# AGENDA

#### JAMES CITY COUNTY BOARD OF SUPERVISORS

#### **County Government Center Board Room**

#### October 9, 2007

7:00 P.M.

A. ROLL CALL

F.

- **B.** MOMENT OF SILENCE
- C. PLEDGE OF ALLEGIANCE Marissa Canady, an eighth-grade student at Toano Middle School
- D. PUBLIC COMMENT

# E. CONSENT CALENDAR

| 1. | Minutes – September 25, 2007, Regular Meeting                  |   | 1  |
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| 2. | Dedication of Streets in Wexford Hills, Phases IH, II, and IIA |   | 15 |
| 3. | Dedication of Streets in Wexford Hills, Phases IIIA and IIIB   |   |    |
| PU | JBLIC HEARINGS   |   |    |
| 1  |  | 1 | 1  |

| 1. | Ordinance to amend JCC Code Chapter 20, Taxation, to change assessment and appeal |    |
|----|---|----|
|    | dates and changes to the criteria for the elderly and disabled tax exemption      | 27 |
| 2. | Case No. SUP-0012-2007. Verizon Tower Co-location – Brick Bat Road                | 35 |
| 3. | Toano Revitalization Initiative – Virginia Department of Transportation (VDOT)    |    |
|    | SAFETEA-LU Grant  | 73 |
| 4. | Ordinance to amend JCC Code Section 24-16, Proffer of Conditions                  | 87 |

# G. BOARD CONSIDERATION

# H. PUBLIC COMMENT

# I. REPORTS OF THE COUNTY ADMINISTRATOR

# J. BOARD REQUESTS AND DIRECTIVES

# K. CLOSED SESSION

- 1. Consideration of the purchase of a parcel of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.
- L. ADJOURNMENT to 4 p.m. on October 23, 2007

<u>Page</u>

# AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

# A. ROLL CALL

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

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

# **B.** MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE - Kellie Rodgers, an eighth-grade student at Berkeley Middle School, led the Board and students in the Pledge of Allegiance.

#### D. PUBLIC COMMENT

1. Mr. Robert Richardson, 2786 Lake Powell Road, commented in support of the Cool Counties Declaration.

2. Mr. Stephen Pond, 2840 Durfees Mill Road, requested property assessments adjacent to Lake Powell be reduced to those in the surrounding neighborhood rather than the assessed premium value.

3. Dr. Christine Llewellyn, 3000 Heritage Landing Road, commented in support of the Cool Counties program and requested approval of the resolution.

4. Ms. Kensett Teller, 125 Lake Drive, on behalf of James City County Citizens' Coalition, stated support for the Cool Counties energy plan.

5. Ms. Sarah Kadec, 3504 Hunters Ridge, read a letter on behalf of Terence Elkins commenting on the Cool Counties Declaration resolution, noting that in his experience mankind bears responsibility for global warming and stated support for the Cool Counties Declaration resolution.

6. Mr. Ed Oyer, 139 Indian Circle, commented on the number of letters to the editor that did not support the Hampton Roads Transportation Authority; local authority of road repairs; cost of school construction; dam construction Request for Proposals (RFPs); and real estate assessments on Indian Circle.

Mr. McGlennon noted that the high school was constructed for 1,450 students, not 800 as Mr. Oyer mentioned.

#### E. HIGHWAY MATTERS

Mr. Mike Cade, Virginia Department of Transportation (VDOT) Assistant Residency Administrator, stated the work on Route 608 was completed.

Mr. Bradshaw stated there was a compliment from a constituent that a stoplight at Rochambeau Drive and Croaker Road improved traffic and noted that VDOT may want to implement a similar solution at Lightfoot Road and Route 60.

Mr. Icenhour thanked Mr. Cade for quick patching in Forest Glen and noted the pending installation of stop and yield signs and a "Watch for Children" sign in that subdivision.

Mr. McGlennon thanked Mr. Cade for the work in Brookhaven.

#### F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the Consent Calendar, including the amendment to the minutes.

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

- 1. <u>Minutes September 11, 2007, Regular Meeting</u>
- 2. Installation of "Watch for Children" Sign Norvalia Subdivision

#### **RESOLUTION**

#### **INSTALLATION OF "WATCH FOR CHILDREN" SIGN – NORVALIA SUBDIVISION**

- WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and
- WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and
- WHEREAS, residents of the Norvalia community have requested that a "Watch for Children" sign be installed on Farmville Lane as illustrated on the attached drawing titled "Norvalia Subdivision 'Watch for Children Sign'."

- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.
- 3. Office of Justice Programs of the Department of Justice Justice Assistance Grant (JAG) \$12,913

# RESOLUTION

#### OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE -

#### JUSTICE ASSISTANCE GRANT (JAG) - \$12,913

- WHEREAS, the Office of Justice Programs of the Department of Justice Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,913; and
- WHEREAS, the grant is effective for three years and expires on September 30, 2010; and
- WHEREAS, the grant requires no local matching funds; and
- WHEREAS, the funds will be used to support six School Resource Officers' attendance to the Virginia Gang Investigators Association Conference and to purchase equipment and supplies to increase the Community Services Unit's ability to provide crime prevention education throughout the community.
- NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Project/Grants fund:

Revenues:

Justice Assistance Grant\$12,913Expenditures:Justice Assistance Grant\$12,913

4. <u>Office of Justice Programs of the Department of Justice - FY 2007 Gang Resistance Education and</u> <u>Training (G.R.E.A.T.) Program - \$127,927</u>

# **RESOLUTION**

#### OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE - FY 07 GANG

#### RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM - \$127,927

WHEREAS, the Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program has awarded James City County Police Department a grant in the amount of \$127,927 (federal share of \$70,095; local match \$57,832); and

- WHEREAS, the matching funds are available in the County's Grant Match account; and
- WHEREAS, the funds will be used to pay for travel and training for seven Community Services Officers to attend G.R.E.A.T. training, as well as the salary and benefits of a full-time (2,167 hours/year), limited-term Police Officer I (G.R.E.A.T. Officer) who will be responsible for coordinating and teaching the G.R.E.A.T. program in the County's middle schools and during a summer camp; and
- WHEREAS, the grant expires November 30, 2008, thus allowing any unexpended funds as of June 30, 2008, to be carried forward to James City County's next fiscal year.
- NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes a full-time limited-term position within the Police Department and authorizes the following appropriation to the Special Projects/Grants fund:
  - Revenues:

| GREAT<br>County Grant Match Account | \$70,095<br>57,832 |  |
|-------------------------------------|--------------------|--|
| Total                               | <u>\$127,927</u>   |  |
| Expenditures:                       |                    |  |
| GREAT                               | <u>\$127,927</u>   |  |

5. <u>Contract Award - Boom Truck with Dump Body</u>

#### **<u>RESOLUTION</u>**

#### CONTRACT AWARD – BOOM TRUCK WITH DUMP BODY

- WHEREAS, a Request for Proposals to furnish a Boom Truck with Dump Body was publicly advertised and staff reviewed proposals from three firms interested in performing the work; and
- WHEREAS, upon evaluating the proposals, staff determined that Virginia Truck Center of Tidewater was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the Request for Proposals.
- NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$121,934 contract to furnish a Boom Truck with Dump Body to Virginia Truck Center of Tidewater.

#### G. PUBLIC HEARINGS

1. Real Estate Land Book and Needed Changes to the FY 2008 Budget

Mr. John E. McDonald, Manager of Financial and Management Services, stated taxes had increased in James City County, but this was not due to a tax rate increase but an assessment value increase for homes in the County. He stated this was the second public hearing on tax increases, following the budget public hearing in April. Since then the estimated assessment increase was adjusted from 4.1 percent to 4.7 percent on average, which may be higher for some citizens. Mr. McDonald stated that staff received notice of this in August and an amendment to the budget for a change in assessments requires 30 days notice by State Code. Mr. McDonald stated that staff did not recommend decreasing the tax rate below the current \$0.77 per \$100 assessed value. He stated the tax rate was necessary for funding additional costs for Matoaka Elementary School and Warhill High School. He stated the revenue shortfall this fiscal year was because new construction had fallen short of expectations and had to be recalculated based on the July 1, 2007, landbook. Mr. McDonald stated the adopted budget overestimates revenue by \$2.9 million, which will be met by reductions in spending and not reductions in reserves. He stated that staff was not recommending an increase in fees or taxes.

Mr. McDonald stated that the \$2.9 million required to close the gap was supplied by FY 2007 underspending, a \$1.2 million reduction in capital projects, and a reduction in County departmental operating budgets. He stated there were no reductions for outside agencies such as schools. He stated the proposed resolution confirms the real estate tax rate of \$.077 per \$100 assessed value.

Mr. McDonald stated that individual assessments or appeals can be heard at the Office of Real Estate Assessments, and if a citizen did not feel this action was satisfactory, the Board of Equalization would hear an appeal from the Real Estate Assessment Office. He stated the required forms can be found in that office and on the website.

Mr. Goodson asked about the proposed reduction in spending to support industrial property infrastructure, specifically at the James River Commerce Center.

Mr. McDonald stated that approximately \$2 million was allocated for this and the budget revision would reduce the funding by \$300,000. He stated that in addition to these funds, the Economic Development Authority has funds available for investment as well as available grants and opportunity monies for industrial properties. Mr. McDonald stated he was confident the reduction would not have a significant impact on industrial development.

Mr. Goodson asked for confirmation that there would be little or no impact on industries in the County.

McDonald stated this was correct.

Mr. Wanner stated this was a fund that has built up over a number of years.

Mr. McDonald confirmed this.

Mr. Harrison asked if the improvements to the gymnasium and HVAC system in Clara Byrd Baker Elementary School were being delayed by these cuts.

Mr. McDonald stated there was funding proposed for the HVAC system at the school consisting of \$2.6 million, which would be divided between FY 2008 and FY 2009. He stated the reduction would lower the contribution this fiscal year, hopefully to be made up in FY 2009.

Mr. Harrison asked about the breakdown of the funding.

Mr. Wanner stated the required funds would be \$200,000 for each fiscal year, and the deficit from the current fiscal year's contribution would be made up with additional money in the budget next year.

Mr. McGlennon asked if the HVAC system was functional.

Mr. McDonald stated it was functioning but there were mechanical issues.

Mr. Wanner stated the Schools have been advised of this change and did not object.

Mr. Harrison asked if the gymnasium could be postponed in favor of the HVAC system.

Mr. McDonald stated this could be done but did not feel this was necessary.

Mr. McGlennon stated this could be examined in the next budget process.

Mr. McDonald stated this was correct.

Mr. Harrison asked if there were other areas that might have been considered for reduction.

Mr. McDonald stated that they were trying to keep what was adopted by the Board as far as service and reduce spending for those services. He stated staff was trying to make sure the reductions would have little or no impact on services to citizens.

Mr. Icenhour asked about the percentage of growth for County operations.

Mr. McDonald stated he was not aware of the percentage.

Mr. Icenhour stated this was the lowest percentage of growth in the budget.

Mr. McDonald stated the majority of growth in budget went to schools.

Mr. McGlennon opened the Public Hearing.

1. Mr. Lee Fehrenkamp, 3709 Mulberry Lane, commented on assessed value of his property, which increased over 15 percent.

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

Mr. McGlennon asked staff about unusually high real estate assessments.

Mr. McDonald stated that was an issue of which staff was aware.

Mr. McGlennon stated that this was due to an aggressive real estate market, and overall assessment average was reduced from last year to 4.7 percent. He stated those with significant increases will likely not continue to see this as rates catch up to market.

Mr. McDonald stated that assessment process follows the sales and the market is much flatter than a few years ago.

Mr. McGlennon stated an assessment was looking at actual market prices.

Mr. McDonald stated Real Estate Assessments examined comparable sales prices and comparable properties.

Mr. McGlennon stated as these prices drop there will be a decrease in assessments.

Mr. McDonald stated this was correct.

Mr. McGlennon stated the resolution outlined a shortfall due to the decreased value of new construction.

Mr. McDonald stated this was correct.

McGlennon stated \$1 million was brought forward from the FY 2007 budget from under-spending and money for future school sites was saved because the land was County-owned. He stated that this comprised over half the needed funds and the additional monies would be provided by slowing down the pace of some capital improvements at the Warhill High School and Clara Byrd Baker Elementary School sites to save about \$400,000. Mr. McGlennon stated the reduction in industrial property infrastructure support would be \$300,000 out of the \$2 million set aside, and there would be \$200,000 in the County operating budget savings to meet the budgetary gap. He asked if this may effect budgeting through other sources of revenue.

Mr. McDonald stated the revenues will be revisited in January at the Retreat and revenues would be supplemented by the second part of the County's personal property taxes and business taxes in the spring.

Mr. Icenhour stated \$1 million is pulled from FY 2007 under-spending and asked for confirmation that the budget was not padded, but this was match money set aside for a VDOT program that was not matched.

Mr. McDonald stated this was correct.

Mr. Harrison asked if the money set aside to be matched was for projects that were no longer deemed necessary.

Mr. McDonald stated that each year, money was set aside to be matched dollar-for-dollar for secondary road projects, but the County reduced funds which were intended to support projects on Longhill Road projects last year since VDOT failed to match the funds. He stated that the budget was now carrying unspent match money which could help offset the lower landbook values.

Mr. Harrison asked if the programs were funded eventually.

Mr. McDonald stated this match was for the Ironbound Road Project and that there would be funds to match it this year, but previously the State did not supply money to match the County funds.

Mr. Wanner stated that each year the Board's budget puts in revenue-sharing match money and the State allocates money depending on its budget. He stated in FY 2007 the State revenue-sharing budget was delayed and there was no State match for the funds. He stated that the project was restarted this year.

Mr. Harrison asked if an additional \$1 million was matched.

Mr. McDonald stated this was correct.

Mr. Harrison asked if the additional \$1 million was extra money.

Mr. Wanner stated at the time of the budget adoption it was not known that the State would not match the funds.

Mr. Harrison asked if other areas needed to be examined to avoid further hits to the Capital Improvements Program (CIP) as the housing market slows down.

Mr. McDonald stated that next year's budget will be challenging.

Mr. Harrison stated staff should look for other areas that were constantly growing to absorb deductions.

Mr. McDonald stated he understood the concern but noted that staff has also implemented spending reductions for the County's operating budget while not reducing budgets for operating agencies including schools. He stated that other areas could be considered by the Board in the FY 2009-10 budget.

Mr. Icenhour made a motion to adopt the resolution.

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

#### <u>**RESOLUTION**</u>

#### REAL ESTATE LANDBOOK AND AMENDMENTS TO THE FY 2008 BUDGET

- WHEREAS, the Board of Supervisors of James City County has been presented with the results of the July 1, 2007, general reassessment, in the form of the annual landbook; and
- WHEREAS, the general reassessment results in an average increase of 4.7 percent in the values of property contained in the landbook, which is an increase in the taxes paid by the average property owner even without a change in the tax rate; and
- WHEREAS, the Board had previously adopted a budget for the fiscal year ending June 30, 2008, and had adopted a tax rate of \$0.77 per \$100 of assessed value; and
- WHEREAS, projected revenues based on the actual landbook will not meet the estimated revenues included in the adopted budget, resulting in a budget shortfall of \$2,900,000.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County reaffirms the tax rate of \$0.77 per \$100 of assessed value of real property in the County and authorizes amendments to the FY 2008 General Fund and Capital Budgets, as follows:

| General Property Taxes    | \$   | (2,900,000) |
|---------------------------|------|-------------|
| Fund Balance              | \$   | 1,000,000   |
|                           | \$   | (1,900,000) |
| General Fund Expenditures |      |             |
| Administrative            | \$   | (5,618)     |
| Human Resources           | \$   | (7,215)     |
| Financial Administration  | \$   | (8,664)     |
| General Services          | \$   | (61,364)    |
| Information Resou         | irce |             |
| Management                | \$   | (12,069)    |
| Development Management    | \$   | (10,013)    |

#### **General Fund Revenues**

| Public Safety<br>Community Services<br>Transfer to Other Funds<br>Non Departmental<br>Contribution-Capital Projects | \$ (62,770)<br>\$ (24,449)<br>\$ (7,838)<br>\$ (500,000)<br>\$ (1,200,000)     |  |
|---|--|--|
|   | \$ (1,900,000)   |  |
| Capital Projects Fund   |  |  |
| Capital Projects Revenue  |  |  |
| Transfer from General Fund  | \$ (1,200,000)   |  |
| Capital Projects Expenditures   |  |  |
| School Sites<br>Industrial Property Infrastructure<br>Warhill Gymnasium<br>Baker Elementary School HVAC             | \$ (500,000)<br>\$ (300,000)<br>\$ (200,000)<br>\$ (200,000)<br>\$ (1,200,000) |  |

#### 2. <u>Amendment to the Zoning Ordinance - Floodplain Regulations</u>

Mr. Darryl Cook, County Engineer, stated the County's Code needed to be updated to become compliant with the FEMA regulations in order to maintain its floodplain insurance. He stated there were no substantive changes in the study or flood map and those currently eligible to participate are still eligible. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

1. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Citizens' Coalition, commented that this was a timely issue which brought floodplain insurance to light and deterred development in floodplain areas. She requested approval of the ordinance amendment.

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

Mr. Harrison made a motion to adopt the ordinance.

Mr. Rogers stated there is no effective date provision at the end and recommended an effective date of September 28, 2007.

Mr. Harrison made a motion to adopt the ordinance and the amendment to provide an effective date of September 28, 2007.

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

3. <u>Amendment to the Stormwater Management Ordinance - Illicit Discharge</u>

Mr. Darryl Cook, County Engineer, stated the Stormwater Management ordinance needed to be amended to meet the requirements of the State, which requires stormwater management programs to fulfill six management measures. He stated one of those measures was to develop an illicit discharge program for any substance that is not entirely stormwater to be permitted only by the ordinance provision. He stated this would help stop discharge of pollutants and would be administered by the Stormwater Department. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the ordinance amendment.

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

#### 4. Case No. ZO-005-2007. Heavy Equipment Sales and Service in the M-2, General Industrial, District

Ms. Melissa Brown, Deputy Zoning Administrator, stated this ordinance would allow for heavy equipment sales and service in the M-2 General Industrial, zoning district. Ms. Brown stated that the Planning Commission and the Policy Committee recommended approval unanimously on September 12, 2007. She stated the company in question currently had facilities in Hampton and Chesapeake and would like to open an additional location in an industrial park in Williamsburg. She stated staff found the ordinance amendment provided consistency and flexibility and support for businesses in General Industrial zoning areas. Ms. Brown stated the ordinance provided for screening from adjacent properties as well as environmental and water quality standards. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

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

Mr. Goodson made a motion to adopt the ordinance amendment.

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

#### H. BOARD CONSIDERATION

#### 1. <u>Cool Counties Declaration</u>

Mr. Bill Porter, Assistant County Administrator, stated on September 11, 2007, the Board deferred action on the resolution to support the Cool Counties Declaration. He stated that four counties had recently adopted this declaration, including New Kent County, which made an amendment to not only work in the Richmond region but also Hampton Roads. Staff recommended approval of the resolution.

Mr. Goodson stated he appreciated the deferral and that there was conflict in the scientific community but felt it was a concern that could be valid. He stated he has supplied an alternate resolution focusing on action by local government that will not require additional staff and incorporates actions already done by the County. He noted there was considerable debate about this issue. Mr. Goodson made a motion to adopt the alternate resolution. Mr. Bradshaw thanked Mr. Goodson for his concern, stating that some elements of the original initiative would not be part of our program. He stated the alternate resolution was removing the concept that human actions cause global warming and he felt that if there was no acknowledgement of responsibility, there would be no commitment to change. He stated he appreciated the concerns but felt the evidence is clear and the alternate resolution does not acknowledge human responsibility. Mr. Bradshaw stated he could not support the alternate resolution.

Mr. Harrison stated that they must recognize responsibility and that he could support the alternative resolution because it maintains the primary goals of the original resolution. Mr. Harrison stated he was in support of the action of the alternate resolution.

Mr. Goodson stated that there was not indisputable evidence that humans are responsible for global warming and he felt the alternate resolution offered speaks more to County issues and local government issues.

Mr. Harrison stated he felt that the resolution supporting the actions should be the primary goal of the program.

Mr. Icenhour stated he agreed with taking action if there is a reasonable assumption that the action addresses a problem. If action is taken, it must incur responsibility and he stated his support on the original resolution and not the alternate resolution.

Mr. McGlennon stated his appreciation for foregoing involvement in national issues but this was not included in the resolution. He stated the resolution was an acknowledgement that there was an issue that needed to be addressed and showed support in joining with other local governments for this purpose, which is spelled out in the introductory paragraphs. Mr. McGlennon stated the original resolution proposed the same actions as Mr. Goodson's resolution but the original resolution outlines why these actions should be taken.

On a roll call vote, the vote was: AYE: Harrison, Goodson (2). NAY: Bradshaw, Icenhour, McGlennon. (3). The alternate resolution failed.

Mr. Icenhour made a motion to adopt the original resolution as amended.

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

#### <u>RESOLUTION</u>

#### COOL COUNTIES DECLARATION

- WHEREAS, there is a consensus among the world's leading scientists that global warming caused by human emission of greenhouse gases is among the most significant problems facing the world today; and
- WHEREAS, documented impacts of global warming include but are not limited to increased occurrences of extreme weather events (i.e., droughts and floods), adverse impacts on plants and wildlife habitats, threats to global food and water supplies all of which have an economic impact on communities and their local governments; and
- WHEREAS, leading scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current

levels by the year 2050; and

- WHEREAS, the U.S. Conference of Mayors has endorsed the U.S. Mayors Climate Protection Agreement, which commits cities to reduce global warming emissions to 7 percent below 1990 levels by 2012, and calls for a federal limit on emissions; and
- WHEREAS, many counties throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reducing energy bills, preserving green space, implementing better land use policies, improving air quality, promoting waste-to-energy programs, expanding transportation and work choices to reduce traffic congestion, and fostering more economic development and job creation through energy conservation and new technologies.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, will take immediate steps to help the nation, State, and the County to achieve the 2050 climate stabilization goal by:
  - 1. Creating an inventory of County government (operational) greenhouse gas ("GHG") emissions and implement policies, programs, and operations to achieve significant, measurable and sustainable reduction of those operational GHG emissions to 80 percent below current levels by 2050.
  - 2. Working closely with local, state, and federal governments to reduce County GHG emissions to 80 percent below current levels by 2050, by developing a GHG emissions inventory and plan that establishes short-, mid-, and long-term GHG reduction targets, with recommended goals to stop increasing emissions by 2010, and to achieve a 10 percent reduction every five years thereafter through to 2050.

# I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on customer service in the County.

#### J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner responded to Mr. Oyer's question about the dam RFP and stated that the James City Service Authority (JCSA) is responsible for one of the dams in Mirror Lakes, and the RFP was for repairs required for maintaining that dam.

Mr. Wanner recommended that when the Board completed its business, it adjourn until 7 p.m. on October 9, 2007, for two budget-related public hearings including proposed changes to increase tax relief for the elderly and disabled and a public hearing regarding moving the evaluation date of the landbook from July 1 to January 1. He noted that the Celebration of Cultures would take place on Sunday, September 30, 2007, at Chickahominy Riverfront Park. He stated the event was sponsored by the All Together group and James City County Parks and Recreation and would be held from noon to 6 p.m. free of charge. Mr. Wanner recommended that when the Board completed its business, it hold a meeting of the JCSA.

#### K. BOARD REQUESTS AND DIRECTIVES

Mr. Harrison requested a recess in rezonings, a potential need to address residential rezonings.

Mr. Goodson presented a certificate from the National Association of Counties, which recognized the County's Computers for Kids program that worked in direct partnership with Youth Family Services, Computer Recycling of Virginia, and James City County Parks and Recreation.

Mr. McGlennon stated at the conference for the National Association of County Information Officers, the County was awarded two certificates for excellent performance.

Mr. Wanner responded stating if there was a consensus for that resolution, staff could have it come forward at the second meeting of October. He stated the County Attorney has done research but staff did not feel there was direction from a majority of the Board to bring it forward.

Mr. McGlennon asked if Mr. Harrison had a resolution and noted that the resolution by Prince William County suggested a break in residential rezonings until the General Assembly took action on land use and transportation. He stated that though legislators did take that action this year by way of HB 3202, the language of that particular resolution would not be appropriate. Mr. McGlennon asked for suggested language for the resolution.

Mr. Harrison asked if staff would put together draft resolutions for evaluation by the Board.

Mr. Wanner stated drafts could be created.

Mr. Harrison stated on Thursday, September 27, 2007, at 6:30 p.m, there would be a symposium to address gang activity and increase community awareness for gang activity and youth violence prevention at the Warhill High School auditorium.

Mr. McGlennon stated October 13, 2007, would mark the dedication ceremony for Warhill High School and October 20, 2007, would be the dedication of Matoaka Elementary School. He noted that both ceremonies would take place at 10:30 a.m.

#### L. ADJOURNMENT - until 7 p.m. on October 9, 2007.

Mr. Icenhour made a motion to adjourn

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

Mr. McGlennon adjourned the Board until 7 p.m. on October 9, 2007.

Sanford B. Wanner Clerk to the Board

092507bos.min

#### M E M O R A N D U M

DATE: October 9, 2007

TO: The Board of Supervisors

FROM: Scott J. Thomas, Environmental Director

SUBJECT: Dedication of Streets in Wexford Hills, Phases 1H, II, and IIA

Attached is a resolution requesting acceptance of certain streets in Wexford Hills, Phases 1H, II, and IIA, 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.

of Unins

SJT/nb WexfrdHills.mem

Attachment

# **RESOLUTION**

#### DEDICATION OF STREETS IN WEXFORD HILLS, PHASES IH, II, AND IIA

- 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 <u>Subdivision Street Requirements</u> 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 <u>Subdivision Street</u> <u>Requirements</u>.
- 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.

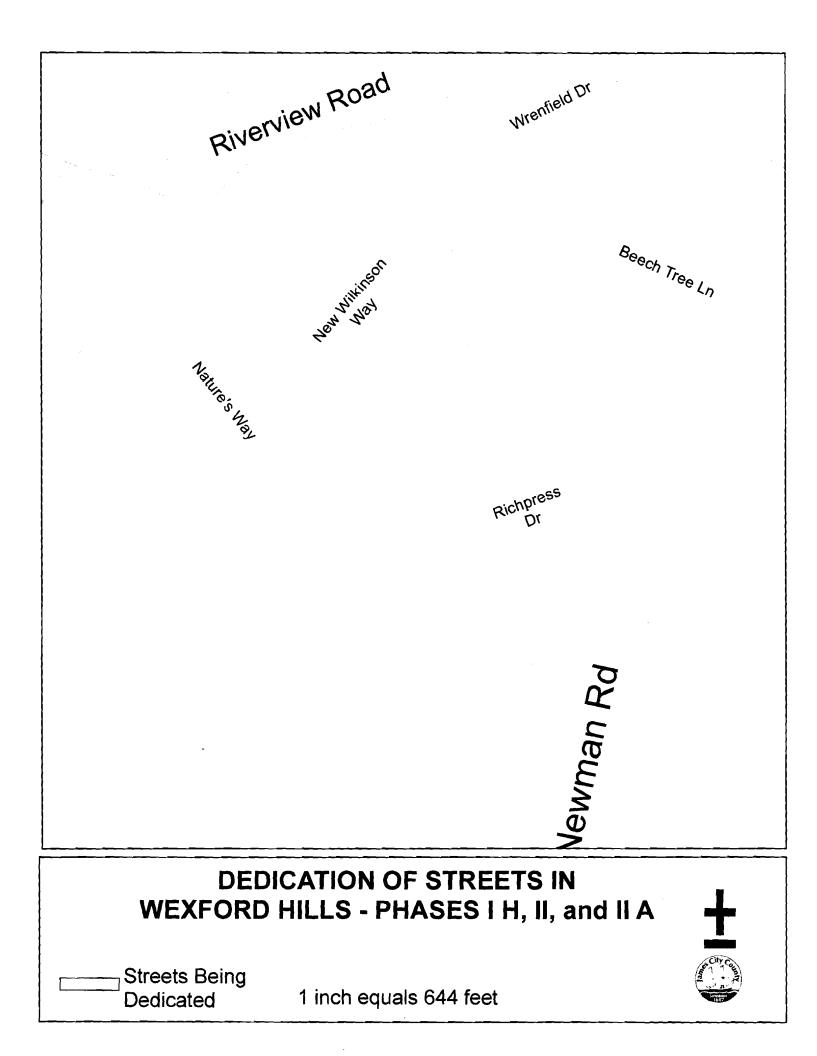
John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

WexfrdHills.res



# **MEMORANDUM**

DATE: October 9, 2007

TO: The Board of Supervisors

FROM: Scott J. Thomas, Environmental Director

SUBJECT: Dedication of A Street in Wexford Hills, Phases III A and III B

Attached is a resolution requesting acceptance of a certain street in Wexford Hills, Phases III A and III B, into the State Secondary Highway System. This street has been inspected and approved by representatives of the Virginia Department of Transportation as meeting the minimum requirements for secondary roadways.

Staff recommends adoption of the attached resolution.

f Am

SJT/gb StsWexfordHills.mem

Attachments

# **RESOLUTION**

#### DEDICATION OF A STREET IN WEXFORD HILLS, PHASES III A AND III B

- WHEREAS, the street described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and
- WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the <u>Subdivision Street Requirements</u> of the Virginia Department of Transportation; and
- WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's <u>Subdivision Street</u> <u>Requirements</u>.
- 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.
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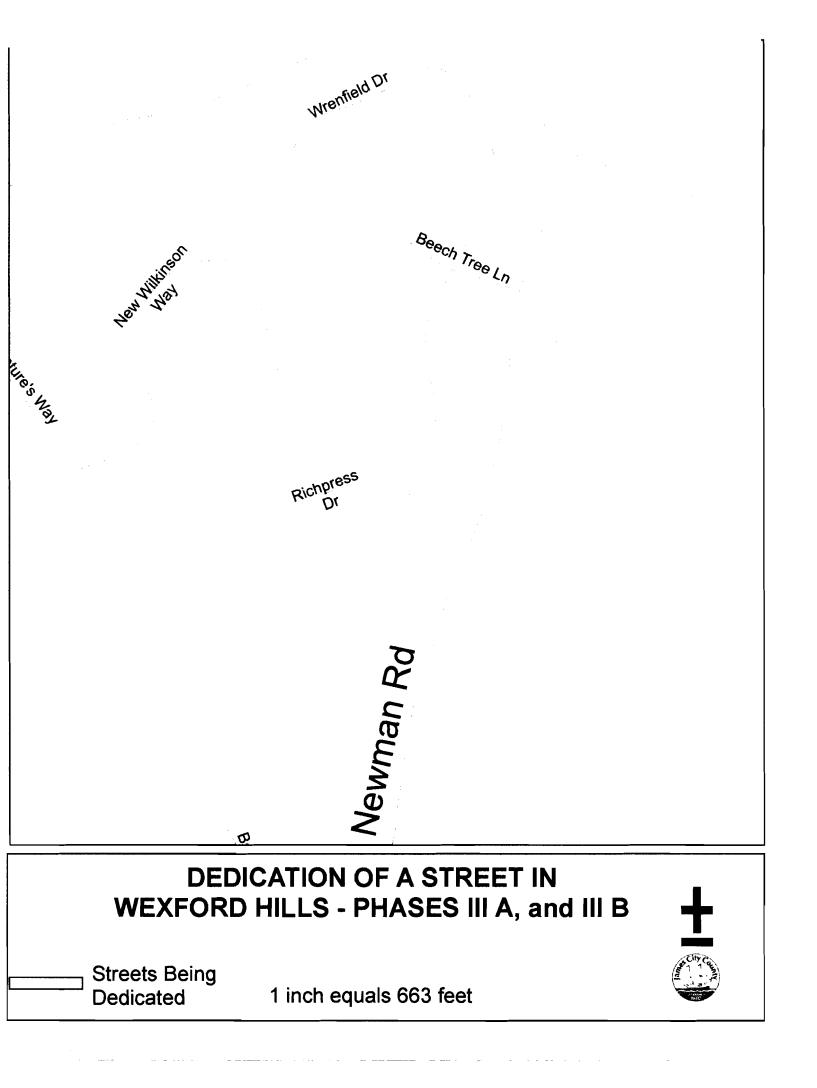
John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

StWexfordHills.res



# **MEMORANDUM**

| DATE:    | October 9, 2007   |
|----------|---|
| TO:      | The Board of Supervisors  |
| FROM:    | John E. McDonald, Manager, Financial and Management Services  |
| SUBJECT: | Ordinance to Amend James City County Code Chapter 20, Taxation, to Change Assessment<br>and Appeal Dates and Changes to the Criteria for the Elderly and Disabled Tax Exemption |

Attached are two ordinance amendments that would, if adopted, implement two amendments to the County Code.

The first would change the date of valuation for the assessment of real property from July 1 of each year to January 1 of each year. This change would begin on January 1, 2008.

The attached amendment includes changes in dates needed to implement a calendar year landbook. One date change moves the deadline for the receipt of applications for land-use taxation from May 1 of each year to November 1. For the first year of this change, applications accepted for the July 1, 2007, assessment date will be used for land-use valuations for January 1, 2008.

The second ordinance amendment increases the maximum household income qualifying for tax relief for elderly and permanently disabled property owners from \$35,000 to \$40,000 and increases the tax exemption from taxes due on the first \$100,000 of value to those due on the first \$110,000. These changes will become effective for fiscal year 2009 tax billings.

Staff recommends approval of the attached ordinance amendments.

John E. McDonald

CONCUR:

JEMD/nb AmendCntyCode.mem

Attachment

#### ORDINANCE NO.

#### , BY AMENDING ARTICLE I, IN

GENERAL, SECTION 20-4, ASSESSMENT OF NEW BUILDINGS AND COMPUTATION OF TAX THEREON; WHEN PENALTY ACCRUES FOR NONPAYMENT; SECTION 20-7.1, LAND USE ASSESSMENT; AND SECTION 20-7.2, REFUND OF LEVIES ERRONEOUSLY PAID; BY AMENDING ARTICLE II, EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES, SECTION 20-10, QUALIFICATIONS FOR EXEMPTION; AND SECTION 20-11, AMOUNT OF EXEMPTION; ARTICLE VI. REAL ESTATE ASSESSMENT, SECTION 20-27, ANNUAL ASSESSMENT AND REASSESSMENT OF REAL ESTATE; SECTION 20-27, WHEN REAL PROPERTY TAXES DUE AND PAYABLE; AND SECTION 20-28, DEADLINE FOR APPEAL OF ASSESSMENT TO DEPARTMENT OF REAL ESTATE ASSESSMENT AND BOARD OF EQUALIZATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Article I, In General, Section 20-4, Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment; Section 20-7-1, Land use assessment; and Section 20-7.2, Refund of levies erroneously paid; by amending Article II, Exemption of Certain Persons from Real Estate Taxes, Section 20-10, Qualifications for exemption; and Section 20-11, Amount of exemption; Article VI. Real Estate Assessment, Section 20-27, Annual assessment and reassessment of real estate; Section 20-27.1, When real property taxes due and payable; and Section 20-28, Deadline for appeal of assessment to department of real estate assessment and board of equalization.

Ordinance to Amend and Reordain Chapter 20. Taxation Page 2

Chapter 20. Taxation

#### Article I. In General.

# Sec. 20-4. Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment.

The board of supervisors hereby resolves that all new buildings substantially completed or fit for use and occupancy prior to May 1 November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the commissioner of the revenue department of real estate assessments of the county shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and the tax upon the assessment of such new building as it existed on July January 10f that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this section after March September 1 of any year, the penalty for nonpayment by June December 5 shall be extended to August February 5 of the succeeding year.

State law reference-Similar provisions, Code of Va., § 58.1-3292, § 58.1-3274.

#### Sec. 20-7.1. Land use assessment.

The County of James City declares that the preservation of real estate devoted to agricultural or horticultural uses within its boundaries is in the public interest; and therefore, such qualifying real estate shall be taxed in accordance with the provisions of article 4 of chapter 32 of title 58.1 of the Code of Virginia, 1950, as amended, (hereinafter referred to as the Code) and pursuant to the terms of this section.

(1) Application by property owner of any real estate:

- a. The owner, as defined in section 58.1-3234 of the Code, meeting the criteria set forth in sections 58.1-3230 and 58.1-3233 of the Code, may on or before May November 1 of each year apply to the commissioner of the revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use under the procedures set forth in section 58.1-3236 of the Code. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue.
- b. Each application shall be accompanied by a fee of \$10.00 per parcel plus \$0.10 per acre or portion thereof contained in such parcel. For purposes of this paragraph, contiguous parcels owned by the same applicant or applicants shall be treated as a single application.
- c. A separate application shall be filed for each parcel listed in the land book.

d. No fee shall be levied for those reapplications by the same owner made in subsequent years for property previously processed under this section.

#### Sec. 20-7.2. Refund of levies erroneously paid.

A refund of any payment made due to an erroneous assessment shall bear interest in the amount of ten percent per annum commencing the first day of the month following the month in which such taxes are due or in which such taxes are paid, whichever is later, but in no event prior to July 1, 1999. For the purposes of this paragraph, an erroneous assessment shall mean an assessment that a taxpayer can demonstrate, by clear factual evidence, that he or she was not subject to such assessment for the year in question. No interest shall be paid if the refund is ten dollars or less or if the refund is the result of proration pursuant to section 58.1-351.6 of the Code of Virginia.

Article II. Exemption of Certain Persons from Real Estate Taxes.

#### Sec. 20-10. Qualifications for exemption.

Such exemption may be granted for any year following the date that the head of the household and/or his or her spouse occupying such dwelling, to include permanently sited mobile or manufactured homes, as defined in section 36-85.3 Code of Virginia, 1950, and owning title or partial title thereto, becomes permanently and totally disabled or reaches the age of 65 and in addition:

(a) The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed \$35,000.00 \$40,000.00; provided, that the first \$6,500.00 of income of each relative, other than spouse, of the owner or owners who is living in the dwelling shall not be included in such total; and

(b) The net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding ten acres, upon which it is situated does not exceed \$200,000.00.

#### Sec. 20-11. Amount of exemption.

Any person or persons qualifying under section 20-10 shall be exempt from real estate taxes in an amount not to exceed the annual real estate tax rate multiplied by the first \$100,000.00 \$110,000.00 of assessed real estate value.

#### Article VI. Real Estate Assessment

#### Sec. 20-27. Annual assessment and reassessment of real estate.

Pursuant to section 58.1-3253 of the Code of Virginia, 1950, as amended, there shall be an annual assessment and reassessment and equalization of assessments of all real estate in the county, such real estate to be assessed as of July 1 of each year January 1 of each year, beginning January 1, 2008.

State law reference-Code of Va., §58.1-3011 3010.

#### Sec. 20-27.1. When real property taxes due and payable.

County taxes on real property shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such taxes are assessed and the other installment shall be due and payable on or before December fifth of the year such taxes are assessed. There shall be a half year installment payment due on June 5, 1998, based on the January 1, 1997, assessment. This section shall not be construed to prohibit the payment of the whole of any taxes levied against any taxpayer in one lump sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof shall be paid therewith.

State law reference-Code of Va., §58.1-3916.

Sec. 20-28. Deadline for appeal of assessment to department of real estate assessment and board of equalization.

Any property owner or lessee of real property in the county shall have the right to appeal any assessment thereof to the county's department of real estate assessment at any time prior to August *February* 1 of the year for which the assessment was made or 30 days after the mailing date of the assessment notice, whichever is later. Any appellant remaining unsatisfied with the action taken on appeal may further appeal to the county's board of equalization by making application at any time prior to September *March* 1 of the year for which the assessment was made or 30 days after the deadline for review by the county's department of real estate assessment, whichever is later. Any appeal not timely filed shall not be considered.

State law reference-Code of Va., §58.1-3378.

Ordinance to Amend and Reordain Chapter 20. Taxation Page 7

> John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

Chp20-4\_ord

# AGENDA ITEM NO. <u>F-2</u> SPECIAL USE PERMIT-0012-2007. Verizon Tower Co-location - Brick Bat Road Staff Report for the October 9, 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.

| <b>PUBLIC HEARINGS</b><br>Planning Commission: | Building F Board Room; County Government Complex<br>May 2, 2007 (applicant deferred)<br>June 6, 2007 (applicant deferred)<br>July 11, 2007 (applicant deferred)<br>August 1, 2007 (applicant indefinite deferral)<br>September 12, 2007, 7:00 p.m. |
|--|--|
| Board of Supervisors:                          | October 9, 2007, 7:00 p.m.   |
| SUMMARY FACTS<br>Applicant:                    | Ms. Jessica Wright, Verizon Wireless   |
| Land Owner:                                    | Ms. Donna M. Morgan  |
| Proposal:                                      | To construct a 14-foot extension on an existing 185-foot tower-mounted wireless communication facility   |
| Location:                                      | 3470 Brick Bat Road  |
| Tax Map/Parcel No.:                            | 4420100018   |
| Parcel Size:                                   | 8.083 acres  |
| Existing Zoning:                               | A-1, General Agricultural  |
| Comprehensive Plan:                            | Rural Lands  |
| Primary Service Area:                          | Outside  |

# **STAFF RECOMMENDATION**

Staff finds the proposal with the attached conditions to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve this special use permit (SUP) application for the Verizon Tower Co-location on Brick Bat Road with the attached conditions.

Staff Contact: Leanne Reidenbach, Planner Phone: 253-6685

# PLANNING COMMISSION RECOMMENDATION

At their meeting on September 12, 2007, the Planning Commission recommended approval by a vote of 7-0.

# Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

# **PROJECT DESCRIPTION**

Ms. Jessica Wright, Verizon Wireless, has applied for an SUP to add a 14-foot extension to an existing 185foot tower-mounted wireless communication facility (WCF). The height of the existing tower structure has been certified (see Attachment No. 4). The extension will result in a total height of 199 feet. The property is located at 3470 Brick Bat Road. The purpose of the extension is to allow co-location of one additional antenna array on the existing American Tower. Communications towers over 35 feet require an SUP in the A-1, General Agricultural, District. On January 27, 1998, the Board of Supervisors approved JCC Case No. SUP-11-96, which permitted two towers on this site with maximum heights of 185 feet each. The extension of any existing tower on this site also requires an SUP. There is currently James City County equipment located on the tower at 183 feet, which is no longer in use by the County. If this were to be removed, Verizon would be able to locate at this height without extending the tower. Furthermore, there is additional space for one more co-location on the existing tower at a lower height without the removal of County equipment.

The applicant previously requested an extension of 30 feet, which would have resulted in a 215-foot lighted tower but has since lowered the requested height to below 200 feet to avoid the need to add lighting.

Verizon Wireless has expressed that this application is the result of feedback from customers regarding inadequate coverage in the area. The applicant has also noted that the extension will provide more reliable "in-home" coverage to customers in Governor's Land. The Governor's Land Foundation was contacted regarding the proposal and provided a letter of support for the application (see Attachment No. 11).

# PUBLIC IMPACTS

# **Environmental**

Watershed: Gordon Creek

**Staff Comment:** The Environmental Division has no comments at this time given the limited impact of this project.

# **Public Utilities and Transportation**

The extension of the existing WCF would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area.

# Visual Impacts

To simulate the proposed height of the tower extension, the applicant conducted a publicly advertised balloon test at a height of 215 feet on April 10, 2007. A balloon test was also held at the same height on November 17, 2005, as part of the pre-application process. A third publicly advertised balloon test was conducted at the new proposed height of 199 feet on August 21, 2007. Staff's observations from the third test are outlined below and on the photo location map (Attachment No. 10) and associated pictures (Attachment No. 9).

Due to surrounding topography and wooded buffers on Brick Bat Road and Route 5, the tower was not extremely visible from either road, aside from directly in front of the tower site on Brick Bat Road. Staff has proposed Condition No. 9 to prune and maintain the buffer at the front of the property line to more effectively screen the visual impact of the tower from Brick Bat Road.

The balloon was not visible at the 199-foot height along the Route 5 corridor; however, there was a short area along Route 5 approximately 600 feet from the entrance to Governor's Land where the balloon was slightly visible at the 215-foot height. This may have been due to differences in seasonal tree coverage in addition to the lower height. Wooded areas served to screen the majority of the view; however, the majority of these wooded areas are on adjacent properties rather than on the same site as the tower. Staff has proposed Condition No. 10 to ensure that existing small pine trees are left undisturbed in order to create a mature tree buffer on-site.

Governor's Land itself is relatively low-lying in comparison to the tower site and the balloon was not visible within the development.

At the intersection of Route 5 and Monticello Avenue, the balloon was visible through the wooded buffer at a distance of approximately 0.5 miles from the site.

At the Pet Resort at Greensprings, which is approximately 0.3 miles off Monticello Avenue, the existing tower and balloon were extremely visible above the tree line from most areas on the property. The balloon height in the August test was skewed by wind but the extension would be visible from the property regardless of the height. During the balloon test, staff spoke with the property owner who did not express any reservations with the existing tower or the proposed extension.

At the entrance to the Greensprings West subdivision at the intersection of Manor Gate Road and Centerville Road, the balloon was slightly visible but the existing towers could not be seen (see Photo 3 on Attachment No. 9). The intersection is approximately 1.2 miles from the tower but is situated on a small hill. Staff does not feel that the balloon in this instance was representative of what Greensprings West residents will be able to see due to the fact that at the higher height (215 feet) the balloon was only visible during the February test. Due to this discrepancy, staff feels that the balloon may have been flying at a height higher than 199 feet for this test. To verify height and visual impacts, staff also used the existing County whip antennas located on the tower, which are approximately 20 feet high as a guide. The extension will be approximately the same height as the existing whip antennas, which are to be removed with Condition No.1. These whip antennas were not visible from Greensprings West.

# Federal Aviation Administration (FAA) requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) must be marked and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and with paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium intensity white strobe lighting during the day. Because this extension would be less than 200 feet, a marking system would not be required by the FAA.

# **COMPREHENSIVE PLAN**

#### Land Use Map

| Designation | Rural Lands (Pages 119-120): Land uses in this designation are located outside the Primary Service       |
|-------------|--|
|             | Area (PSA) and include farms, forests, scattered houses, and appropriate accessory uses.                 |
|             | Appropriate primary uses include agricultural and forestal activities, together with certain             |
|             | recreational, public, or semi-public and institutional uses that require a spacious site and are         |
|             | compatible with the natural and rural surroundings.  |
|             | A few of the smaller direct agricultural or forestal-support uses and certain uses which require very    |
|             | low-intensity settings relative to the site in which it will be located may be considered on the a case- |
|             | by-case basis, provided such uses are compatible with the natural and rural character of the area.       |
|             | Staff Comment: There are several wireless communications facilities located in the land                  |
|             | designated Rural Lands throughout the County, including two existing towers on the site in               |
|             | question. Staff believes that since the tower with the extension is not required to be lighted and       |
|             | would minimally add to the existing towers visibility, it is consistent with the rural character of the  |
|             | surrounding area.  |

| Development              | Rural Land Use Standard No. 1 - Page 135: Preserve the natural, wooded, and rural character of the  |
|--------------------------|---|
| Development<br>Standards | County. Particular attention should be given to locating structures and uses outside of sensitive areas; maintaining existing topography, vegetation, trees, and tree lines to the maximum extent possible; discouraging development on farmland, open fields, and scenic road vistas; limiting the height of structures to an elevation below the height of surrounding mature trees; utilizing lighting only where necessary and in a manner that eliminates glare and brightness. <i>Rural Land Use Standard No. 2 - Page 135</i> : Site non-agricultural/non-forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/forestal uses, open fields, and important agricultural/forestal soils and resources. Sufficiently screen such uses to |
|                          | preserve open spaces and rural character and to minimize visual impact from public roads.   |
|                          | <b>Staff Comment:</b> The proposal is for a tower extension rather than a new tower, which serves to  |
|                          | concentrate the use on a single existing site rather than clearing additional land or creating  |
|                          | additional visual impacts. This serves to preserve other open space and due to its small size, staff  |
|                          | finds that this use does not interfere with surrounding forestal activity. This is further promoted by  |
|                          | Condition Nos. 9 and 10, which promote the preservation of undisturbed areas on-site and increase landscaped buffering. The reduction in height of the extension negates the need for lighting and  |
|                          | brings the tower height more into alignment with heights of existing mature trees when viewed from  |
|                          | off-site. As discussed above, there is anticipated to be a limited visual impact on Brick Bat Road  |
|                          | and Route 5 due to the existing mature tree buffer but the balloon was visible from points along  |
|                          | Monticello Avenue, a portion of Greensprings West, and some adjacent properties.  |
| Goals,                   | <i>Goal No. 3 - Page 138:</i> Enhance and preserve farm and forestal lands and the predominantly  |
| strategies and           | wooded, natural, and small-town character of the County.  |
| actions                  | Strategy No. 2 - Page 138: 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.  |
|                          | Staff Comment: As stated above, the proposal is for an existing site and so does not involve any  |
|                          | additional land clearing and so will not interfere with the preservation of farm or forested land.  |
|                          | Access to the site continues to be limited to one driveway designed in a way to reduce  |
|                          | views of the tower from Brick Bat Road.   |

# **Community Character**

| General | Wireless Communications Facilities - Page 94: In 1998, the increasing need for new wireless communications facilities prompted the County to establish Performance Standards for Wireless |
|---------|---|
|         | Communication Facilities and add a new Division in the Zoning Ordinance to address them. The  |
|         | decision to regulate WCFs stemmed from the intent of the County to:   |
|         | - Protect health, safety, and general welfare of the community;   |
|         | - Preserve the aesthetic quality of the community and its landscape;  |
|         | - Protect property values;  |
|         | - Protect the historic, scenic, rural, and natural character of the community;  |
|         | - Minimize the presence of structures that depart from existing and future patterns of development, especially in terms of scale, height, site design, character, and lighting;           |
|         | - Provide for adequate public safety communications; and  |
|         | - Allow the providers of WCFs to implement their facilities in a manner that will fulfill these purposes, encourage their co-location, and allow them to fulfill their Federal            |
|         | Communications commission licenses.   |
|         | Staff Comment: Staff strongly encourages co-location options in order to mitigate impacts to  |
|         | additional land. The 14-foot extension would be compatible with existing tree buffer and wooded   |
|         | areas on adjacent properties serve to further screen the view of the towers from Community Character  |
|         | Corridors such as Route 5.  |

# **Comprehensive Plan Staff Comments**

Overall, staff feels that this application, as proposed, is in general compliance with the Comprehensive Plan. The limited nature of this project helps to limit the impact it has on open space and farmlands and co-location eliminates the need to disturb and potentially increase the impacts at an additional site.

# PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (see Attachment No. 1). Please note that when the original SUP for the two existing towers on this site was approved in January 1998, the Performance Standards Policy had not yet been adopted by the Board of Supervisors.

Section 24-124 of the Zoning Ordinance states that "In considering an application for a special use permit for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the 'Performance Standards for Wireless Communications Facilities'.... In general, it is expected that all facilities should substantially meet the provisions of these performance standards."

These performance criteria note that tower mounted WCFs should be located and designated in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County's ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers requiring an SUP have substantially met these standards, including those pertaining to visibility.

# A. Co-location and Alternatives Analysis

Standard A1 encourages co-location. Since this extension is a co-location on an existing tower and eliminates the need for constructing a new tower, staff feels this meets the co-location standard.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regard to demonstrating the necessity for the tower, the applicant submitted propagation maps, based on outside cellular coverage for no antenna and location at heights of 185 and 199 feet (see Attachment Nos. 6, 7, and 8). The applicant has expressed that the extension proposal stemmed from service complaints of customers in the Governor's Land development regarding their "in-house" coverage. The applicant has indicated that, while not ideal, the lower tower extension height will supply additional coverage to this area.

Staff feels that all alternatives, including locating on the tower at a lower height and erecting a new tower within the Governor's Land development, have been adequately explored and that a 14-foot extension is the most viable option.

Standard A3 does not pertain to this application, as there are already two existing towers on the site.

Standard A4 regarding allowance of future service providers to co-locate on the tower extension is addressed at the site plan stage through requirements in Section 24-128(3) of the Zoning Ordinance.

# B. Location and Design

Performance Standard B1(1) states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. Staff finds that a tower extension in this location and at the proposed height is generally compatible with surrounding existing structures and feels that this standard has been adequately met and supplemented by the attached conditions.

Performance Standard B1(2) states that towers should be located in a manner to protect the character of scenic resource corridors, historic and scenic resource areas, and viewsheds. Staff finds that the proposal may be partially visible from multiple locations, including Monticello Avenue, Route 5, and Greensprings West. Both Monticello Avenue and Route 5 have been designated Community Character Corridors. The applicant has proposed to co-locate on an existing tower rather than constructing a separate tower closer to the target service area (Governor's Land). Co-location is preferable to the construction of a new freestanding tower and could better serve to protect the viewshed from Route 5. Staff feels that the increase in tower height will not adversely affect the towers' visual impacts on nearby scenic resources. Furthermore, Condition No. 8 specifies that a copy of the report submitted to the Virginia Department of Historic Resources in fulfillment of Section 106 of the Historic Preservation Act be submitted to the Planning Division for approval. This review will ensure that historic resources are not negatively impacted by the extension.

Performance Standard B2 states that for areas designated Rural Lands that are within 1,500 feet of the tower, the design should be camouflaged or result in minimal intrusion on residential areas, historic and scenic resource areas or roads in such areas, or scenic resource corridors. The upper portions of both existing towers are clearly visible from the Pet Resort at Greensprings, which is less than 1,500 feet from the tower, and does not currently meet this standard.

For Rural Lands more than 1,500 feet from the tower, no more than the upper 25 percent of the tower should be visible. The majority of the existing tower may be visible from Route 5 and Monticello Avenue when there is little foliage on the trees, however, this provision is satisfied for Governor's Land and Greensprings West.

Performance Standard B3 states that towers should be less than 200 feet to avoid lighting. This application meets this standard.

Performance Standard B4 states that towers should be freestanding and not supported by guy wires. This application meets this standard.

#### C. Buffering

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot-wide wooded buffer around the base of the tower and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

Staff finds that while there is not a 100-foot wooded buffer around the tower sites, the application meets the standard as best as possible as it was originally approved prior to the adoption of these Standards. The site is wooded along Brick Bat Road and along the side and rear property lines. The existing tower base and associated equipment sheds are only visible from the approximately 530-foot access drive. However, it is also important to note that a significant amount of the wooded buffers exist on adjacent properties. The side property line to the north has about a 58-foot wooded buffer along its length but the adjacent property is also significantly wooded. The side property line to the south does not have significant buffer, but again, the adjacent parcel is partially wooded. The rear of the lot has an approximately 50-foot buffer. The 122-acre lot adjacent to the rear of the tower site extends to Route 5 and is entirely wooded. In this respect, it is important to consider that additional development on any of these adjacent properties may result in a reduction of the existing buffer and increased visibility of the towers. Condition No. 10 proposes to further maintain on-site areas adjacent to the side and rear property lines as undisturbed natural areas to promote the growth of an additional buffer.

# RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve this SUP application for the Verizon Tower Colocation on Brick Bat Road with the attached conditions. Please note that Condition Nos. 11 through 18 are conditions that were placed on the original SUP to permit the towers.

Leanne Reidenbach

CONCUR:

O. Marvin

LR/gs Sup0012-2007

#### ATTACHMENTS:

- 1. Unapproved minutes from the September 12, 2007, Planning Commission meeting
- 2. Resolution
- 3. Performance Standards for WCFs Policy
- 4. Height certification letter
- 5. Preliminary site plan
- 6. Propagation map showing existing area coverage
- 7. Propagation coverage map with location at 183 feet
- 8. Propagation coverage map with location at 199 feet
- 9. Balloon test photos
- 10. Photo location map
- 11. Governor's Land Foundation letter of support
- 12. Exhibit A

# **RESOLUTION**

#### CASE NO. SUP-0012-2007. VERIZON TOWER CO-LOCATION - BRICK BAT ROAD

- 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, Ms. Jessica Wright of Verizon Wireless has applied for an SUP to allow for a 14-foot extension to a 185-foot wireless communications facility; and
- WHEREAS, the proposed extension is shown on a preliminary site plan, entitled "Brick Bat Co-Location Overall Site Layout," prepared by Kimley-Horn and Associates, Inc., and dated July 26, 2007; and
- WHEREAS, the property is located at 3470 Brick Bat Road on land zoned A-1, General Agricultural, and can be further identified as James City County Real Estate Tax Map/Parcel No. 4420100018; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on September 12, 2007, recommended approval of this application by a vote of 7-0; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of SUP No. 0012-2007 as described herein with the following conditions:
  - 1. Verizon Wireless shall remove and dispose of all remaining James City County (the "County") communications equipment from the tower prior to issuance of a final Certificate of Occupancy. This equipment includes the two transmission lines going from the base of the tower to each of the antennas on top and the two antennas on top of the tower.
  - 2. A maximum of two towers shall be permitted at this site. The towers and supporting equipment shall be located as generally shown on the overall site layout plan, prepared by Kimley-Horn and Associates, Inc., titled "Brick Bat Co-Location Overall Site Layout," and dated July 26, 2007 ("Master Plan").
  - 3. All towers shall have a finish that is gray in color as approved by the Planning Director. Lighting, beacons, and other similar devices shall be prohibited unless required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA). When required by the FCC or FAA, a red beacon light or lights of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA and/or FCC findings shall be provided to the County.

- 4. Maximum height of the tower labeled as "existing 185' self-support tower (to be extended to 199')" ("Tower") on the Master Plan shall not exceed 199 feet from existing grade. Tower height shall include, but not be limited to, all antennas, lightning rods, or other accessories attached to the primary structure of the tower.
- 5. Maximum height of the tower, labeled "existing tower" ("Existing Tower") and which is located furthest from Brick Bat Road on the Master Plan, shall not exceed 185 feet from existing grade.
- 6. Prior to the issuance of a final Certificate of Occupancy by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed with the Planning Division by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.
- 7. Prior to preliminary site plan approval for the improvements shown on the Master Plan, a letter from the current owner of the Tower indicating permission to use the Tower for co-location and to extend the height of the Tower shall be submitted to the Planning Division.
- 8. Prior to preliminary site plan approval for the improvements shown on the Master Plan, a copy of the report submitted to the Virginia Department of Historic Resources ("VDHR") in fulfillment of Section 106 of the Historic Preservation Act shall be submitted to the Planning Division. Evidence that the James City County Historical Commission has reviewed and approved the package must also be submitted prior to preliminary site plan approval. The Planning Director may require the implementation of any recommendations of VDHR and the Historical Commission prior to final site plan approval.
- 9. Prior to the issuance of any Certificate of Occupancy for the Tower, all plantings in the existing landscape buffer along Brick Bat Road shall be pruned (including, but not limited to the removal of all dead wood and vines) to the satisfaction and approval of the Planning Director or his designee.
- 10. A buffer along the Property's entire border with the adjacent parcel located at 3542 Brick Bat Road and further identified as James City County Real Estate Tax Map No. 3540100014B shall be provided and an approximately one acre area between the Existing Tower and the Property's entire border with the parcel located at 2900 Monticello Avenue and further identified as James City County Real Estate Tax Map No. 4420100005 as shown on attached Exhibit A shall remain undisturbed and in its natural state with respect to natural leaf litter or other ground-covering vegetation, understory vegetation or shrub layer, and tree canopy, except as approved by the Development Review Committee.
- 11. All towers shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to the site plan approval.
- 12. A statement from a registered engineer that NIER (Nonionizing Electromagnetic Radiation) emitted from any equipment on or serving the facility does not result in a ground-level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute shall be submitted prior to preliminary site plan approval.

- 13. Towers shall be located at 3470 Brick Bat Road, further identified as James City County Real Estate Tax Map No. 4420100018 ("Property") in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. Access drives shall be designed in a manner that provides no view of the tower's base or related facilities. A minimum buffer of 100 feet in width shall be maintained around the tower. Where existing vegetation on the site is not of sufficient depth to provide this buffer, enhanced landscaping shall be provided within the 100-foot buffer area. A screening and landscaping plan for the enhanced buffer shall be provided for approval by the Planning Director or his designee prior to final site plan approval.
- 14. A final Certificate of Occupancy shall be obtained from the James City County Codes Compliance Division within one year of approval of this SUP, or the permit shall become void.
- 15. The towers shall be freestanding and shall not use guy wires for support.
- 16. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material to those generally used on a single-family residence, including the use of a gable or shed roof, and shall be approved by the Planning Director prior to final site plan approval.
- 17. The fencing used to enclose the lease area shall be vinyl-coated and shall be dark green or black in color. Any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.
- 18. 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:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

Sup0012-2007.res

# UNAPPROVED MINUTES OF THE SEPTEMBER 12, 2007 MEETING OF THE PLANNING COMMISSION

# SUP-12-07 Verizon Co-location at Brick Bat Road

Ms. Leanne Reidenbach presented the staff report stating that Ms. Jessica Wright of Verizon Wireless, has applied for a special use permit to construct a 14 foot extension on an existing 185 foot tower, for a total height of 199 feet. The purpose of the extension is to allow co-location of one additional antenna array on the existing American Tower. The property is located at 3470 Brick Bat Road, is zoned A-1, General Agriculture, and designated as Rural Lands by the Comprehensive Plan. Staff noted that conditions #1, 4, and 6 had been amended for clarification since the staff report was written. Staff recommends that the Planning Commission recommend approval of this application with the amended conditions to the Board of Supervisors.

Ms. Sowers stated that changes to conditions #4 and #6 resulted from a discussion the previous evening at the Board of Supervisors' meeting.

Ms. Hughes asked for comments and/or questions from the Commissioners.

Ms. Billups questioned whether the County is allowed to establish its own lighting system for towers in the County for safety purposes.

Mr. Kinsman answered that if it is safety related the County may be able to do it, but generally these kinds of things are the domain of the FAA. He was not sure if the FAA would allow the County to develop their own set of standards. The concern would be that lightening would increase the visual impact of the tower.

Ms. Sowers stated that there is a Board policy provision stating a clear preference that towers specially not be lighted. Staff spent a great deal of time to get this tower to a specific height that would no require light. Staff's policy is consistent with FAA safety regulations that towers under 200 feet not be lighted.

Ms. Hughes opened the public hearing.

Mr. Steve Romine, an attorney with LeClair Ryan, spoke on behalf of the applicant Verizon Wireless. Mr. Romine gave an overview of the cell phone industry. He stated that Verizon first looks to co-locate before erecting any new towers. Mr. Romaine showed the existing coverage area and also the area where no or unreliable coverage exists. Originally the application requested a 30 foot extension to the tower. In working with staff and realizing the sensitivity of the Route 5 corridor, the tower height was reduced to 199 feet. Mr. Romine showed photographs of different locations and what the tower visibility was. He did reiterate that 95% of the time the tower would not visible. These pictures were actually taken in the 5% area where it would be visible. Mr. Romine stated his belief that this application meets all County regulations stated in the Ordinance. Verizon has agreed to all conditions given by staff. Mr. Romine requested

the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Obadal questioned what kind of assurance the County would have that this tower will be 199 feet.

Mr. Romine stated that Verizon has agreed to have a certified engineer verify the height as part of the conditions of this application.

Mr. Obadal stated that the applicant would be responsible for lowering the tower if it is too high.

Mr. Romine stated yes it would be the applicant's responsibility.

Ms. Jones stated that if there is an accurate measurement on the existing tower it would assist in making sure that when adding additional feet it would make it consistent with the application.

Mr. Fraley asked how the County knows the tower's current height. He stated that is was suggested by the Board of Supervisors during a discussion on cell towers that staff somehow verify the height of structures currently in the County. Mr. Fraley stated that he did not have confidence on the accuracy of the current towers and their heights.

Mr. Sowers stated that staff is taking it under consideration.

Ms. Hughes asked if the height of the existing tower been certified.

Mr. Romine said it was certified by an engineer to be 185 feet.

Mr. Sowers stated that prior to obtaining a final Certificate of Occupancy the applicant will have to prove correct height. Staff will work with the applicant to have these measures in place.

Ms. Jones stated that the concern is to not go over by 1 foot which would trigger FAA Regulations.

Mr. Sowers stated that there was a case where staff did measure by dropping a tape but that it was a proposed site not a current one.

Mr. Obadal asked the applicant if there was any alternative technology to the use of towers themselves.

Mr. Romine stated that at one time low flying satellites were used but were not very effective. His best estimate is that cell towers are expected to be used for the next 25 to 30 years. One type of technology, Distributed Antenna System (DAS), can be used but are more effective in a more urban environment. They are very costly though.

Mr. Fraley asked if DAS was operating in Canada or Rhode Island.

Mr. Romine did not know.

Mr. Fraley asked if there were any photos available that were taken in the winter since the towers may be more visible at that time.

Ms. Sowers stated that staff did take some pictures during that time period but did not have them present.

Mr. Fraley wanted the citizens to be aware of the difference.

Mr. Romine did have some photos available that were taken in February at the original proposed height (215 feet).

Ms Hughes asked about the height of the tower in Charles City. She questioned whether that one could be extended or if it would be possible to modify that tower to achieve the goals of this application.

Mr. Romine stated that extending the tower in Charles City would not be effective because of the distance. There was not enough energy to power the gap.

Mr. Obadal questioned whether there were any indications that there were users on the other tower.

Mr. Romine stated that yes there are other carriers. The tower on the right will handle two carriers, possibly a third. The conditions of this application were to remove the facilities no longer being used by the County before extending the tower. Mr. Romine stated that American Tower owns these towers and Verizon is just renting the space.

Mr. Joseph Chauvin, 3542 Brick Bat Rd, has been a resident of the area since 1997. He stated that when these towers were first built he received no notification, but also indicated that he was not the property owner at the time of their original approval. The only notification he has received is with this application. Both of these towers are visible from all angles of his property. Mr. Chauvin has no complaints with coverage at this time. His main concern is the 400 foot residential structure buffer around the tower. He had future plans for other dwellings on the property which may be in that 400 foot buffer and is concerned about the effect. Mr. Chauvin is also concerned the future desirability of his property. He has a home based business so the property is more than just his residence. He is concerned about the assessment value since these towers are visible from all sections of his property. He disputes the picture from Route 5 and feels the tower is very visible in the summer and winter.

Ms Hughes closed public hearing.

Ms. Jones motioned for approval.

Mr. Krapf seconded the motion.

In a roll call vote the application was approved with the amended conditions. (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes

Mr. Fraley asked for comments from Mr. Sowers concerning the 400 foot buffer.

Mr. Sowers suggested the applicant contact Ms. Reidenbach to obtain more information. This tower was built before the wireless communication facility section of the Ordinance was created. Mr. Sowers was not sure what the collapse radius is, but staff will obtain that information and make it available to Mr. Chauvin.

Mr. Obadal suggested that maybe some plantings could be incorporated in application to address Mr. Chauvin's concerns.

Mr. Sowers stated there was an additional buffer attached to this Special Use Application. However, all plantings required are on the applicant's property.

Mr. Obadal suggested that maybe as a "good neighbor" incentive the applicant might be able to provide extra trees what might help with the visibility issue.

Mr. Sowers said staff will investigate further with the applicant.

## PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES MAY 26,1998

In order to maintain the integrity of James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, tower mounted wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

## A. Collocation and Alternatives Analysis

- 1. Applicants should provide verifiable evidence that they have cooperated with others in colocating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
- 2. Applicants should demonstrate the following:

- a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
- b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.
- c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
- 3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
- 4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

#### B. Location and Design

1. Towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be

- 1 -

consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) Towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the tower would be located; and (2) towers should be located and designed in a manner that protects the character of the County's scenic resource corridors and historic and scenic resource areas and their view sheds.

| Proposed Location of Tower   | Impact Criteria  |  |
|--|--|--|
| a. Within a residential zone<br>or residential designation in<br>the Comprehensive Plan  | Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.  |  |
| b. Within a historic or<br>scenic resource area or<br>within a scenic resource<br>corridor   | Use a camouflaged design or have minimal intrusion on to<br>residential areas, historic and scenic resources areas or roads in<br>such areas, or scenic resource corridors.  |  |
| c. Within a rural lands<br>designation in the<br>Comprehensive Plan  | For areas designated rural lands in the Comprehensive Plan<br>that are within 1,500 feet from the tower, use a camouflaged<br>design or have minimal intrusion on to residential areas,<br>historic and scenic resources areas or roads in such areas, or<br>scenic resource corridors.<br>For rural lands more than 1,500 feet from the tower, no more  |  |
|  | than the upper 25% of the tower should be visible.   |  |
| d. Within a commercial or  | Use a camouflaged design or have minimal intrusion on to   |  |
| in an industrial designation<br>in the Comprehensive Plan  | residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.   |  |
| proposed tower is only<br>Comprehensive Plan of<br>subdivision or which is<br>golf course or a golf co<br>or utility easements, pu<br>scenic easement.   | teria may be made on a case by case basis where the impact of the<br>on the following areas: (1) An area designated residential on the<br>r zoning map which is not a logical extension of a residential<br>a transitional area between residential and nonresidential uses, (2) a<br>ourse and some combination of commercial areas, industrial areas,<br>rovided the tower is located on the golf course property, or (3) a<br>minimal intrusion criteria if it is not visible off site above the tree line. |  |
| <ol> <li>A lower with meet the minimal intrusion criteria if it is not visible off site above<br/>Such tower should only be visible off-site when viewed through surrounding tre<br/>shed their leaves.</li> <li>Camouflaged towers having the design of a tree should be compatible in scale i</li> </ol> |  |  |
| with surrounding natu  | ral trees or trees native to Eastern Virginia.   |  |

2. Towers should be located and designed consistent with the following criteria:

3. Towers should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the tower from residential areas and public roads are very limited. At a minimum, towers 200 feet or more in height should exceed the location standards listed above.

4. Towers should be freestanding and not supported with guy wires.

- 2 -

# C. Buffering

- 1. Towers should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower base or related facilities.
- 2. Towers should be buffered from adjacent land uses and public roads as much as possible. The following buffer widths and standards should be met:
  - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the WCF.
  - b. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.



| 1 | 854 Verification<br>Revised: 02/12/98   | SCANNED<br>854 |
|---|---|----------------|
| 1 | Site: <u>Governors Landing Cellular</u> or Paging   |                |
|   | Street Address: <u>3/4 mile Northeast of RT 5 and RT 613 intersection</u>   | _              |
|   | City: <u>Williamsburg</u> State: <u>VA</u>  |                |
|   | Specific MSA/RSA Name: Newport News MSA Region: Mid-Atlantic  |                |
| { | Project Engineer: Scott Kruse ext: 3801   |                |
| 1 | Property: 🛛 Leased 🗌 Owned 🛛 Date property closed: Verified by:   |                |
|   | Structure Information: $\square$ Owned by 360° $\square$ Leased $\rightarrow \square$ Registration received from owner?   |                |
|   | Type of Support Structure:       Self Support       Guyed       Monopole         Other - Be Specific:       Tower on Building         If Other, include height of tallest 360° antenna tip:       Tower on Building   |                |
| 1 | Support Structure Height: 185 feet, AGL (HEIGHT WITHOUT ANY ANTENNAS or OTHER EQUIPMENT)         Filing Data:       New Structure & Transmitter: I         Existing Structure:       Date structure constructed or altered         Coordinate correction       Increase or I         Change in IAGL &/or IAMSL; Overall AMSL       Increase or I         Decrease       Modification of Marking and Lighting         Change of Ownership Information       Increase         Change of Structure address       Initial Registration         Date Dismantled:       //         Initial Registration       Initial window  |                |
|   | If modifying or leased, has an FCC Registration previously been filed?: 🛛 Yes 🗌 No  |                |
|   | If Yes, FCC Tower Registration Number: 1003912 Date Registration Issued:10/22/96           Environmental Assessment:         Would a Commission grant of this application be an action         Yes           which may have a significant environmental effect as defined by Section 1.1307(a) of the         No           Commission's Rules? If "Yes", submit the statement as required by Sections 1.1308 & 1.1311.  |                |
| I | The following documents are attached:       REGULATORY USE ONLY:         NEPA Checklist       Image: Second s |                |
|   | Signatures below verify that all info. contained on attached FCC Form 854 is accurate and current.  |                |

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| Project Engineer: toto func | Date 278/98  |
|-----------------------------|--------------|
|                             |              |
| Senior Project Engineer:    | Date 78/15   |
| Regulatory Termin Pure Cont | Date 4/13/98 |
|                             |              |

cc: Project Engineer. Transmissions Engineer, Regulatory File

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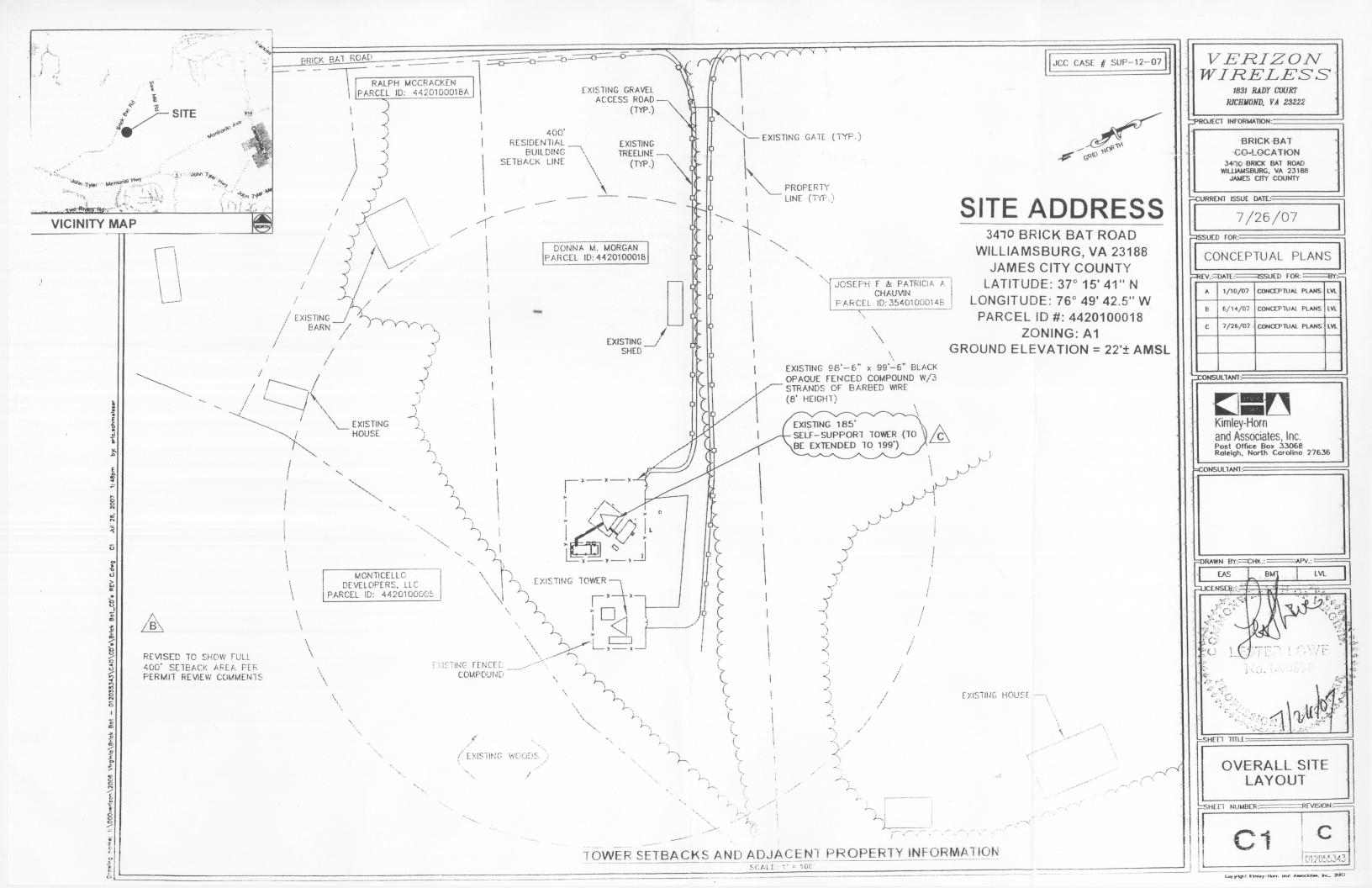
# Market: Newport News MSA Site: Governors Landing

# Metric Conversion Verification 1 foot = 0.3048 meters 1 foot = 0.0003048 kilometers

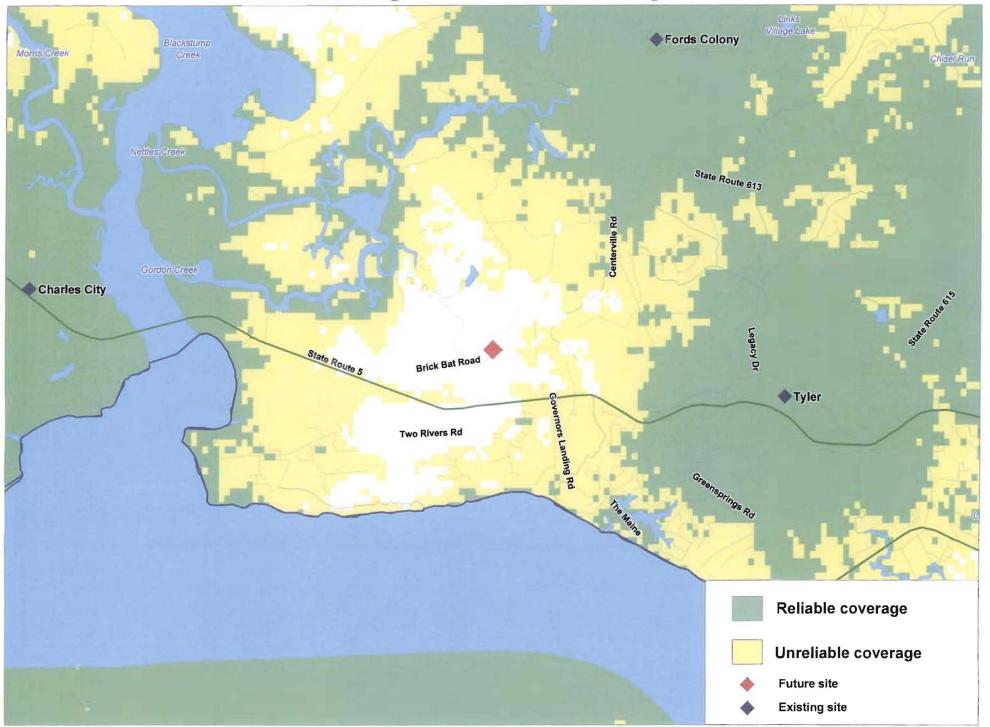
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|  | Feet | Equates to | Meters |
|--|------|------------|--------|
| Elevation of site above mean sea level:            | 22   | A          | 6.70   |
| Height of support structure without appurtenances: | 185  | В          | 56.38  |
| Tx 1 - Transmit antenna centerline                 | 156  |            | 47.54  |
| Tx 2 - Transmit antenna centerline                 | 156  |            | 47.54  |
| Tx 3 -Transmit antenna centerline                  | 156  |            | 47.54  |
| Height of structure including all appurtenances:   | 200  | с          | 60.96  |
| Overall height above mean sea level:               | 222  |            | 67.66  |

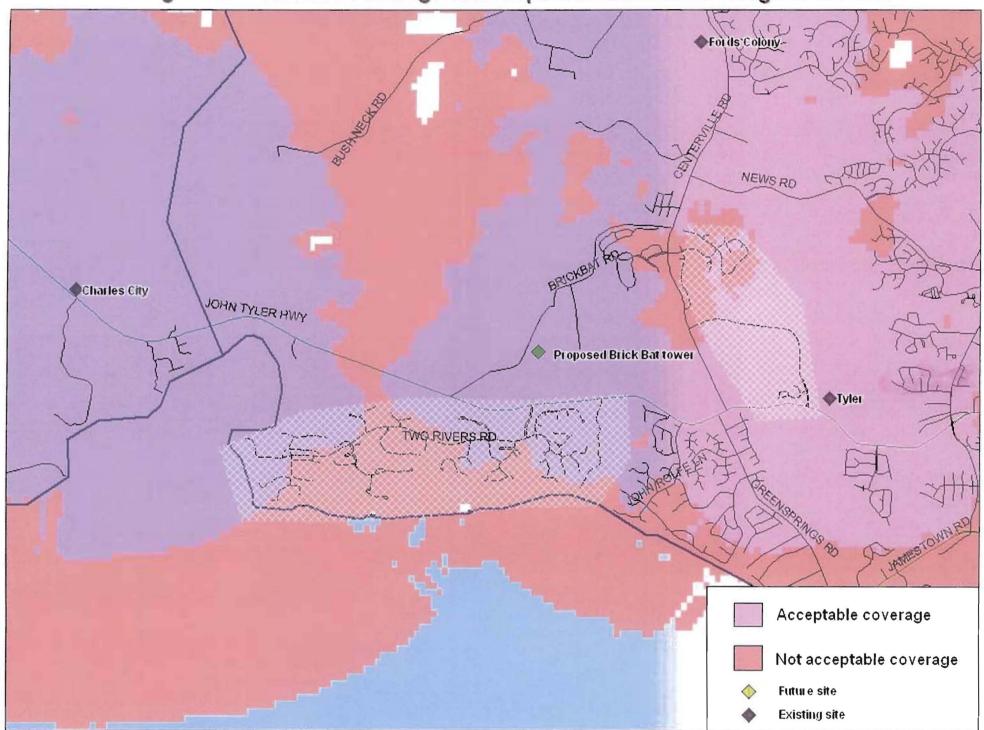
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**Existing Verizon Wireless Coverage** 

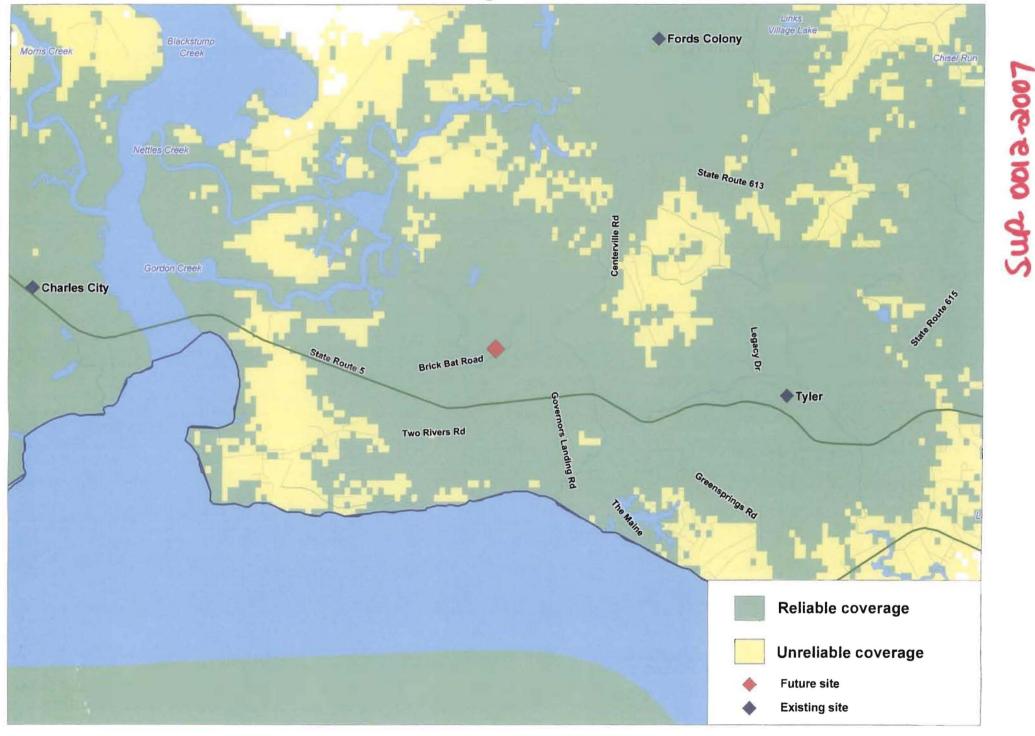


500 - 6012 - 6007



Existing Verizon Wireless Coverage with Proposed Brick Bat Coverage at 183 feet

# Verizon Wireless Coverage with Brick Bat at 195 feet



# Photos from August 21, 2007 Balloon Tests



Photo 1: (A) Pet Resort off of Monticello Avenue

(please note that balloon was not flying at appropriate height in this photo due to wind)

Photo 2: (B) Monticello Avenue near entrance to Pet Resort

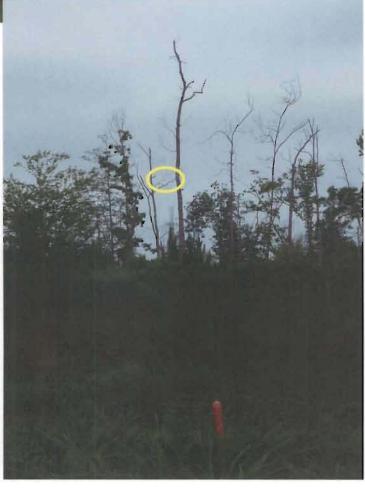
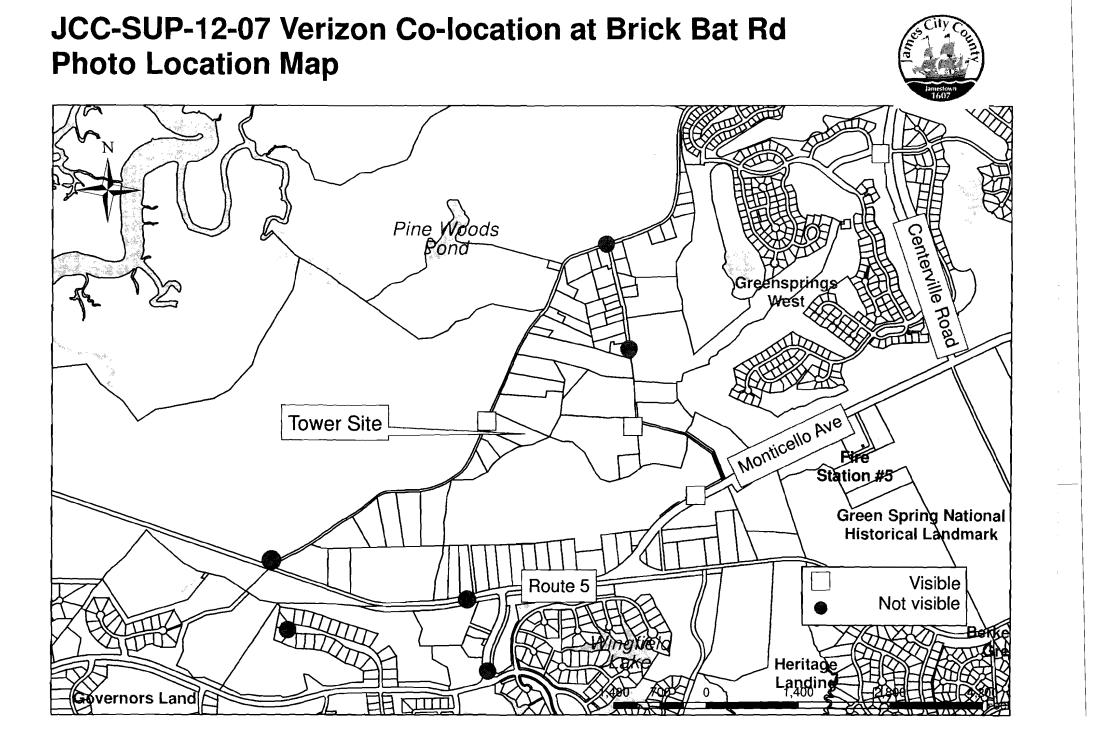




Photo 3: (C) Main entrance of Greensprings West near intersection of Manor Gate Road and Centerville.



# $\sim$ Governor's Land Foundation $\rightarrow$

February 16, 2007

James City County Planning Department 101-A Mount Bay Road Williamsburg, Virginia 23187

Dear Sir or Madam:

The Board of Governor's Land Foundation met with representatives of Verizon Wireless on November 20, 2006 regarding the proposed 30' height extension for the existing American Tower Corporation tower located at 3405 Brick Bat Road. This is to advise you that the Board has no objection to Verizon's requested tower height extension. We believe Verizon's installation will have minimal impact on the surrounding properties and will significantly enhance basic wireless phone coverage and address essential public safety issues for the community.

We respectfully request that you circulate our letter to members of the Planning Commission and Board of Supervisors. Please do not hesitate to call me if you have any questions.

Sincerely,

David R. King General Manager

| 2700 Two Rivers Road | vo Rivers Road Phone (757) 253-6976 |          | Fax (757) 253-0320 |
|----------------------|-------------------------------------|----------|--------------------|
| WILL                 | IAMSBURG,                           | VIRGINIA | 23185              |

# JCC-SUP-0012-2007 Verizon Tower Co-location at Brick Bat Road Exhibit A





# M E M O R A N D U M

| DATE:    | October 9, 2007   |
|----------|---|
| TO:      | The Board of Supervisors  |
| FROM:    | Jason Purse, Senior Planner   |
| SUBJECT: | Toano Revitalization Initiative - Virginia Department of Transportation (VDOT) SAFETEA-<br>LU Grant |

The Toano Revitalization Initiative, a recently formed citizen group from the Toano area, is applying for a Transportation Enhancement Program grant through the Transportation Equity Act (SAFETEA-LU) to continue the ongoing implementation of the Toano Community Character Area Study and Design Guideline recommendations. This project will replace the sidewalk between Toano Drive and Depot Street in Toano. In addition to the sidewalk replacement, the grant will seek funding for urban street furniture and landscaping in key places along this historic section of the Toano Community Character Area.

The Toano Revitalization Initiative is seeking funding through SAFETEA-LU, which would cover up to 80 percent of the cost. The total project cost is estimated to be \$67,000. For legal purposes, VDOT requires that a local governmental authority apply for the grant on behalf of the group requesting the work. Because of this, Virginia Department of Transportation (VDOT) requires that James City County be the body that is ultimately responsible for the 20 percent or \$13,400 match for the project cost and this language is represented in the resolution attached for your consideration. However, the Toano Revitalization Initiative understands that it is responsible for raising the 20 percent match required by VDOT and currently it is seeking funds and in-kind contributions to cover the 20 percent. The group does not expect any additional funds from James City County to cover the 20 percent match.

Staff recommends approval of this grant application with the attached resolution.

| Jason Purse |  |  |
|-------------|--|--|
| CONCUR:     |  |  |

JP/gb SafeteaGrant.mem

Attachments:

- 1. Endorsement letters
- 2. Citizen petition
- 3. Location map
- 4 Streetscape view

# <u>RESOLUTION</u>

# TOANO REVITALIZATION INITIATIVE -

#### VIRGINIA DEPARTMENT OF TRANSPORTATION SAFETEA-LU GRANT

- WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or State agency in order for the Virginia Department of Transportation (VDOT) to program an enhancement project in James City County.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request the Commonwealth Transportation Board to establish a project in 2007 for the Toano Revitalization Initiative sidewalk enhancements for the hiring of an engineer and construction firm to complete improvements between Depot Street and Toano Drive.
- BE IT FURTHER RESOLVED that James City County hereby agrees to pay a minimum 20 percent of the total cost of \$67,000 for this project, and that if James City County subsequently elects to cancel this project, James City County hereby agrees to reimburse VDOT for the total amount of costs expended by the Department through the date the Department is notified of such cancellation.

John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

SafeteaGrant.res

M. Anderson Bradshaw, P.C. Attorneys at Law 7884 Richmond Road P.O. Box 456 Toano, Virginia 23168

M. Anderson Bradshaw Nancy E. Bradshaw Sheppard Telephone: (757) 566-1282 Fax: 566-8807

October 1, 2007

Mr. Michael A. Estes Local Assistance Division, VDOT 1401 East Broad Street Richmond, VA 23219

Dear Mr. Estes:

It is a personal pleasure for me to write to you in support of the Toano Revitalization Initiative (TRI). I say this as a native of the Norge-Toano Community, a resident of James City County, and a local businessman. I also say this because of my personal and professional interactions with the group of dedicated citizens who comprise Friends of Forge Road and Toano. They have spearheaded the implementation of recommendations in a Toano Community Character Area Study. This study was approved by the Board of Supervisors in February 2006 and will guide the future development of Toano while enhancing its historic character.

Toano is a small, nineteenth century community that reached its prominence in the early 1900's. During the ensuing years Toano saw many changes - not all of which were positive. It is now at a crossroads, both literally and figuratively, and the volunteers have decided to do something to help. They have obtained commitments for labor, in-kind services, and monetary donations from residents and businesses in the community. Several businesses have renovated their buildings to restore the turn of the century look.

A critical element necessary for their project to succeed is approval of this grant application. Once this occurs, they can begin revitalizing our community. Plans call for new sidewalks, curbing, and landscaping. I strongly urge your favorable action on this application.

l offer my own assistance to the revitalization as an attorney, speaker and cash contributor.

Sincerely,

An Bradel

M. Anderson Bradshaw

MAB/sk

# SENATE OF VIRGINIA

THOMAS K. NORMENT, JR. 3RD SENATORIAL DISTRICT ALL OF GLOUCESTER, JAMES CITY, AND NEW KENT COUNTIES, ALL OF THE CITY OF WILLIAMSBURG. PART OF YORK COUNTY, AND PART OF THE CITY OF NEWPORT NEWS POST OFFICE BOX 6205 WILLIAMSBURG, VIRGINIA 23188 (804) 698-7503 RICHMOND (757) 259-7810 WILLIAMSBURG (800) 698-2027 TOLL FREE

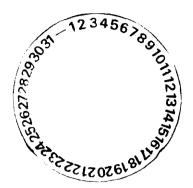
> Mr. Michael A. Estes Local Assistance Division VA Department of Transportation 1401 East Broad Street Richmond, VA 23219

Dear Mr. Estes:



September 26, 2007

COMMITTEE ASSIGNMENTS RULES CHAIR COMMERCE AND LABOR COURTS OF JUSTICE FINANCE



I write to voice my support for the efforts of Friends of Forge Road in their work to make improvements and beautifications to the village of Toano in James City County.

In recent years, the Williamsburg community has undertaken substantial projects to prepare for the Jamestown 2007 commemoration. While many projects have been undertaken at the Jamestown site, many have also taken place in the greater Williamsburg community to create a more welcoming, hospitable, and attractive environment for both our residents and our visitors. These efforts will serve as an enduring legacy of the commemoration and will continue to benefit our community for years to come.

While substantial work has been completed, there is still much work to do. Friends of Forge Road is focused on improving the community of Toano in upper James City County. Toano is a unique community that combines modern businesses and buildings with historic buildings constructed over one hundred years ago. It is a gateway to Williamsburg as it is the first village in Hampton Roads that people pass through as they travel east on Route 60.

Friends of Forge Road is working to improve the appearance of Toano and to transform it into an inviting village that passers by will admire and visit. They have plans to plant trees, replace sidewalks, add decorative landscaping, and improve the aesthetics of signs and buildings. Their efforts have been well-received and they have already secured pledges for monetary donations, labor, and in-kind contributions. I fully support their efforts and encourage your favorable consideration of their grant application.

Please let me know if I may provide any further information on this grant application. With kindest regards, I remain

Very truly yours,

Thomas K. Norment, Jr.



# <u>DEVELOPMENT MANAGEMENT</u>

 101-A Mounts Bay Road, P.O. Box 8784, Williamsburg, VA 23187-8784

 (757) 253-6671
 Fax: (757) 253-6850
 E-Mail: devman@james-city.va.us

Environmental Division (757) 253-6670 environ@james-city.va.us Planning (757) 253-6685 planning@james-city.va.us

County Engineer (757) 253-6671

Integrated Pest Management (757) 259-4116

September 27, 2007

Mr. Michael A. Estes Local Assistance Division, VDOT 1401 East Broad Street Richmond, VA 23219

Dear Mr. Estes,

l am writing in support of a grant application by the Friends of Forge Road and Toano (FORT). This grant will improve sidewalks, curbing, and landscaping from Depot Street to Toano Drive in the village of Toano. It represents the first step in implementing the recommendations of the Toano Community Character Guidelines study, which was approved by our Board of Supervisors in February 2006.

The volunteer members of FORT have already begun lining up support. Earlier this year, the Board of Supervisors allocated \$8,000 toward initial improvements in the village and FORT has obtained promises of labor, in-kind services and other monetary contributions toward this effort. The result will be a more aesthetically pleasing community – both for those who live there and those just passing through.

Historically speaking, Toano was the business hub of James City County in the early 1900s. Several early stores and the bank building are located in the above-captioned area and current owners have made great efforts to restore these buildings, preserving their historical context. It seems particularly appropriate to improve the street-scape for these properties.

We have made a large number of improvements in our corridors and our communities during this America's 400<sup>th</sup> Anniversary year. I hope we can sustain the momentum through the efforts of dedicated groups of citizens trying to improve their community. I urge your favorable consideration of this application.

Sincerely,

Donna Garrett

Donna Garrett Chairman, James City County Historical Commission

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# James City County Citizens' Coalition

Caring for James City County's Historical, Cultural, and Environmental Resources

September 28, 2007

TO: Virginia Department of Transportation (VDOT)

FROM: James City County Citizens' Coalition

SUBJECT: Toano Revitalization

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,

The James City County Citizens' Coalition (J4C) fully supports the Friends of Forge Road and Toano (FORT) in its efforts to revitalize the historic section of Toano and in its application for a VDOT matching grant. Should you have questions regarding this statement, please contact Sarah Kadec, J4Cs, 3504 Hunters Ridge, Williamsburg, VA 23188, 757-259-0358, skadec@verizon.net.

Sincere Teller

Kensett Teller, Chair Executive Committee

P. O. Box 5322, 3504 Hunters Ridge, Williamsburg, Virginia 23188

# Woman's Club of Toano P.O. Box 65 Toano, Virginia 23168

September 26, 2007

Mr. Michael A Estes Local Assistance Division, VDOT 1401 East Broad Street Richmond, VA 23219

Dear Mr. Estes:

The Woman's Club of Toano joins the members of the Toano and nearby communities in support of the application by the Friends of Forge Road and Toano (FORT) and members of the Toano Community Character Guidelines Study Group, for a VDOT grant.

The proposed improvements in sidewalks and landscaping would contribute significantly to the ongoing efforts by the applicants to clean up and beautify our quaint village.

We would appreciate your favorable consideration.

Sincerely, Sincerely, Louise Schwartz

• • • • • • • • • • • •

Louise Schwartz President

September 15, 2007

Mr. Michael A. Estes Local Assistance Division, VDOT 1401 East Broad Street Richmond, VA 23219

Dear Mr. Estes,

James City County is one of the fastest growing counties in Virginia. It is also one of the most historic, but like communities everywhere, is facing challenges in the form of growth, demands on infrastructure and limited natural resources.

In recent years, several citizen organizations have been formed to help address these issues while enhancing the quality of life for county residents. The Friends of Forge Road and Toano is one such group. One of their goals is to improve the appearance of the small village of Toano while complementing the historic character of the area. They plan to do this with the assistance of volunteers and community businesses. However, they need funding to get this project started.

I strongly endorse their grant application and recommend approval.

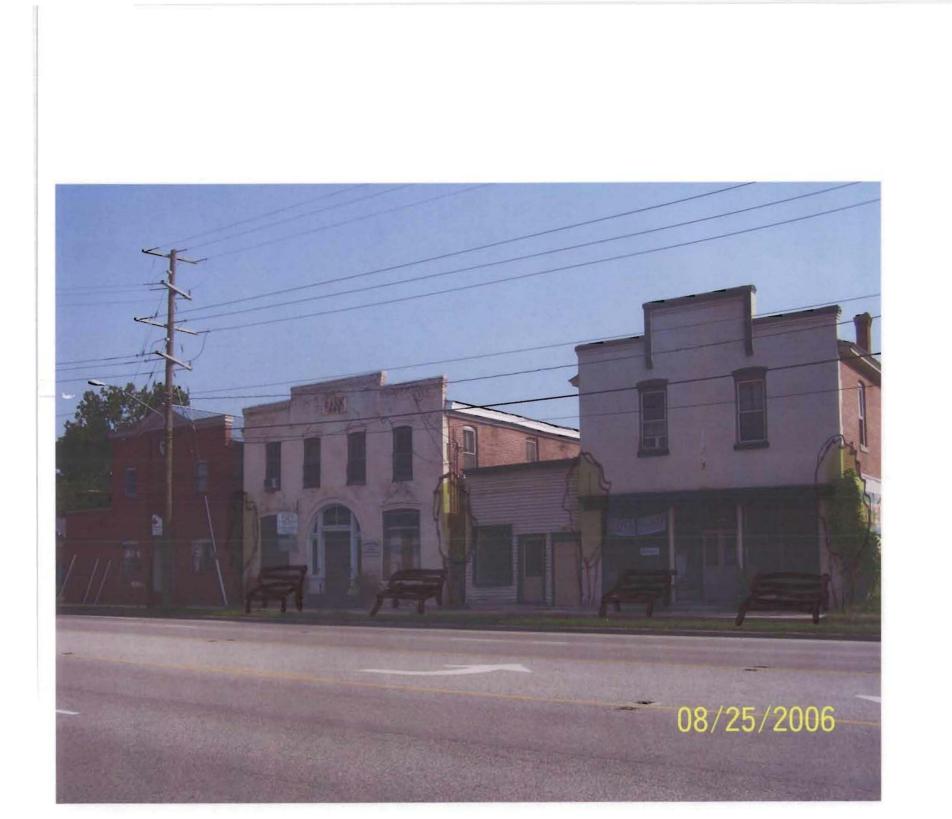
Sincerely, Mara

Shereen Hughes, Chairperson James City County Planning Commission

# VDOT Enhancement Grant Between Depot St and Toano Dr







# **MEMORANDUM**

| DATE:    | October 9, 2007  |
|----------|--|
| TO:      | The Board of Supervisors   |
| FROM:    | Adam R. Kinsman, Deputy County Attorney<br>Melissa C. Brown, Deputy Zoning Administrator |
| SUBJECT: | Amendment of Section 24-16, Proffer of Conditions, of the James City County Code         |

During its 2007 session, the General Assembly approved House Bill 2500 amending Section 15.2-2298 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 affords property owners greater flexibility in what they may legally proffer to the County in conjunction with a proposed rezoning.

The County currently accepts proffered conditions pursuant to the conditional zoning authority granted by Section 15.2-2298 of the Code of Virginia. This section places several important limitations on what conditions a property owner may legally proffer to the County in conjunction with a rezoning proposal. These limitations include the following: (1) the rezoning itself must give rise to the need for the proffered conditions, (2) the conditions must have a reasonable relation to the rezoning, and (3) the conditions must be in conformity with the Comprehensive Plan. Furthermore, if the proffered conditions include the dedication of real property or payment of cash neither may be accepted by the County until the facilities are included in the County's Capital Improvement Program (the "CIP").

Prior to July 2007, the conditional zoning authority granted by Section 15.2-2303 of the Code of Virginia was only applicable in northern Virginia localities. The "northern Virginia" form of conditional zoning contains none of the restrictions listed above. Importantly, proffered conditions need not be directly related to the rezoning at issue, nor must the facilities or cash be contained within the County's CIP.

Adoption of the "northern Virginia" form of conditional zoning may not result in great changes to conditions proffered to the County pursuant to a rezoning application. The change will, however, give property owners the option of proffering new, innovative conditions in conjunction with a rezoning.

The Planning Commission recommended approval of the attached Ordinance by a vote of 7-0 and suggested that all proffers be in conformance with the Comprehensive Plan.

Staff recommends approval of the attached ordinance.

Melissa C. Brown

ARK/nb Sect24 16Proff.mem

Attachment

#### ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-16, PROFFER OF CONDITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that the county shall utilize the conditional zoning authority granted pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended; and

BE IT FURTHER ORDAINED that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-16, Proffer of conditions.

Chapter 24. Zoning Article I. In General

Section 24-16. Proffer of conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the board of supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

(1) The rezoning itself must give rise to the need for the conditions;

- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the Comprehensive Plan of the county;
- (4) No proffer shall be accepted by the county unless it has adopted a capital improvement program pursuant to Virginia Code, section 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program;
- (5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

State law reference - Code of Va., § 15.2-2303.

John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

Sect24\_16amend.ord

# UNAPPROVED MINUTES OF THE September 12, 2007 MEETING OF THE PLANNING COMMISSION

# ZO-6-07 Zoning Ordinance Amendment – Proffer of Conditions

Mr. Adam Kinsman presented a report to amend Section 24-16, Proffer of Conditions, of the James City County Code. The Ordinance Amendment is proposing to change the reference to the section of the Code of Virginia from which the County derives its conditional zoning authority from the current Section 15.2-2298 to Section 15.2-2303 and to amend 24-16 to include those restrictions on conditional zoning as set forth in Section 15.2-2303 of the Code of Virginia. This change will give property owners the option of proffering new, innovative conditions in conjunction with a rezoning. Staff recommends that the Planning Commission recommend approval of the Ordinance amending Section 24-16 of the County Code.

Mr. Kinsman stated that Ms. Jones through an earlier email, suggested that the reference to the Comprehensive Plan remain in the amendment. Mr. Kinsman did not feel it is necessary but that leaving it in there probably would not make a big difference. When reviewing a rezoning looking at whether it conforms to the Comprehensive Plan is part of the process. Mr. Kinsman would recommend not leaving it in.

Ms. Jones is hesitant removing the reference to the Comprehensive Plan. She is always looking for linkage between the Comprehensive Plan and the Ordinance. Ms. Jones would like to pass that on to the Board of Supervisors as a recommendation.

Mr. Fraley would support leaving the reference in since it is already in the language.

Mr. Billups feels that the issue before them is that the State is giving the County flexibility. It is leaving one thing in and the state has provided the flexibility to do something else. He feels that it does not matter with the removal of the reference to the Comprehensive Plan.

Ms. Hughes opened the public hearing.

There being no public comments, Ms. Hughes closed the public hearing.

Mr. Kennedy motioned to approve with the recommendation that the Comprehensive Plan reference remains.

Ms. Jones seconded.

Mr. Billups questioned whether it was the recommendation of Mr. Kinsman to keep the reference in there.

Mr. Kinsman stated no, it was not his recommendation, The State has allowed flexibility and Mr. Kinsman would welcome the entire range set forth by the State.

Mr. Obadal asked whether Mr. Kinsman's recommendation contained within the State Statute.

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Mr. Kinsman stated it is.

Mr. Obadal feels comfortable following the State Statute. He feels like the broader language would give the County more flexibility.

Ms. Hughes suggested maybe sending the Ordinance Amendment to the Board of Supervisors with attachments expressing the Planning Commission's concerns.

Mr. Billups made a motion to amend the previous motion. This motion is to approve the proposed amendment that Mr. Kinsman presented, and send an attachment stating concerns about keeping the Comprehensive Plan language in.

Mr. Obadal seconded this motion.

In a unanimous roll call vote the amendment was approved (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes (7). N

Multiplication transmitty for extension to the Computitionary Plan. She is about holding for linkage between the Companional Plan and the Ordinance. Ms. Jones would the to pass that on to the Board of Supervisors as a recommendation.

Mr. Healey would support leaving the relevance a since it is stready in the language.

M: Hilligs fasts that the basic before frizin is this dy Suite is giving the County Readility. It is leaving one fluits in and the state has provided the flexibility to dscritching doe. He feels that it does not inster with the removel of the reference to the Comprehensive Firm.

My. Hushes opened the public hearing.

At. Kennedy actioned to aptrove with the reconstendation that the Comprehence Plan reference carrients.

# **MEMORANDUM**

| DATE: October 9, 2007                                |            |
|--|------------|
| TO: The Board of Supervisors                         |            |
| FROM: O. Marvin Sowers, Jr., Planning Director       |            |
| SUBJECT: FY 2009-2014 Six-Year Improvement Program I | Priorities |

There are two annual funding processes available for County road improvements: 1) The Six-Year Secondary Roads Program Process; and 2) the Six-Year Improvement Program Pre-allocation Hearing Process. The Six-Year Secondary Roads Program is a priority funding plan for the improvement and construction of secondary roads (those roads with route numbers of 600 or greater). The Board has considerable control over funding and project timing for the secondary road system because the County receives an annual allocation from the Virginia Department of Transportation (VDOT) to be used only in the County. VDOT works directly with the County to determine how to spend Secondary Roads Program money.

The second component, the Six-Year Improvement Program Pre-allocation Hearing Process, entails submitting the County's priority funding requests for primary roads (those roads with route numbers of less than 600, including interstate improvements) to VDOT for approval. In this case there is no regular annual County allocation, and the County's projects compete with projects from all Hampton Roads (Hampton Roads District) communities. In this process, all Virginia localities are given an opportunity to advise VDOT of their transportation priorities prior to VDOT's Commonwealth Transportation Board (CTB) making its allocation decisions.

In the attached resolution is a list of proposed primary road projects that have not been funded or are insufficiently funded. The Board should endorse these items to receive continued consideration from the State in its FY 2009-2014 improvement program. In the coming months, VDOT staff will evaluate the region's priority projects and determine appropriate funding levels for each.

VDOT will conduct a hearing on October 9, 2007 at the Chesapeake Conference Center. Unless the Board specifically wishes to attend the meeting, staff intends to submit our comments in writing.

Staff recommends approval of the attached resolution and endorsement of the report outlining the County's priority Six-Year Improvement Program projects.

O. Marvin

CONCUR.

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Attachment

# <u>RESOLUTION</u>

# FY 2009-2014 SIX-YEAR IMPROVEMENT PROGRAM PRIORITIES

- WHEREAS, the James City County Board of Supervisors believes that a safe, efficient, and adequate transportation network is vital to the future of the County, the region, and the State; and
- WHEREAS, the James City County Comprehensive Plan and/or regional and State transportation plans and studies conclude that the following highway projects are essential to permit the safe and efficient movement of traffic in the Williamsburg-James City County area and promote economic development; and
- WHEREAS, there exists a pressing need to implement the projects below to relieve traffic congestion, which impedes the actions of emergency vehicles and personnel, causes inconvenience and delays, and contributes to the major source of air pollution to the area; and
- WHEREAS, James City County strives to maintain aesthetic enhancements along high visibility corridors in order to protect the historic and scenic values of the County.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following list comprises the highest-priority primary highway projects in James City County:
  - Funding the construction of Route 60 relocation;
  - On-schedule completion of the widening of Ironbound Road;
  - Monticello Avenue Geometric Changes; and
  - Funding the construction of left-turn lanes on Route 60.

John J. McGlennon Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of October, 2007.

FY09\_14ImpPrg.res

# James City County Requests for 2009-2014 Six-Year Improvement Program Projects

# Introduction

James City County respectfully submits its priority Six-Year Improvement Program Projects. The project list consists of our community's highest priority projects.

# Background

James City County and its environs continue to grow rapidly. According to a March 2001 publication produced by the Weldon Cooper Center for Public Service at the University of Virginia, James City County ranked eighth in the Commonwealth for localities with the highest population growth since 1990. In regard to traffic generation, the 60,000 residents of the Williamsburg area and the local workforce form only part of the picture. During the peak tourist season, an additional 30,000 visitors travel our highways daily. Our present highway system is not adequate to accommodate our future growth, to preserve the quiet charm of Colonial Williamsburg, and to provide safe, convenient access for our many visitors to Busch Gardens and other area attractions. James City County continues to focus on projects that will make great strides toward solving present problems and improving the adequacy of our transportation system for years into the future.

# **Summary of Projects**

The County asks that the Virginia Department of Transportation (VDOT) expeditiously complete or accelerate projects that have received partial or full funding. These include the Route 60 East relocation, the widening of Ironbound Road (Route 615), and geometric changes to Monticello Avenue.

# **Highway Projects**

# Route 60 East Relocation

The construction of an alternate alignment of Pocahontas Trail (Route 60 East) between the Anheuser-Busch access road and the Newport News City limits is a priority project. This project will serve developing commercial and industrial areas in James City County and the City of Newport News. Total vehicular traffic in this area as indicated by VDOT's average daily traffic volumes exhibited an increase from 1,650 ADT to 12,686 ADT between 1980 and 1998.

The present configuration of Pocahontas Trail produces traffic tie-ups, promotes traffic accidents, and impedes ingress and egress to residents and businesses. Ball Metal (240 employees), Anheuser-Busch Brewery (1,100 employees), Busch Gardens (4,000 employees during peak season), and the Wal-Mart Distribution Center (250 employees) generate high commuter and truck traffic volume in this area. Also, James River Commerce Center (220 acres) is dependent upon good access to attract and retain industrial prospects. The Commerce Center contains the Ball Metal warehouse expansion (180,000 square feet) and Service Metal Fabricators, a business with 95 employees. Although recent improvements at the BASF entrance and several other intersections provide some relief, Pocahontas Trail continues to be a dangerous corridor for both residents and businesses.

In James City County, almost 1,000 acres of industrial land is being actively marketed in this area. The Commonwealth of Virginia has designated approximately 3,500 acres in the Grove area as an Enterprise Zone. The Enterprise Zone seeks to create an improved climate for private sector investment, development, and expansion, thereby improving the overall physical and social conditions within the zone. A new alternate

alignment of Route 60 would dramatically improve access to this area and will allow the County and the Commonwealth to realize the full benefit of the investments made in the Grove area. Recently the City of Newport News and James City County recommended that the project be divided into two sections and VDOT concurred. This should facilitate more rapid progress on the first section.

James City County requests prompt funding for construction of this roadway in two sections: The first section extends from Route 60 at a point east of Blow Flats Road in James City County to the Fort Eustis Interchange in Newport News. It is suggested that the section be constructed in advance of the remaining section. To facilitate more rapid progress, the Hampton Roads Planning District Commission Metropolitan Planning Organization (MPO) has recognized the regional significance of the Route 60 East relocation project and has allocated \$13.518 million from its Regional Surface Transportation Program (RSTP) in FY 2002-03, along with an allocation of an additional \$1.729 million in FY 2007 and a projected \$1 million in FY 2008. This money would be used for preliminary engineering, right-of-way acquisition, and some construction in both James City County and Newport News. The County requests that VDOT rapidly complete preliminary engineering and right-of-way acquisition on the first section in order to protect the right-of-way and allocate a balance of funding to construct that section.

# Ironbound Road (Route 615)

The proposed improvements would widen the roadway from two to four lanes between Strawberry Plains Road (Route 616) and the Longhill Connector Road (Route 615) increasing general capacity and reducing congestion.

Proposed improvements vary along the length of Ironbound Road based on the specific needs along each segment. The proposed roadway between Strawberry Plains Road (Route 616) and Monticello Avenue (Route 321) includes new curb and gutter, four-foot bicycle lanes, and a five-foot sidewalk. Between Monticello Avenue (Route 321) and Carriage Road (Route 672), the proposed improvements include a raised median, new curb and gutter, four-foot bicycle lanes, and eight-foot multiuse paths.

The proposed roadway between Carriage Road (Route 672) and Longhill Connector Road (Route 615) includes a center-turn lane, curb and gutter, four-foot bicycle lanes, an eight-foot multiuse path, and a five-foot sidewalk. The Intersection will be improved with additional turn lanes, as warranted by traffic studies. The additional travel lanes, along with improved turn movements, will provide additional capacity, help relieve congestion, and prove a safer roadway. The County desires completion of this project in a timely manner.

# Monticello Avenue Geometric Changes

The proposed improvements along Monticello Avenue are between Route 199 and News Road. The improvements will adjust access radiuses and add turn lanes at corridor intersections. After these improvements are implemented, restriping would provide an additional thru lane increasing the capacity of the corridor. Ironbound Connector Road and a small portion News Road next to WindsorMeade will also be widened and restriped.

# Route 60 Turn Lanes

Along Route 60 in Grove, between the fire station and Newport News, there are at least nine intersections with secondary streets that do not have left-turn lanes. The addition of turn lanes at these intersections would increase the capacity of the road and decrease the possibility of delay caused by left turns.

# Conclusion

James City County respectfully submits its most critical road improvement projects. The County feels strongly that all these projects are crucial to the development of our community. All are supported by the James City County Comprehensive Plan. The County appreciates the Department's difficult task of trying to make too few dollars cover so many needed construction projects, and requests the Department recognize and fund the following solutions to problems of State significance:

- ➢ Funding for the construction of Route 60;
- > On-schedule completion of the widening of Ironbound Road;
- Monticello Avenue Geometric Changes; and
- Funding for the construction of Route 60 turn lanes.

FY09\_14ImpPrg.att