the County Attorney's office to verify.

A motion was made by Mr. Krapf to accept the ordinance as written subject to clarification from County Attorney's office, Ms. Jones seconded it. Staff will develop a list of properties to add, and also noted that this will be done in groups of similarly zoned parcels.

Mr. Krapf made a motion to adjourn, and Ms. Jones seconded it.

The meeting was adjourned at 3:50 pm.

Jack Fraley
Chairman

**UNAPPROVED MINUTES OF THE JUNE 6, 2007 MEETING
OF THE PLANNING COMMISSION**

ZO-4-07 Zoning Ordinance Amendment – Public Land Ordinance

Ms. Leanne Reidenbach presented the staff report stating that in response to an initiating resolution passed by the Board of Supervisors on April 24, 2007 staff has drafted an ordinance to create a public land district. She stated that the purpose of this district is to establish a special classification for all significant publicly owned land which is used for a public purpose. Ms. Reidenbach stated that a public land district will make the Zoning Ordinance more consistent with the Comprehensive Plan and more clearly identify on the Zoning Map the intended uses for the property. The current zoning of most public land allows for a wide range of uses on the given parcel but the creation of a public land district can permit the greatest certainty regarding the character of potential uses of those parcels based on the Comprehensive Plan designation and surrounding land uses. The next step in the process would be for the Planning Commission, followed by the Board of Supervisors, to hold public hearings to consider rezoning appropriate parcels. On May 22, 2007 the Policy Committee voted 4-0 to recommend approval subject to resolution of an outstanding question by the County Attorney's office. Staff noted that these issues had been resolved prior to the public hearing. Staff recommended approval of the Ordinance.

Ms. Hughes stated that there are certain sections of the Ordinance that address the Community Character Corridor Buffer. She said there is not language about the buffer in terms of setbacks in the proposal and asked if that would still be in affect.

Ms. Reidenbach said yes and stated that those regulations fall under the Landscape Ordinance that applies to all parcels regardless of zoning classification.

Mr. Kennedy opened the public hearing.

Hearing no requests the public hearing was closed.

Ms. Jones motioned to approve the application.

Mr. Krapf seconded the motion.

In a unanimous roll call vote the application was recommended for approval (7-0). AYE: Obadal, Fraley, Hughes, Billups, Jones, Krapf, Kennedy (7); NAY: (0).

MEMORANDUM

DATE: July 10, 2007

TO: The Board of Supervisors

FROM: Jason Purse, Planner
Leanne Reidenbach, Planner

SUBJECT: Initiation of the Rezoning of Parcels to be Included in the Public Land District

During the past two months Planning staff, along with the County Attorney's Office, has undertaken steps involved with establishing a Public Land District. The first step in the process was creating a Zoning Ordinance District, which will be voted on this evening. Assuming that Ordinance is adopted, the next step involves rezoning relevant lands into the District.

The purpose of this District is to establish a special classification for all significant publicly owned land which is used for a public purpose. Currently, publicly owned parcels are spread throughout all of the established zoning districts as either permitted or specially permitted uses.

A public use site district will make the Zoning Ordinance more consistent with the Comprehensive Plan and more clearly identify the intended uses for a property on the Zoning Map. Once the parcels are zoned in the Public Land District, the County can facilitate full utilization of the property for the public benefit. Because the current zoning of most public use sites also allows a wider range of uses, a public uses district can also permit the greatest certainty regarding the character of potential uses of those parcels based on the Comprehensive Plan and surrounding land uses.

Staff has identified all publicly owned parcels and has grouped them into three categories: 1) land over five acres; 2) land under five acres that has a significant public impact; and 3) land that does not constitute a notable impact, or land that is not meant for public purpose. Lands from the first two groups will be rezoned into the Public Land District. Staff does not propose to rezone the parcels in the third group. These include uses such as well lots and pump stations that are accessory to residential or commercial uses and undeveloped parcels either under five acres in size or otherwise meant for economic development purposes, such as the parcel the County owns in the James River Commerce Center Industrial Park. This list of parcels is included in your packet as attachment 1.

Staff has identified 122 parcels that it proposes to bring into the Public Land District. These parcels represent land owned by the Federal and State government, as well as land owned by adjacent local governments, James City County, Virginia Department of Transportation, James City Service Authority, and Hampton Roads Sanitation District.

No use changes or development plans will be filed for any parcel as a part of this rezoning; this process is only meant to initially place all relevant land into the Public Land District. During this rezoning, the only changes to the parcels will be changing their underlying zoning to populate the newly created Public Land District with lands that are consistent with their purposes. A public hearing process will take place for the selected parcels, including adjacent property owner notification.

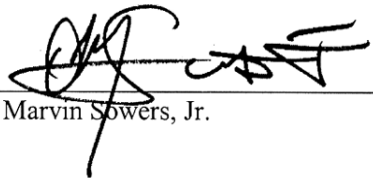
After the adoption of the District, the rezoning process is the last step that needs to take place in establishing a Public Land District. Once the Ordinance is adopted and land is placed in the District, it will function exactly like other districts in the Zoning Ordinance.

Staff recommends adoption of the attached resolution, which will authorize a Board-initiated rezoning of the parcels from the various Districts to PL, Public Land.

Jason Purse

Leanne Reidenbach,

CONCUR:



O. Marvin Sowers, Jr.

JP/LR/gb
RezonLandsPub.mem

Attachment

RESOLUTION

INITIATION OF THE REZONING OF PARCELS TO BE INCLUDED IN

THE PUBLIC LAND DISTRICT

WHEREAS, on July 10, 2007, the Board of Supervisors adopted the Public Land District Zoning Ordinance, which created a new zoning classification to accommodate notable publicly owned land which is used for a public purpose; and

WHEREAS, the creation of the Public Land District requires certain parcels to be rezoned to become consistent with the requirements of the District; and

WHEREAS, staff has identified 122 relevant parcels that require rezoning to the new District; and

WHEREAS, the County is beginning the process of rezoning a number of parcels within the County from various Zoning Districts to PL, Public Land.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City, Virginia, that the rezoning of the following 122 parcels from their current zoning designation to PL, Public Land, shall be initiated and shall be considered by the Planning Commission and Board of Supervisors:

- a. James City County Real Estate Tax Map No. 4930100001, Colonial Parkway
- b. James City County Real Estate Tax Map No. 5610100002, Colonial Parkway
- c. James City County Real Estate Tax Map No. 4520100002, Greensprings National Historic Park
- d. James City County Real Estate Tax Map No. 4520100001, Greensprings National Historic Park
- e. James City County Real Estate Tax Map No. 5610100001, Jamestown
- f. James City County Real Estate Tax Map No. 5510100001, Jamestown
- g. James City County Real Estate Tax Map No. 4930100002, Colonial Parkway Buffer
- h. James City County Real Estate Tax Map No. 5510300036, Colonial Parkway Buffer
- i. James City County Real Estate Tax Map No. 5510300037, Colonial Parkway Buffer
- j. James City County Real Estate Tax Map No. 5510300038, Colonial Parkway Buffer
- k. James City County Real Estate Tax Map No. 5510300039, Colonial Parkway Buffer
- l. James City County Real Estate Tax Map No. 5510300040, Colonial Parkway Buffer
- m. James City County Real Estate Tax Map No. 5510300041, Colonial Parkway Buffer
- n. James City County Real Estate Tax Map No. 5510300042, Colonial Parkway Buffer

- o. James City County Real Estate Tax Map No. 5510300043, Colonial Parkway Buffer
- p. James City County Real Estate Tax Map No. 5510300044, Colonial Parkway Buffer
- q. James City County Real Estate Tax Map No. 5510300045, Colonial Parkway Buffer
- r. James City County Real Estate Tax Map No. 5510300046, Colonial Parkway Buffer
- s. James City County Real Estate Tax Map No. 5510300047, Colonial Parkway Buffer
- t. James City County Real Estate Tax Map No. 5510300048, Colonial Parkway Buffer
- u. James City County Real Estate Tax Map No. 5510300049, Colonial Parkway Buffer
- v. James City County Real Estate Tax Map No. 5520200030, Colonial Parkway Buffer
- w. James City County Real Estate Tax Map No. 5520200031, Colonial Parkway Buffer
- x. James City County Real Estate Tax Map No. 5520200032, Colonial Parkway Buffer
- y. James City County Real Estate Tax Map No. 5520200033, Colonial Parkway Buffer
- z. James City County Real Estate Tax Map No. 5520200034, Colonial Parkway Buffer
- aa. James City County Real Estate Tax Map No. 5520200035, Colonial Parkway Buffer
- bb. James City County Real Estate Tax Map No. 5520200001a, Colonial Parkway Buffer
- cc. James City County Real Estate Tax Map No. 5510200011a, Colonial Parkway Buffer
- dd. James City County Real Estate Tax Map No. 4610100013, Undetermined Federal Open Space
- ee. James City County Real Estate Tax Map No. 6220100001, Fort Eustis and Islands on Skiffes Creek
- ff. James City County Real Estate Tax Map No. 5240100001, Weapons Station
- gg. James City County Real Estate Tax Map No. 1640100004, Camp Peary
- hh. James City County Real Estate Tax Map No. 6010100012, Undeveloped parcel near jail
- ii. James City County Real Estate Tax Map No. 4630100015, Jamestown
- jj. James City County Real Estate Tax Map No. 3910100152, Eastern State
- kk. James City County Real Estate Tax Map No. 3910100151, W&M (Plumeri)
- ll. James City County Real Estate Tax Map No. 3910100004, VDOT (Tewning)
- mm. James City County Real Estate Tax Map No. 0830100002, York River State Park
- nn. James City County Real Estate Tax Map No. 0840100001, York River State Park
- oo. James City County Real Estate Tax Map No. 1510100005, York River State Park
- pp. James City County Real Estate Tax Map No. 1410100037, Undetermined/VDOT owned parcel
- qq. James City County Real Estate Tax Map No. 6010100011, Regional Jail

rr.	James City County Real Estate Tax Map No. 2120100001, Little Creek Reservoir
ss.	James City County Real Estate Tax Map No. 6010100003, Skiffes Creek Reservoir
tt.	James City County Real Estate Tax Map No. 0310100005, Undetermined parcel with structure
uu.	James City County Real Estate Tax Map No. 5920100046, James River ES
vv.	James City County Real Estate Tax Map No. 4710100058, Clara Byrd Baker ES
ww.	James City County Real Estate Tax Map No. 3210100012, District Sports Complex
xx.	James City County Real Estate Tax Map No. 4610100009, Greensprings Trail
yy.	James City County Real Estate Tax Map No. 4620100033, Greenspace-Chanco's Grant
zz.	James City County Real Estate Tax Map No. 4620100021, Greenspace-Nixon/Clara Byrd Baker
aaa.	James City County Real Estate Tax Map No. 3130100049, DJ Montague ES
bbb.	James City County Real Estate Tax Map No. 3040100003, DJ Montague ES
ccc.	James City County Real Estate Tax Map No. 5010100009, Government Complex
ddd.	James City County Real Estate Tax Map No. 3830100010, Mid-County Park
eee.	James City County Real Estate Tax Map No. 3830100027, Mid-County Park
fff.	James City County Real Estate Tax Map No. 4420100016b, Undetermined/Vacant Land
ggg.	James City County Real Estate Tax Map No. 4610100007a, Undetermined/Vacant Land
hhh.	James City County Real Estate Tax Map No. 4510100018, Undetermined/Vacant Land
iii.	James City County Real Estate Tax Map No. 4810600171a, Rawls Byrd ES
jjj.	James City County Real Estate Tax Map No. 2320100035, Norge ES
kkk.	James City County Real Estate Tax Map No. 3230100001, Lafayette HS
lll.	James City County Real Estate Tax Map No. 3240100029c, Lafayette HS
mmm.	James City County Real Estate Tax Map No. 3910100153, Recreation Center
nnn.	James City County Real Estate Tax Map No. 3820100002, Recreation Center
ooo.	James City County Real Estate Tax Map No. 4620100041, Undetermined-Greensprings Trail
ppp.	James City County Real Estate Tax Map No. 4640500001a, Undetermined-Greensprings Trail
qqq.	James City County Real Estate Tax Map No. 4610100011, Undetermined-Greensprings Trail
rrr.	James City County Real Estate Tax Map No. 4620100039, Undetermined-Greensprings Trail
sss.	James City County Real Estate Tax Map No. 3220100047, Greenspace-Scott's Trust
ttt.	James City County Real Estate Tax Map No. 4610100002d, Jamestown HS
uuu.	James City County Real Estate Tax Map No. 1330100016, Undetermined/JCC
vvv.	James City County Real Estate Tax Map No. 3210100013, Warhill HS
www.	James City County Real Estate Tax Map No. 4520100012, Greenspace-Exxon Property
xxx.	James City County Real Estate Tax Map No. 1230100027, Fire #1
yyy.	James City County Real Estate Tax Map No. 3240100029a, Human Services Building

zzz. James City County Real Estate Tax Map No. 3130100006, Human Services Building

aaaa. James City County Real Estate Tax Map No. 3840100038b, Undetermined/JCC Vacant Land

bbbb. James City County Real Estate Tax Map No. 3630100001, Matoaka ES

cccc. James City County Real Estate Tax Map No. 1310100020, Stonehouse ES

dddd. James City County Real Estate Tax Map No. 1240100051, Toano MS

eeee. James City County Real Estate Tax Map No. 2240100009, School Operations

ffff. James City County Real Estate Tax Map No. 1340100023a, JCC Library

gggg. James City County Real Estate Tax Map No. 3010100004, Transfer Station

hhhh. James City County Real Estate Tax Map No. 3030100001, Transfer Station

iiii. James City County Real Estate Tax Map No. 3010100007, Transfer Station

jjjj. James City County Real Estate Tax Map No. 1120100001, Upper-County Park

kkkk. James City County Real Estate Tax Map No. 1120100003, Upper-County Park

llll. James City County Real Estate Tax Map No. 3010100009, Freedom Park

mmmm. James City County Real Estate Tax Map No. 3020100010, Freedom Park

nnnn. James City County Real Estate Tax Map No. 3430100002, Chickahominy Riverfront Park

oooo. James City County Real Estate Tax Map No. 2110100026, Little Creek Reservoir Park

pppp. James City County Real Estate Tax Map No. 1410100013a, JCC vacant land

qqqq. James City County Real Estate Tax Map No. 4510100016, JCC vacant land

rrrr. James City County Real Estate Tax Map No. 4420100016e, Governor's Land Buffer

ssss. James City County Real Estate Tax Map No. 0740100015, JCC vacant land

tttt. James City County Real Estate Tax Map No. 3910100003, JCSA (Tewning Road offices)

uuuu. James City County Real Estate Tax Map No. 5820100003, HRSD Wastewater Treatment Facility

vvvv. James City County Real Estate Tax Map No. 4640100009a, Jamestown Parking Area

www. James City County Real Estate Tax Map No. 5920100048, Juvenile Detention Center

xxxx. James City County Real Estate Tax Map No. 3240100027, Fire #4

yyyy. James City County Real Estate Tax Map No. 3630100023, Fire #5

zzzz. James City County Real Estate Tax Map No. 5230100001, Fire #2

aaaaa. James City County Real Estate Tax Map No. 3911300001b, Ironbound Village Offices

bbbbb. James City County Real Estate Tax Map No. 3911300001a, Ironbound Village Offices

ccccc. James City County Real Estate Tax Map No. 3911300002b, Ironbound Village Offices

dddd. James City County Real Estate Tax Map No. 3911300003, Ironbound Village Offices

eeeee. James City County Real Estate Tax Map No. 3911300004, Ironbound Village Offices

ffff. James City County Real Estate Tax Map No. 1240100013h, JCC Convenience Center (Hankins)

ggggg. James City County Real Estate Tax Map No. 3910100156, Recycle Center

hhhhh. James City County Real Estate Tax Map No. 4730100001, Canoe Access

- iiii. James City County Real Estate Tax Map No. 4721500001, Law Enforcement Center
- jjjj. James City County Real Estate Tax Map No. 4720100001a, Fire #3
- kkkk. James City County Real Estate Tax Map No. 1920100018a, JCC Parks (Brickyard Rd)
- llll. James City County Real Estate Tax Map No. 1240100017d, Elevated Storage Tank
- mmmm. James City County Real Estate Tax Map No. 3820100002a, Elevated Storage Tank
- nnnn. James City County Real Estate Tax Map No. 3210100001a, Elevated Storage Tank
- oooo. James City County Real Estate Tax Map No. 3910100155, Residual Eastern State
- pppp. James City County Real Estate Tax Map No. 3810100003, Residual Eastern State
- qqqq. James City County Real Estate Tax Map No. 3910100154, Residual Eastern State
- rrrr. James City County Real Estate Tax Map No. 4610100012, Mainland Farm

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 10th day of July, 2007.

RezonLandsPub.res

M E M O R A N D U M

DATE: July 10, 2007

TO: The Board of Supervisors

FROM: Adam R. Kinsman, Assistant County Attorney
Melissa C. Brown, Deputy Zoning Administrator

SUBJECT: Initiation of Consideration to Revise Section 24-16, Proffer of Conditions, of the James City County Code

During its 2007 session, the General Assembly approved House Bill 2500 amending 15.2-2286 of the Code of Virginia, which permits high-growth localities such as James City County the option of adopting an alternate form of conditional zoning. Although the two forms of conditional zoning are similar, the alternate form appears to afford applicants greater flexibility in what they may legally proffer to the County in conjunction with a proposed rezoning.

Staff is of the opinion that the alternate form of conditional zoning is worth consideration, particularly in light of its added flexibility.

Staff recommends adoption of the attached resolution initiating consideration of this change.

Adam R. Kinsman

Melissa C. Brown

ARK/MCB/gs
24-16proffer.mem

Attachment

RESOLUTION

INITIATION OF CONSIDERATION TO REVISE SECTION 24-16,

PROFFER OF CONDITIONS, OF THE JAMES CITY COUNTY CODE

WHEREAS, the Board of Supervisors of James City County, Virginia, is authorized by Virginia Code §15.2-2286 to initiate amendments to the Zoning Ordinance; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, and good zoning practice warrant the consideration of the proposed Zoning Ordinance amendment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate consideration of amendments to Section 24-16 of the Code of James City County to adopt an alternate form of conditional zoning as permitted by §15.2-2298 of the Code of Virginia.

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 10th day of July, 2007.

24-16proffer.res

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, SECTION 2-15.2, HOMEOWNERSHIP GRANTS FOR COUNTY EMPLOYEES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-15.2, Homeownership grants for county employees.

Chapter 2. Administration

Article IV. Officers and Employees

Division 1. Generally

Section 2-15.2. Homeownership grants for county employees.

Subject to the appropriation of funds, excluding state funds, by the county board, the county administrator shall establish a program to provide grants to employees of the county and employees of the constitutional officers for use toward the purchase of a primary residence within the county or the City of Williamsburg. Lifetime cumulative grants shall not exceed five thousand dollars per employee. ~~Each grant shall be approved by ordinance by the Board of Supervisors.~~ The county administrator is authorized to take all actions deemed necessary or appropriate to establish and administer the program, including the establishment of terms and conditions, and to ensure that the program meets any applicable requirements of the law.

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 10th day of July, 2007.

HOgrantord.ord