

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 23, 2007

7:00 P.M.

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B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE - Clarence Johnson, a sixth-grade student at Toano Middle School	
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3. Ordinance to Amend James City County Code Chapter 22, Wetlands 49
Supports County's Strategic Pathway 4.c - ensure private development and government operations are environmentally sensitive

I. BOARD CONSIDERATIONS

1. ZO-0011-2007. R-4 (Residential Planned Community) Ordinance Amendment Initiating Resolution 53

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. ADJOURNMENT – to 5 p.m. on November 13, 2007

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 2007, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

C. BOARD DISCUSSIONS

1. Purchase of Development Rights Committee

Mr. Ed Overton, Purchase of Development Rights (PDR) Administrator, gave an overview of the activities of the Purchase of Development Rights Committee and efforts to create a more flexible program for applicants. Members from the PDR Committee that were present included Mr. Bruce Abbott, and Ms. Loretta Garrett.

The Board and staff discussed the proposed measures to provide flexibility for PDR Program applicants. The Board directed staff and the PDR Committee to move forward with the recommendations presented to allow properties over 100 acres the right to subdivide once for each 100 acres and to allow for negotiation with the landowner to subdivide smaller parcels.

2. Better Site Design Implementation - Builders for the Bay

Mr. Mike Woolson, Senior Watershed Planner, gave a brief presentation on the goals and standards for Better Site Design and Low Impact Development. Staff and citizens present to discuss Better Site Design included Planning Commissioner Ms. Shereen Hughes, Mr. Tim Cleary, Mr. Charles Rosendaller, Mr. Bob Cosby, Mr. John Horne, and Planning staff members Mr. Jose Ribeiro and Ms. Ellen Cook.

The Board and staff discussed the process for implementing Better Site Design and increasing awareness of the principles. The Board and staff also discussed ordinance amendments regarding setback reductions in R-1 zoning districts and ADA compliance. The Board and staff discussed pervious pavers specifically relating to parking, design standards for roadways, and conservation incentives. Discussion was held regarding the cluster ordinance in relation to community character and open space provisions. The Board and staff discussed sending the issue to the Policy Committee for recommendations on a standard guideline to be adopted by the Board that can be applied administratively by staff as well as other incentives that can be

provided for LID development measures in place of increased density. The Board directed staff to have the Policy Committee evaluate the cluster ordinance following the upcoming Comprehensive Plan revision, while keeping the possible changes in mind during the Comprehensive Plan process.

3. Change in the Assessment Cycle, Tax Exemptions for the Elderly and Disabled, and Biennial Assessments

Mr. John E. McDonald, Manager of Financial and Management Services, gave a presentation addressing the possibility of changing the landbook assessment cycle to correspond with the calendar year rather than the fiscal year and gave an overview of how moving to biennial assessments would affect the County and citizens.

Mr. Richard Bradshaw, Commissioner of the Revenue, gave an overview of increases in tax exemptions for elderly and disabled citizens.

The Board and staff discussed the effect assessments have on citizens and the County budget and how changing the landbook and assessment cycle would impact the County, along with potential proposed increases for elderly and disabled tax exemption.

At 6:28 p.m., the Board recessed for dinner.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF OCTOBER 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, arrived at 7:05 p.m.

William C. Porter, Jr., Assistant County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

Mr. McGlennon requested the Board and citizens observe a moment of silence. Mr. McGlennon asked for the Board and citizens to keep the recently deceased U.S. Representative Jo Ann Davis and York County Supervisor James S. Burgett in their thoughts.

C. PLEDGE OF ALLEGIANCE - Marissa Canady, an eighth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

Mr. Ed Oyer, 139 Indian Circle, commented on the recent passing of U.S. Representative Jo Ann Davis; transportation taxes and traffic.

At 7:10 p.m., Mr. McGlennon recessed the Board for a meeting of the Williamsburg Area Transport Company.

At 7:11 p.m., Mr. McGlennon reconvened the Board.

E. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the Consent Calendar with the amendments to the minutes.

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

1. Minutes – September 25, 2007, Regular Meeting
2. Dedication of Streets in Wexford Hills, Phases IH, II, and IIA

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 Subdivision Street Requirements of the Virginia Department of Transportation; and

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

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

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

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

3. Dedication of Streets in Wexford Hills, Phases IIIA and IIIB

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 Subdivision Street Requirements of the Virginia Department of Transportation; and

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

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

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

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

F. PUBLIC HEARINGS

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

Mr. John E. McDonald, Manager of Financial and Management Services, stated a Work Session was held to amend the ordinance to change the assessment date from July 1 of each year to January 1 of each year, and also to change the criteria for tax exemption for elderly and disabled citizens. He outlined the current assessment process, with two billing dates which occur on June 5 and December 5. Mr. McDonald stated if the assessment date occurred on January 1, 2008, there would be no general reassessment for the second half of the fiscal year as bills would be due on December 5, 2008, and June 5, 2009. He stated the Board could change the tax rate to change the assessment bill but valuation of the property would remain the same for FY 2009. He explained the next general reassessment would be January 1, 2009, and bills would be due for that assessment on December 5, 2009, and June 5, 2010. Mr. McDonald stated the advantage of the system was that the citizens can see the specific impacts of budget and tax rate changes. He stated the second proposed amendment was a change in the tax exemption program for the elderly and permanently disabled, which increased the qualifying income from \$35,000 to \$40,000 and increased the annual exemption from \$100,000 to \$110,000 of the value of property.

Mr. Bradshaw asked if, with the assessment cycle change, there would be greater assurance of income that the County would have in preparing the budget, as the current process is to estimate what real estate valuations would be as well as other revenue sources that would continue to be estimated. He asked what major elements of the budget would be estimated.

Mr. McDonald stated the second personal property tax bill, due in June, would be based on the landbook from January 1 and stated during the budget process there would be estimation for tax revenues from room tax, meal tax, and sales tax. He stated there would also be estimation for the tax relief program but with the change, staff could more firmly identify 50 percent to 60 percent of revenue. Mr. McDonald stated certain funding, such as funding from the State with HB599, can change. He stated projected revenues over the last five years have been very accurate and the change in the assessment cycle should improve this projection.

Mr. Bradshaw asked staff what the time period would be from the valuation date to the tax levy is made

Mr. McDonald stated if the assessment date is changed, the first valuation date would be January 1, 2009, with the first bill based on that assessment due on December 5, 2009. He stated the second bill would be due on June 5, 2010. Mr. McDonald stated the first tax bill would have nothing to do with the most recent reassessment but would correlate with the second billing of the prior year.

Mr. Bradshaw asked if property owners receive a valuation notice that taxes would be based on the previous year's valuation and would it be higher in the event of a real estate market decline. Mr. McDonald stated it is possible for specific individual properties. He stated if the property value dropped, the owner would not realize the tax benefit for a six-month period, but this was not the norm.

Mr. Harrison asked what effect biennial assessments would have.

Mr. McDonald stated that valuation and tax rates were needed to balance a budget and if the valuation of property does not change, the Board can adjust the tax rate. He stated this can be seen as an advantage or disadvantage. He stated that cumulative changes in value would be less frequent but more dramatic and would create a further delay between the tax due date and the property valuation.

Mr. Bradshaw thanked Mr. McDonald for clarifying the terminology of an assessment and using the term "valuation" for the actual value of the property and "tax bill" or "tax levy" for the bill received by a property owner. He stated that the term "assessment" could be used interchangeably for both so this terminology reduced confusion.

Mr. McGlennon noted the other portion of this amendment was elderly and disabled tax exemptions, with income limits to be raised from \$35,000 to \$40,000 and primary residence value to be raised from \$100,000 to \$110,000 to reflect inflation.

Mr. McGlennon opened the Public Hearing.

1. Ms. Mary Jones, 2301 London Company Way, requested approval of the ordinance amendment to change the assessment schedule to synchronize assessments with the budget process.

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

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

Mr. Goodson stated he supported the ordinance amendment and agreed with knowing revenues during the budget process.

Mr. Icenhour stated the assessment schedule change makes sense to taxpayers noting that there would be consequences, including tight budgets over the next few years. He stated his support for the ordinance amendments.

Mr. Harrison stated his support for the ordinance amendments. He stated the future Board would need to be fiscally responsible to keep the tax rate consistent with lower revenues.

Mr. Bradshaw stated this would not make the County more like businesses, as they also project revenues. He stated this would not assure what tax receipts will be, and does not eliminate the need to project other sources of revenue such as sales tax, recording fees, business license, and State revenue. Mr. Bradshaw explained that this action sets a date for valuation but does not address the tax rate, which now will receive even greater pressure. He stated there was no guarantee that taxes will be lower, and the change does not assure that valuations will be lower, but that they would be slower to react to market. He stated the tax bills would be lagging 18 months behind the market. Mr. Bradshaw stated in spite of that, he felt it does create a better dynamic for budget decisions, as the Board had challenged at the same time to balance services and taxes people are required to pay. Mr. Bradshaw stated this will make it clearer what costs will be and tradeoffs will be if the tax rate is not raised. He stated his support for the item based on this stance.

Mr. McGlennon stated there was not likely to be a large change in the happiness of tax bills or simplicity of the tax system, and noted that citizens will receive bills for a previous year's valuation in the middle of the year of a new assessment. He stated he felt this was a more fair and transparent way to handle real estate taxes and he felt the change would cause a minimum amount of disruption at this time. He stated he appreciated the idea of having the tax rate and budget public hearings at the same time. Mr. McGlennon stated he did not want people to expect this will result in a dramatic change in taxes because he did not think it would.

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

Mr. McGlennon recognized Mr. George Billups in attendance on behalf of the Planning Commission.

2. Case No. SUP-0012-2007. Verizon Tower Co-location – Brick Bat Road

Ms. Leanne Reidenbach, Planner, stated Ms. Jessica Wright, Verizon Wireless, has applied for a special use permit (SUP) to add a 14-foot extension to an existing 185-foot 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 James City County 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.

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

Staff found the proposal 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 recommended approval of the resolution.

Mr. Icenhour asked if staff was moving forward to refine the definition of tower height to include all antennas and other parts of the tower structure.

Ms. Reidenbach stated that the ordinance defines the tower height as all attachments and substructure and that staff has been clarified of that during the application process.

Mr. Icenhour asked if the extension of the tower to 199 feet would include the height of the entire structure.

Ms. Reidenbach stated this was correct.

Mr. Icenhour asked if Condition No. 6 of the SUP would require a certification that the final tower height including all antennas and other structures would be 199 feet.

Ms. Reidenbach stated that was the intention of the Condition.

Mr. Icenhour asked if the additional 14-foot extension was necessary because the service would not be available on the existing tower without additional height.

Ms. Reidenbach deferred to the applicant.

Mr. McGlennon asked if the removal of the County antennas would allow for an additional carrier on the tower.

Ms. Reidenbach stated this was correct.

Mr. McGlennon asked how conducive this would be for additional carriers and cellular coverage.

Ms. Reidenbach stated space would be available for an additional carrier to locate on the tower.

Mr. McGlennon asked how many carriers could locate on the tower.

Ms. Reidenbach stated there was one carrier presently and one additional carrier could be added.

Mr. Goodson stated that this item was not effectively changing the height but just bringing the tower with the County's WIPS into compliance.

Ms. Reidenbach stated this was correct.

Mr. McGlennon stated the important point was that the maximum tower height was 199 feet including antennas.

Ms. Reidenbach stated this was correct, noting that the requested 14-foot extension included the antennas.

Mr. McGlennon opened the Public Hearing.

Mr. Steve Romine, 999 Waterside Drive, Norfolk, on behalf of the applicant, gave an overview of wireless communications and the proposed co-location of the tower.

Mr. McGlennon asked about the possibility of adding screening to address concerns of a neighbor.

1. Mr. Romine stated the neighbor's concern was about the ability to build without a setback. He stated there is natural buffer but there was no additional buffering included in the proposal.

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

Mr. Goodson made a motion to adopt the resolution.

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

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.

3. Toano Revitalization Initiative – Virginia Department of Transportation (VDOT) SAFETEA-LU Grant

Mr. Bradshaw disclosed that he is a property owner of one of the parcels that front on Richmond Road where the improvements would be located. He stated he felt that this would not disqualify him from voting on this item.

Mr. Jason Purse, Planner, stated the Toano Revitalization Initiative, a recently formed citizens 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, 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 Board consideration. However, the Toano Revitalization Initiative understands that it is responsible for raising the 20 percent match required by VDOT and currently 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 recommended approval of the resolution.

Mr. McGlennon opened the Public Hearing.

1. Ms. Linda Rice, 2390 Forge Road, stated there was community support for this initiative and requested approval.

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

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Bradshaw expressed gratitude to the civic groups and businesses that have made this effort without the support of tax dollars.

Mr. McGlennon stated his appreciation for the efforts of citizens to initiate progression identified in the study.

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

RESOLUTION

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.

4. Ordinance to amend James City County Code Section 24-16, Proffer of Conditions

Mr. Adam Kinsman, Deputy County Attorney, stated the ordinance amendment would allow developers greater flexibility in that the proffers would not be required to have direct correlation for a special use that is being requested or direct correlation to the Comprehensive Plan.

Staff recommended approval of the resolution.

Mr. Bradshaw asked how the County is now able to offer the more flexible proffers.

Mr. Kinsman stated the County was formerly tied to accept proffers that were directly related to Capital Improvements Project (CIP) programs or had a direct relation to the zoning, but the General Assembly has allowed other localities to adopt the "Northern Virginia" style of zoning, which did not have these regulations. He stated that this zoning technique was available upon ordinance adoption.

Mr. Icenhour asked if there was an initiative of in General Assembly to allow this change.

Mr. Kinsman stated that a number of high-growth localities had requested the change.

Mr. McGlennon opened the Public Hearing.

Mr. Robert Duckett, Director of Public Affairs for Peninsula Housing and Building Association, stated this ordinance amendment would not support local and smaller builders and would help large-scale national builders. He stated it could allow larger builders to proffer developments in individual election districts to rally support for other projects and also stated that proffer costs increase costs to the homebuyer.

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

Mr. Bradshaw made a motion to approve the ordinance amendment.

Mr. Goodson stated his appreciation for Mr. Duckett's comments stating he supported the ordinance amendment due to the potential to increase creativity in proffers provided.

Mr. Bradshaw stated he agreed with Mr. Goodson and that the flexibility could work to the advantage or disadvantage of any builder. He stated he did not expect a builder to offer a pet project in one district to get approval of another project.

Mr. McGlennon clarified that it is up to the Board's discretion to accept any proffer, and stated he felt that this accomplishes what the County has been asking the General Assembly to do to give more flexibility.

Mr. Icenhour stated that costs ultimately get passed on to homebuyer with proffers and also in absence of proffers in taxes to support infrastructure. He stated his support for the item due to increased flexibility.

Mr. Harrison stated he felt the rigid proffer policy would hurt local smaller builders and this ordinance amendment allowed flexibility for proffers that the County would accept.

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

G. BOARD CONSIDERATION

1. FY 2009-2014 Six Year Improvement Program Priorities

Mr. Marvin Sowers, Planning Director, stated once a year VDOT holds a public hearing prior to the preparation of the Six-Year Improvement Plan which identifies projects slated for improvement. He stated that the VDOT public hearing was coming up later in the month so the County was submitting a list of what staff recommended as the highest County priorities. He stated that VDOT funding has lessened, so staff has attempted to keep the priority project list as short as possible but still address important needs. He stated that these projects required the County to compete with other localities for funding and gave an overview of the four projects identified to be recommended to VDOT. He noted the first project, the Route 60 Relocation project, which had been on the list for a number of years and was an effort to relocate Route 60 between GreenMount Industrial Park and the City of Newport News. Mr. Sowers stated that regional money has been received for this project from the regional Metropolitan Planning Organization (MPO) to support acquisition and engineering but not construction. He highlighted the Ironbound Road widening project from Strawberry Plains Road to Eastern State Hospital and noted a completion date of July 2010. He stated that the project is fully funded with additional money from the Secondary Roads Plan and the regional MPO. Next he discussed the Monticello Avenue geometric improvements which were initiated due to previous rezonings in New Town. Mr. Sowers stated that including funding from the MPO, the project was roughly 75 percent funded. He stated the project was added to the list to accelerate the project in engineering for FY 2009. He noted that these improvements would include additional capacity improvements on Monticello Avenue in the vicinity of the Target/Ukrop's shopping center, News Road, and Monticello Avenue and Ironbound Road. Mr. Sowers stated the last item on the list proposed additional turn-lane projects on Route 60, Pocahontas Trail. He stated this was an effort to avoid or delay widening Pocahontas Trail noting that the road has roughly 20 intersections, half with left-turn lanes. He stated this project seeks funds to construct turn lanes on the remaining intersections.

Mr. Goodson made a motion to approve the resolution.

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

RESOLUTION

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.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the ability to bring suit against a neighbor in order to cut down a tree that may be damaging adjacent property.

I. REPORT OF THE COUNTY ADMINISTRATOR

Mr. William C. Porter, Jr., stated that when the Board completed its business, it should hold a Closed Session pursuant to 2.2-3711(A)(3) of the Code of Virginia for the acquisition of parcels of property for public use. He stated that after the Closed Session, the Board should adjourn until 4 p.m. on October 23, 2007.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour asked about by-right developments in A-1 zoning districts including a development along Centerville Road called Liberty Ridge and another in Fords Colony. He stated both have had applications in for land-disturbance permits but the holdup has been the Virginia Department of Environmental Quality (DEQ) issuing water withdrawal permits from the central water facility. He stated the developer was meeting with County staff during the current week to try to get a land-disturbance permit but the DEQ permit requires a public comment period. He stated he felt the land should not be disturbed until the public has had an opportunity to comment if there are issues with conditions of permit and on what restrictions that may be against irrigation. He asked that staff provide notification to the Board when the permit is actually issued to the James City Service Authority (JCSA) and then the County becomes responsible for implementation and enforcement of conditions. He asked what the County would need to enforce and how to ensure that potential buyers know the restrictions, as well as any other additional information.

Mr. Foster, General Manager of JCSA, stated though it is a by-right development, the developer has proposed a proffer of a water conservation agreement between the developer and JCSA through covenants to

future owners. He stated this is a new standard for this type of development wherein conditions are administered by the homeowners association, as are all other water conservation conditions. He stated some conditions include a three-acre minimum lot, no more than 10,000 square feet of turf, following County guidelines to irrigate, use of landscaping that is native or drought resistant, and a requirement for a radio-controlled irrigation system which receives signals from satellites that monitor weather conditions and control irrigation systems based on local weather conditions. Mr. Foster stated this does not satisfy the concern for public comment or the direction to have the developer receive a land-disturbance permit issued by the County after the final permit issued by the DEQ. He stated he had never seen a groundwater withdrawal permit denied after the draft permit was issued.

Mr. Bradshaw asked if the permit referenced any irrigation restrictions.

Mr. Foster stated that it does not address it in the level of detail of the water regulation agreement.

Mr. Bradshaw asked if the proposed conservation plan prohibits individual wells.

Mr. Foster stated it does.

Mr. Goodson asked if the DEQ gave its final approval after the public comment period was over.

Mr. Foster stated this was correct. He outlined the approval process by noting that once an application is made, it is reviewed by DEQ who then incorporate the proposal into the water model. He stated if it does violate guidelines, it does not go forward, but if not, the DEQ proposes issuing the permit and then the draft permit is advertised for public comment. He stated that after a 30- to 60-day public comment period, and if there is no further discussion with applicant warranted, the permit is issued.

Mr. Goodson asked if an issue would be brought forward during the Public Comment period if it was overlooked.

Mr. Foster stated that he has never seen one that has been denied once it has made it to Public Comment. He stated that period gives the public an opportunity to make a comment if there was anything that the DEQ staff has missed but changes were very seldom. He stated there was a control model that shows environmental impacts, which was the deciding point.

Mr. Bradshaw asked if the permit has been revised or amended based on public comment.

Mr. Foster stated it had not to his knowledge.

Mr. Goodson asked in the event the DEQ permit was rescinded, if the County would rescind the disturbance permit.

Mr. Foster stated it was extremely likely that the permit would be issued and though there may be other environmental impacts, the impact on the aquifer has already been determined.

Mr. Goodson stated the permit was based on environmental studies, not based on water supply available.

Mr. Foster stated the permit evaluates the potential of not having adequate water supply after the impacts have occurred, which corresponds with the County's process.

Mr. McGlennon stated if there is a Public Comment period it should be respected, and stated his support for waiting until the Public Comment period closes to issue a land-disturbance permit.

Mr. Harrison stated if the developer has already begun to disturb the land, what the purpose was of Public Comment.

Mr. Goodson asked what the purpose was of changing the policy this late for this application and suggested changing it for future projects.

Mr. Icenhour stated this was a valid concern but in discussing with developers in Fords Colony, the developers anticipated the DEQ would issue the permit last April or May and it has taken longer than expected. He stated he did not wish to lose an opportunity at a valuable Public Comment period that would not normally be afforded to the County with by-right development.

Mr. McGlennon asked if there were conditional permits of this kind.

Mr. Foster stated the process has not changed. He stated it could be changed to issuance of the permits after the final DEQ permit if that was what the Board requested but the typical process was 18 months.

Mr. McGlennon asked if this was the standard process for the DEQ,

Mr. Foster stated this was the standard process since the early 1990s.

Mr. Porter stated this was the process the Retreat went through.

Mr. Foster stated this was what all by-right developments with three-acre lots outside the Primary Service Area (PSA) go through. He stated the developer makes an application for the permit and the JCSA follows the process, as it will be transferred to the JCSA later.

Mr. McGlennon stated this application was through the first stage of the process.

Mr. Foster stated this was correct.

Mr. Porter stated the Retreat does not have the same covenants of restrictions.

Mr. Foster stated this was correct.

Mr. Bradshaw stated he was interested in seeing the covenants during the Public Comment period to ensure the covenants incorporated the goals.

Mr. Foster stated this was discussed with the DEQ but the organization was not comfortable with that and wished to continue to allow the locality to establish local covenants.

Mr. Bradshaw stated there was not a mechanism to assure it was done if the development was by-right and he would like to see whether or not it could be changed.

Mr. Icenhour stated he would like to have something in writing that ensures these conditions.

Mr. Foster stated the water conservation agreements goes through the JCSA and is implemented in the covenants. He stated the permit is issued with conditions to the JCSA, so it would be the JCSA's responsibility.

Mr. Porter stated the consensus of the Board is not to issue a land-disturbance permit until the end of the Public Comment period and the issuance of the final permit.

Mr. Foster stated he anticipated late November or early December for a final permit to come forward and stated no permits would be issued until that time.

Mr. Porter stated the County would not issue any land disturbance or building permits without a final DEQ permit.

Mr. Foster stated staff would handle this accordingly.

Mr. Goodson stated that the Heritage Humane Society moved into its new location on the afternoon of October 9, 2007. He noted that the Heritage Human Society and the County facility were non-compliant and now the Animal Control Officer works out of the new facility and there would be a grand opening next month.

Mr. McGlennon thanked the Pet Resort and PetSmart for helping to house the animals in transition.

Mr. Harrison commented on his draft resolution regarding the possible recess on rezonings as well as a staff version. He requested feedback before the next meeting.

Mr. McGlennon thanked Mr. Harrison for his draft resolution.

Mr. McGlennon stated on Saturday, October 13, 2007, there would be a dedication of Warhill High School and on October 20, 2007, the Matoaka Elementary School dedication would take place. He encouraged citizens to tour the schools. He stated on October 14-16, 2007, approximately 750 delegates would be coming to James City County for the Virginia Municipal League's annual conference. He reflected on the passing of Mr. Robert Moore of Brookhaven Homeowners Association.

Mr. Bradshaw made a motion to go into Closed Session.

At 8:51 p.m., Mr. McGlennon recessed the Board to Closed Session.

K. CLOSED SESSION

At 8:57 p.m., Mr. McGlennon reconvened the Board into Open Session.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

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

L. ADJOURNMENT – until 4 p.m. on October 23, 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).

At 8:58 p.m., Mr. McGlennon adjourned the Board until 4 p.m. on October 23, 2007.

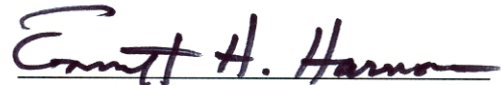
William C. Porter, Jr.
Deputy Clerk to the Board

MEMORANDUM

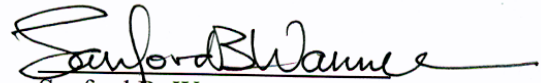
DATE: October 23, 2007
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Williamsburg Community Health Foundation Grant Award - \$33,625

The Williamsburg Community Health Foundation has awarded the James City County Police Department a grant in the amount of \$33,625 for the purchase of 25 Automatic External Defibrillators (AEDs) with temperature control cases, fast response kits, and pads. The AEDs will be placed in patrol vehicles in an effort to provide better access to public defibrillation. The grant requires no local match.

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/gs
AEDgrant.mem

Attachment

RESOLUTION

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT AWARD - \$33,625

WHEREAS, the Williamsburg Community Health Foundation has awarded the James City County Police Department a grant in the amount of \$33,625; and

WHEREAS, the funds will be used to for the purchase of 25 Automatic External Defibrillators (AEDs) with temperature control cases, fast response kits, and pads; and

WHEREAS, there are no matching funds required of this grant.

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

Revenue:

WCHF - AEDs	<u>\$33,625</u>
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Expenditure:

WCHF - AED	<u>\$33,625</u>
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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 23rd day of October, 2007.

AEDgrant.res

MEMORANDUM

DATE: October 23, 2007
TO: The Board of Supervisors
FROM: Robert J. Deeds, Sheriff
SUBJECT: Department of Criminal Justice Services (DCJS) Byrne Justice Assistance Grant - \$2,104

James City County has been awarded a Byrne Justice Assistance Grant in the amount of \$2,104 (\$1,894 Federal funds; \$210 local match) through the Virginia Department of Criminal Justice Services (DCJS). The grant funds will be used to purchase and install a security camera in one of the hearing rooms of the courthouse.

Staff recommends adoption of the attached resolution.


Robert J. Deeds,

CONCUR:


Sanford B. Wanner

RJD/gb
ByrneGrant.mem

Attachment

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (DCJS)

BYRNE JUSTICE ASSISTANCE GRANT - \$2,104

WHEREAS, James City County has been awarded a Byrne Justice Assistance Grant in the amount of \$2,104 (\$1,894 Federal funds; \$210 local match) through the Virginia Department of Criminal Justice Services (DCJS); and

WHEREAS, the grant funds will be used to purchase and install a security camera in one of the hearing rooms of the courthouse; and

WHEREAS, the grant expires on December 31, 2007; and

WHEREAS, the grant requires matching funds of \$210, and these funds are available in the County's Grant Match Account.

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

Revenues:

Byrne JAG Grant	\$1,894
James City County Grant Match Account	<u>210</u>
Total	<u>\$2,104</u>

Expenditure:

Byrne JAG Grant	<u>\$2,104</u>
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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 23rd day of October, 2007.

ByrneGrant.res

MEMORANDUM

DATE: October 23, 2007

TO: The Board of Supervisors

FROM: Stephanie Ahrendt, Purchasing/Management Services Director

SUBJECT: Contract Award – Mobile Field Reporting and Computing Software for Public Safety Mobile Data Terminals - \$336,855

The FY 08 Capital Improvements Program budget contains funds for the purchase of mobile field reporting and computing software to be installed on mobile data terminals, heavy-duty computer laptops used by the Police and Fire Departments in patrol vehicles, and fire apparatus. This software provides the mobile data terminals with full access to the County's Computer Aided Dispatch system and the Police and Fire records management systems to bring a variety of voice and data services directly to public safety staff. Officers will be able to complete incident reports, diagram accidents and query the dispatch, and records management systems without leaving their vehicles. The software will increase officer safety and provide increased efficiency for both field and dispatch staff.

The Purchasing Office recommends sole source procurement for mobile field reporting and computing software and related installation and training for 118 Police and Fire Department mobile data terminals in the amount of \$336,855. SunGard HTE, Inc. is the only source practicably available to provide this software with guaranteed compatibility with the existing SunGard HTE Police Records Management System and Computer Aided Dispatch System.

SunGard HTE's proposed rates have been reviewed by the Purchasing Office for price reasonableness.

Staff recommends that the Board approve the attached resolution awarding a contract for mobile field reporting and computing software to SunGard HTE, Inc.


Stephanie Ahrendt

SA/nb
MbleDataTrmls.mem

Attachment

RESOLUTION

CONTRACT AWARD – MOBILE FIELD REPORTING AND COMPUTING SOFTWARE

FOR PUBLIC SAFETY MOBILE DATA TERMINALS - \$336,855

WHEREAS, it has been determined by the Purchasing Office that SunGard HTE, Inc. is the only source practicably available to provide mobile field reporting and mobile computing software for 118 public safety mobile data terminals with guaranteed compatibility with the existing SunGard HTE, Inc. Police Records Management System and Computer Aided Dispatch System; and

WHEREAS, the proposed rates have been determined to be fair and reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the contract in the amount of \$336,855 for mobile field reporting and mobile computing software for 118 public safety mobile data terminals to SunGard HTE, Inc.

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 23rd day of October, 2007.

MbleDataTrmls.res

MEMORANDUM

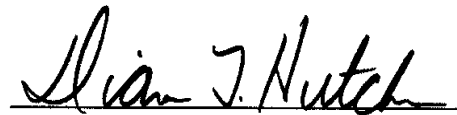
DATE: October 23, 2007
TO: The Board of Supervisors
FROM: Diana F. Hutchens, Director of Social Services
SUBJECT: Virginia Public Assistance Fund – Division of Social Services, Renovations of Restrooms

Social Services have designated \$57,700 in the Virginia Public Assistance Fund to be used for the renovation of four rest rooms in the Human Services Center. We are requesting the appropriation of the funds at this time. Proposals for the contract and scope of work have been reviewed by the James City County Purchasing Department.

Two rest rooms are located in the lobby that is shared with Olde Towne Medical Center, and two are located in Social Services. In an effort to have the rest rooms free of injurious matter and maintained in good repair, we are replacing wall tiles and flooring as well as painting all walls and installing new fixtures. The rest rooms have not previously been renovated, and the building was built in 1985. The improvements will enhance our ability to maintain appropriate facilities for the health and well-being of citizens and employees.

The Social Services lobby receptionist logged more than 10,200 visitors last year who came in to apply for financial assistance through programs such as Food Stamps and Medicaid, as well as those who received supportive services such as Child Protection and Adult Services. In addition, rooms in common areas are used by other community agencies and organizations. Furthermore, the Olde Towne Medical Center provides services to those in need of medical assistance which greatly adds to our number of visitors who utilize the lobby rest rooms.

Staff recommends the adoption of the attached resolution authorizing the appropriation of \$57,700 from the Virginia Public Assistance fund to the contractual line item budget in order to execute the contract to be awarded to W.L. Padden, General Contractor, for renovation of four rest rooms.



Diana F. Hutchens

CONCUR:



Doug Powell

DFH/nb
VAPubAsstFnd.mem

Attachment

RESOLUTION

VIRGINIA PUBLIC ASSISTANCE FUND – DIVISION OF SOCIAL SERVICES

RENOVATIONS OF RESTROOMS

WHEREAS, James City County Division of Social Services has designated \$57,700 in the Virginia Public Assistance Fund for rest room renovation; and

WHEREAS, the funds will allow for improvements/renovations to four Human Services Center rest rooms; and

WHEREAS, design specifications have been prepared and contractor proposals have been obtained and appropriately reviewed; and

WHEREAS, adequately constructed and safe rest rooms are critical to the fulfillment of our mission to serve citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation and expenditures:

Revenues:

Virginia Public Assistance Fund	<u>\$57,700</u>
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Expenditures:

Contractual Line Item 007-081-3000	<u>\$57,700</u>
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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 23rd day of October, 2007.

SPECIAL USE PERMIT-0025-2007. Colonial Penniman, LLC Waterline and Force Main Extensions

Staff Report for the October 23, 2007, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

October 3, 2007, 7 p.m. (approved 7-0)
October 23, 2007, 7 p.m.

SUMMARY FACTS

Applicant: Mr. James Bennett

Land Owner: Williamsburg Developments, Inc., the Economic Development Authority of James City County, BASF Corporation, and Colonial Penniman, LLC

Proposal: To authorize the construction of up to a 16-inch water transmission main, and two force mains to serve adjacent parcels within the James River Commerce Center and the property and facilities owned by Colonial Penniman, LLC at the BASF complex

Location: 8925, 8961, 8963, and 8965 Pocahontas Trail

Tax Map/Parcel Nos.: 5920100045, 5940100003, 5940100004, 5940100005A

Parcel Size: 2.4 acres distributed out of the total 710 acres

Zoning: M-1, Limited Business/Industrial, and M-2, General Industry

Comprehensive Plan: Mixed Use and General Industry

Primary Service Area (PSA): Inside

STAFF RECOMMENDATION

Staff believes that this proposal, with the attached conditions, would not impact surrounding properties and believes it is consistent with the 2003 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application with the acceptance of the attached special use permit (SUP) conditions.

Staff Contact: Matthew J. Smolnik Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On October 3, 2007, the Planning Commission voted 6-0 to recommend approval of this application with the exclusion of proposed Condition No. 3 and to allow up to a 16-inch waterline and associated force mains to be constructed on the property. Condition No. 3 stated that should the pipe alignment need to cross a previously undisturbed Resource Protection Area (RPA) or previously undisturbed RPA buffer, the waterlines and force mains shall be bored underground to avoid any aboveground disturbance, which was a condition on the original SUP from 2002. The 2002 condition was placed on the SUP to keep the waterline and force main out of the RPA. With the State required expansion of the RPA, then either the force main or waterline could remain outside the RPA without major engineering changes.

PROJECT DESCRIPTION

Mr. James Bennett has applied, on behalf of Williamsburg Developments, Inc., the Economic Development Authority of James City County, BASF Corporation, and Colonial Penniman, LLC for an SUP to allow for the construction of a 16-inch waterline, a 4-inch force main, and 2-inch force main between the James River Commerce Center and the Colonial Penniman, LLC property, which is located at the BASF site in Grove. SUP-03-2002 was approved by the Board of Supervisors on April 9, 2002, for a waterline extension to the former Trusswood, LLC property, which is now the Colonial Penniman, LLC property. Condition No. 11 on SUP-03-2002 stated that a land-disturbing permit shall be obtained by the developer within 24 months of the issuance of an SUP or the permit shall be void. A land-disturbing permit was not obtained within the 24-month period, therefore, the previous SUP is void and the new landowners are applying for a new SUP for the waterline and force main extensions.

Colonial Penniman, LLC recently purchased two lots within the BASF site. The BASF property is a 649-acre parcel located off Route 60 in Grove. Most of the BASF property fronts on the James River and is currently a vacant site. Colonial Penniman, LLC intends on speculatively developing the two parcels purchased. One lot is 16 acres in size and the other is 3.2 acres in size. Both properties have existing buildings, parking lots infrastructure, and are served by a small private water and sewer line, which have been generally adequate for rest room and potable water needs. However, the existing water and sewer lines are outdated, privately owned by BASF, and are not large enough for any new industrial user requiring processed water or an automatic fire suppression system (e.g. sprinklers). Additionally, BASF is not going to allow the occupants of the Colonial Penniman, LLC property to utilize the current private water and sewer system.

The largest, closest existing water main to tap into is the 12-inch waterline located within the right-of-way of Columbia Drive. The proposed force mains will connect to existing force mains that are located near the terminus of Columbia Drive. Should the SUP be approved, Colonial Penniman, LLC would extend the water main and force mains from Columbia Drive to their two properties. The location of the proposed waterline and force mains are shown on the enclosed Master Plan and will be located entirely within the applicant's property.

Colonial Penniman, LLC will not actually need the amount of water that is delivered by a 16-inch waterline. Therefore, should the SUP be approved, the new waterline would have excess capacity to serve the remaining property within the James River Commerce Center. The incremental costs of installing the larger size pipe are relatively small given the total project costs, with the benefits going to the undeveloped land. The 2-inch force main will serve the Colonial Penniman, LLC property while the 4-inch force main will serve the remaining properties within the James River Commerce Center.

PUBLIC IMPACTS

Archaeology

- Condition No. 2 - The standard County archaeological condition has been placed on this SUP application.

Environmental

Watershed: College Creek

Staff Comment: The Environmental Division does not have any further comments on this SUP application. Previously approved site plans for this project may result in the project being grandfathered under the previous Chesapeake Bay Ordinances.

Public Utilities

The Colonial Penniman, LLC properties will be served by public water and sewer. The Planning Commission and Board should note that the water being supplied to this pipeline extension will come from Newport News Water Works, while the properties will connect to the James City Service Authority (JCSA) sanitary sewer system.

Conditions:

- Condition No. 3 - Any crossing of the BASF sanitary sewer line and/or pump station shall be reviewed and approved by the JCSA.
- Condition No. 4 - The JCSA shall review and approve implementation and time lines on how the Colonial Penniman, LLC parcels will be served prior to the issuance of a preliminary site plan approval.
- Condition No. 5 - All required permits and easements, including the necessary approvals from the Newport News Water Works, shall be obtained prior to the start of construction.
- Condition No. 6 - Construction, operation, and maintenance shall comply with all local, State, and Federal requirements, including all Newport News Water Works requirements.

Staff Comment: There is currently a 16-inch waterline within the right-of-way for Endeavor Drive, which splits into two 12-inch lines at the Endeavor Drive/Columbia Drive intersection. The 12-inch section of waterline within the Columbia Drive right-of-way was originally intended to be a 16-inch diameter waterline, but Newport News Water Works would only approve a 12-inch waterline for this area. Although not ideal, the connection of a 16-inch waterline to an existing 12-inch waterline should not create any issues to provide adequate water service to all intended customers.

Transportation

2005 Traffic Counts: 10,402

2026 Volume Projected (Pocahontas Trail): 8,000

2026 Volume Projected (Route 60 Relocation): 25,000

Staff Comment: The Comprehensive Plan traffic model suggests the need for Pocahontas Trail to be a four-lane facility in both the section extending from the York County line to BASF Road, and the section extending from BASF Road to the Newport News City line, unless the existing road is widened to four lanes. The project has been split into two phases with the intent to relocate the section from BASF Road to the Newport News City line first, and then assess the need for widening or relocating the upper section at that time. Careful coordination of transportation and development is extremely important along this road. Staff believes that the waterline and force main extensions will lead to additional traffic along Pocahontas Trail. However, the waterline will serve currently zoned industrial land and help reuse an existing industrial facility all of which are in the James River Enterprise Zone, an area that was deliberately designated for economic and commercial development.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>General Industry- (Page 123):</i> General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses. General industrial uses usually require access to interstate and arterial highways and public water and sewer.</p> <p><i>James River Commerce Center Mixed Use (Page 129):</i> Principle suggested land uses are limited industrial and office development.</p> <p>Staff Comment: Staff believes the waterline and force main extensions will encourage commercial growth in an appropriate area of the County and will encourage new businesses to locate in the James River Enterprise Zone on what is a primarily vacant site.</p>
Development Standards	<p><i>Commercial and Industrial Land Use Standard No. 1 - Page 136:</i> Locate proposed commercial and industrial developments adjacent to compatible uses.</p> <p>Staff Comment: The proposed waterline and force mains will encourage commercial and light industrial growth within the James River Enterprise Zone.</p>

Goals, strategies and actions	<p><i>Goal No. 2 - Page 138:</i> Direct growth into designated growth areas in an efficient and low-impact manner.</p> <p><i>Strategy No. 4 - Page 138:</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA.</p> <p><i>Action No. 11 - Page 139:</i> Extend water and sewer service in the PSA according to a predetermined phased plan as set forth in this plan and the County's master water and sewer plans.</p>
	<p>Staff Comment: Staff believes the extension of the waterline and force mains will encourage commercial growth in an appropriate area inside of the PSA.</p>

Economic Development

Goals, strategies and actions	<p><i>Strategy No. 2 - (Page 20):</i> Continue to maintain a supportive economic environment for existing industry and business and undertake public actions and cooperate in private actions that support and promote desirable commercial and industrial development.</p> <p><i>Action No. 7c - Page 21:</i> Utilize the JCSA and Newport News Water Works to promote desirable economic growth through the provision of water and sewer infrastructure consistent with the Comprehensive Plan policies and the regulations governing utility service.</p> <p><i>Action No. 8 - Page 21:</i> Promote the location of new business and industry within the County's Enterprise Zone.</p>
	<p>Staff Comment: The James River Commerce Center is currently developing as an industrial park. The Colonial Penniman, LLC properties are redeveloping and the BASF property should redevelop in the future. The installation of the waterline and force mains should encourage industrial growth on these properties that all lie within the James River Enterprise Zone.</p>
Goals, strategies and actions	<p><i>Strategy No. 2 - (Page 138):</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.</p> <p><i>Strategy No. 4 - Page 138:</i> Encourage commercial and industrial uses to develop in compact nodes in well-defined locations within the PSA.</p>
	<p>Staff Comment: The James River Commerce Center is currently developing as an industrial park. The Colonial Penniman, LLC properties are redeveloping and the BASF property should redevelop in the future. The installation of the waterline and force mains should encourage industrial growth on these properties that all lie within the James River Enterprise Zone.</p>

Environment

Goals, strategies and actions	<p><i>Strategy No. 2 - Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p>
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Transportation

Goals, strategies and actions	<p><i>Strategy No. 3 - Page 80:</i> Encourage commercial and industrial development patterns that maintain or improve the planned function and character of County roadways.</p>
	<p>Staff Comment: Staff acknowledges Route 60's current traffic limitations. However, this site and the area are planned for continuing industrial use and development. Route 60 is planned to be relocated in the southern end of the County, which should accommodate additional traffic from commercial and industrial development in this part of the County. Partial funding has been obtained and the County is pursuing the remaining funds necessary for construction.</p>

Comprehensive Plan Staff Comment

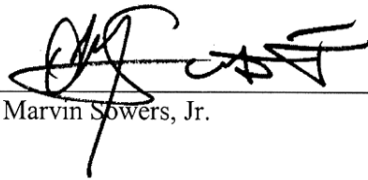
Staff believes the waterline and force main extensions will provide a needed utility to support investment, development, redevelopment, and expansion within the James River Commerce Center, Colonial Penniman, LLC and BASF sites. Therefore, staff believes the proposal is consistent with the Comprehensive Plan.

RECOMMENDATION

Staff believes that this proposal, with the attached conditions, would not impact surrounding properties and believes it is consistent with the 2003 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application with the acceptance of the attached SUP conditions.

Matthew J. Smolnik

CONCUR:



O. Marvin Sowers, Jr.

MJS/gs
sup-0025-2007

ATTACHMENTS:

1. Unapproved Planning Commission Minutes from October 3, 2007
2. Location Map
3. Master Plan dated September 14, 2007
4. Resolution

RESOLUTION

CASE NO. SUP-0025-2007. COLONIAL PENNIMAN, LLC WATERLINE &

FORCE MAIN EXTENSIONS

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, the applicant has requested an SUP to allow for the construction of up to a 16-inch water transmission main and two force mains to serve adjacent parcels within the James River Commerce Center and the property and facilities owned by Colonial Penniman, LLC at the BASF complex in the M-1, Limited Business/Industrial, and M-2, General Industry, zoning districts, located at 8925, 8961, 8963, and 8965 Pocahontas Trail, further identified as Parcel Nos. (1-3), (1-4), (1-5A), and (1-45) on James City County Real Estate Tax Map No. (59-2); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing held on SUP No. 0025-2007; and

WHEREAS, the Board of Supervisors, following a public hearing is of the opinion that the SUP allowing for the above-mentioned waterline and two force mains should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 0025-2007 as described herein with the following conditions:

1. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, as determined by the Director of Planning, seedlings shall be planted and shall be shown on a reforestation or re-vegetation plan to be approved by the Director of Planning. This plan shall be submitted within one year of the initial clearing of the easement. The reforestation or re-vegetation of any temporary construction easements shall be completed, as determined by the Director of Planning, within two years of the initial clearing of the easement. It shall be the responsibility of the developer to provide surety prior to final site plan approval guaranteeing implementation of the reforestation or re-vegetation plan, and to secure the necessary means to plant any temporary construction easements after the easements revert back to the property owner.
2. A Phase I Archaeological Study for the disturbed area shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the

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

3. Any crossing of the BASF complex sanitary sewer line and/or pump station shall be reviewed and approved by the James City Service Authority (JCSA).
4. Prior to the issuance of preliminary site plan approval, an agreement and plan between the developer and the JCSA, including implementation time lines, must be reviewed and approved by the JCSA on how the two Colonial Penniman, LLC properties and James City County Real Estate Tax Map Nos. (59-4)(1-4) and (59-4)(1-5A) will be served with public sewer.
5. All required permits and easements, including the necessary approvals from the Newport News Water Works, shall be obtained prior to the start of construction, as defined in the James City County Zoning Ordinance.
6. Construction, operation, and maintenance shall comply with all local, State, and Federal requirements, including all Newport News Water Works requirements.
7. A Land-Disturbing Permit shall be obtained by the developer within 24 months from the date of the issuance of this SUP, or this SUP shall be void.
8. 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 23rd day of October, 2007.

Sup0025_2007.res

**UNAPPROVED MINUTES OF THE October 3, 2007 MEETING
OF THE PLANNING COMMISSION**

SUP-25-07 Colonial Penniman Water Line Extension

Mr. Smolnik presented staff's report for a special use permit to allow for construction of up to a 16 inch waterline and two force mains on the property located at 8925, 8961, 8963, and 8965 Pocahontas Trail. The properties are zoned M-1, Limited Business/Industrial and M-2 General Industry and are designated as Mixed Use and General Industry on the Comprehensive Plan. A special use permit is required for transmission pipelines in both the M-1 and M-2 zoning districts. Staff recommended that this proposal, with conditions, would not impact surrounding properties and believes it is consistent with the 2003 Comprehensive Plan. Staff recommended that the Planning Commission recommend approval of this application to the Board of Supervisors with the acceptance of the special use permit conditions.

Ms. Hughes asked if there were any questions for staff.

Mr. Billups asked if this case was previously approved by the Board of Supervisors.

Mr. Smolnik stated it was previously approved by the Board.

Ms. Hughes asked for clarification on the comment "Environmental staff is comfortable with eliminating the condition of requiring boring underneath the RPA".

Mr. Smolnik said he would have Mr. Scott Thomas from the Environmental Division address that concern.

Mr. Thomas stated that the County's preference would be that the SUP condition remain. To protect the RPA, the County wants the best condition, which would be to keep the provisions for boring under the RPA, rather than allow direct encroachment into the RPA. However, when the Environmental Division reviewed this case in 2002 there was very little RPA associated with this project. Mr. Thomas stated that there is now approximately 1000 feet in the new RPA line, and it would be an economic detriment to the project.

Ms. Hughes stated that there was a comment regarding that this may be grandfathered.

Mr. Thomas stated that there are certain grandfathering provisions associated with this project because there was site plan approval under SP-106-02. Mr. Thomas stated that staff would determine the impact that the current project would have had in 2002 to the RPA versus the impact now. Mr. Thomas feels the impact is minimal and this would

probably fall under administrative approval for the Environmental Division and not have to be reviewed by the Chesapeake Bay Board. If it were determined to have a larger impact then it would need to be reviewed by the Chesapeake Bay Board.

Mr. Krapf asked if Mr. Thomas knew what the additive cost would be for boring underneath the RPA and what the impact would be on the applicant.

Mr. Thomas stated he was not sure but he felt that this amount through this terrain would be excessive. He would defer to the applicant on this question.

Mr. Billups asked Mr. Kinsman about the grandfathering of conditions being the original SUP was void.

Mr. Kinsman stated the Virginia code states a recorded site plan is valid for five years after it has been recorded. The original site plan was recorded in 2003 making it valid until 2008.

Mr. James Bennett spoke on behalf of Williamsburg Developments Inc, the Economic Development Authority (EDA) of James City County, BASF Corporation, and Colonial Penniman, LLC. He stated that Colonial Penniman purchased the property in 2007 and was aware of the approved site plan, but was not aware of the special use condition that had previously expired in 2004. In Spring 2007 there were negotiations with the County to acquire an easement through the James River Commerce Center property from the end of Columbia Drive to BASF property. There were also negotiations with BASF to acquire an easement through BASF property to the applicant's site. During the negotiations there were several discussions concerning the water line. The EDA would have access to that waterline and in return has given the easement. The BASF property is currently being marketed and it is unclear as to what will happen to that property in the future. The City of Newport News has expressed concerns over the 16 inch waterline. Mr. Bennett did make the point that this project does not require this size waterline; however the James River Commerce Center could well trigger needs for that size.

Mr. Bennett addressed the question about the cost of the bore underneath the RPA. The longest RPA encroachments would be 600 feet, but it is in an area that is already cleared and already has utility lines in it. Mr. Bennett stated he has not contacted Newport News as to whether they would accept a waterline that is largely bored underneath the ground and is not accessible. He stated another concern was that the waterline itself would be in a two feet casing and that if bored shallow would be extremely difficult to keep the ground from bulging above ground. The cost of the directional bore is extremely expensive. Mr. Bennett gave the figure of \$ 50 - \$ 75 a foot for a traditional waterline for labor plus materials. A directional bore would be in excess of \$300 per foot for labor plus materials.

Ms. Hughes asked if there were any questions for the applicant.

Mr. Fraley asked Mr. Bennett if he was requesting removal of the condition for requiring the direct boring.

Mr. Bennett stated that it was not clear whether there was a grandfathered site plan or not. Mr. Bennett stated the alignment has not changed since 2003 with an exception of an area that is outside the RPA.

Mr. Fraley asked Ms. Hughes for clarification.

Ms. Hughes asked for clarification.

Mr. Kinsman stated that there is a valid site plan. He said the question is implementation and it requires a valid special use permit to actually implement. Mr. Kinsman stated that construction cannot take place until the special use permit is attained. He stated that the proposed special use permit conditions would be imposed on this applicant regardless of whether the site plan was valid in 2003 or whether they submitted a new site plan. He further stated that condition #3 if approved this evening would be imposed on this applicant.

Ms. Hughes asked if the RPA designation is grandfathered.

Mr. Kinsman stated that as Mr. Thomas mentioned the site plan is valid, so there is no need for Chesapeake Bay Board approval. It would just go through administrative review. He stated that there will be a question if there are any deviations from the original site plan, but that would be determined at a later date.

Mr. Fraley asked if the applicant was requesting that the Planning Commission consider removal of this condition.

Mr. Bennett stated yes.

Mr. Fraley asked what would be the plan for the 600 feet that would be going through an already disturbed RPA.

Mr. Bennett stated that they came to an agreement with the EDA. The applicant would provide for labor and piping for the alignment through their EDA property, in exchange, the EDA would provide mitigation needs required to satisfy the RPA encroachments.

Mr. Smolnik stated that the applicant was asking for a water line up to 16 inch. The clarification was made to emphasize "up to".

Ms. Hughes asked for public comments.

Steven Yavorsky, Office of Economic Development (OED), stated that he was here to support removing condition #3 of the SUP requirements. He stated that both

EDA and the Colonial Penniman properties are designated general industry by the Comprehensive Plan, and both currently zoned for industrial uses. Mr. Yavorsky felt that the time constraint of completing this project before the current site plan expires is critical. He reiterated the agreement between the EDA and the OED for environmental mitigation to compensate for the disturbed land that is currently within the RPA. Mr. Yavorsky felt that approving this application and removing condition #3 will revitalize a used building but also provide the future development of M-1 property and the James River Commerce Center.

Ms. Hughes closed the public hearing.

Ms. Jones made a motion for approval without condition #3 and to allow the water main to be up to 16 inches. She felt that this property is an industrial site and the Planning Commission needs to be supportive of economic development.

Mr. Fraley agreed with Ms. Jones. This property is zoned industry and designated for industry. Mr. Fraley stated that he believed that a large portion of the BASF property was a superfund cleanup property to begin with. Mr. Fraley stated he was part of the Architectural Review Board of the Commerce Center, and this service is needed to fully develop James River Commerce Center.

Mr. Krapf felt that this provides a public benefit for the individuals involved but also supports the long range strategic objectives of James City County.

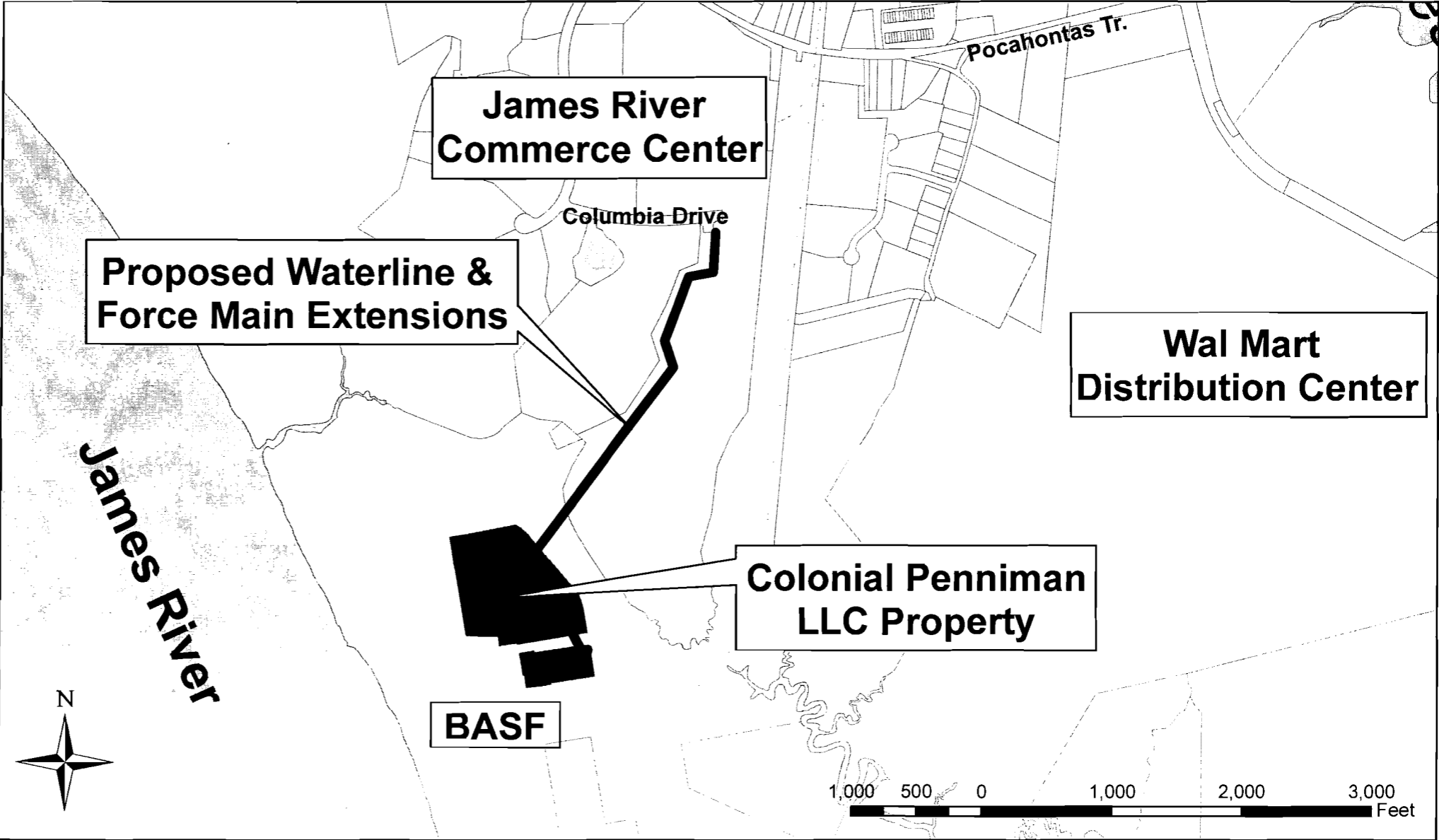
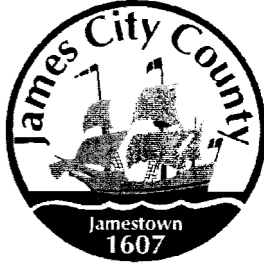
Ms. Hughes commented that she felt this was a site that was classified as "brown field development." She explained this term and the need to have appropriate development on the appropriate area. Ms. Hughes felt this has been accomplished here. This area has had several contamination problems and she felt that this was an appropriate use.

Mr. Kennedy seconded the motion.

In a roll call vote the application was approved. (6-0). AYE: Billups, Krapf, Jones, Kennedy, Fraley, Hughes.

JCC-SUP-0025-2007

Colonial Penniman, LLC Waterline and Force Main Extensions



M E M O R A N D U M

DATE: October 23, 2007

TO: The Board of Supervisors

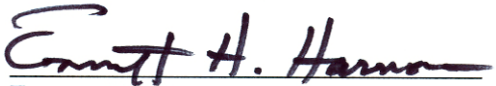
FROM: Emmett H. Harmon, Chief of Police
Adam R. Kinsman, Deputy County Attorney


SUBJECT: Ordinance to Permit Use of Golf Carts on Public Highways in the County

Several months ago, citizens living the Chickahominy Haven neighborhood approached the Board of Supervisors regarding the use of golf carts on the public roads in their neighborhood. Absent a statute to the contrary, the use of golf carts along public highways is strictly prohibited. The residents of Chickahominy Haven regularly use golf carts and requested that the Board consider adopting an Ordinance to permit the use of golf carts on the roadways in their neighborhood. At the request of the Board, a study group was formed to consider the potential implications of this request. The study group met on August 27 at the James City County Library and reached a general consensus that the use of golf carts on the public highways in Chickahominy Haven would not be objectionable, provided that certain safety considerations were addressed. We concur with the consensus of the study group.

The Code of Virginia requires that the Board adopt an Ordinance authorizing golf cart use on specifically designated public highways in the County. Because Chickahominy Haven may not be the only neighborhood that may request such a designation, we have drafted revisions to the County Code that establish universal standards for any public highway designated for golf cart use. Importantly, these universal standards incorporate safety measures that we feel are necessary for golf cart use along any public highway, regardless of where such highway is located. The proposed County Code revisions include an application procedure to ensure that each request for designation is considered in the same manner. Once an application for designation is submitted, it will be considered by the Chief of Police and he will then forward the application to the Board, along with his recommendation. We recommend adoption of these proposed changes to the County Code.

Following careful consideration of Chickahominy Haven's request and the issues raised by the study group, we feel that golf carts may be accommodated along these highways if the proposed safety standards are met. Should the Board choose to amend the County Code to permit the designation of certain streets for golf cart use, we also recommend adoption of the attached Ordinance designating each of the public highways in Chickahominy Haven for golf cart use.


Emmett H. Harmon


Adam R. Kinsman

EHH/ARK/gb
GolfCartsOrd.mem

Attachment

ORDINANCE NO. _____

WHEREAS, the residents of Chickahominy Haven have petitioned the Board of Supervisors of James City County, Virginia to designate the streets in Chickahominy Haven for golf cart use; and

WHEREAS, a citizens group formed to study the implications of such a designation came to the consensus that golf cart use in Chickahominy Haven could be accommodated if certain safety concerns were met, which have been codified in the County Code; and

WHEREAS, the Board has carefully considered the concerns voiced by the residents of Chickahominy Haven, the recommendation of staff, the speed, volume, and character of motor vehicle traffic using the public highways in Chickahominy Haven; and

WHEREAS, pursuant to Section 46.2-916.2 et seq. of the Code of Virginia and Section 13-60 et seq. of the County Code, the Board has determined that golf cart and utility vehicle operation on the public highways in Chickahominy Haven is compatible with state and local transportation plans and is consistent with the Commonwealth of Virginia's Statewide Pedestrian Policy.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate the following roads located in the Chickahominy Haven neighborhood for golf cart and utility vehicle use:

- a. Canal Street (Route 737)
- b. Hampton Drive (Route 716)
- c. North Riverside Drive (Route 715) from its intersection with Otey Drive to its terminus.
- d. Otey Drive (Route 1014)
- e. South Riverside Drive (Route 716)
- f. The Point Drive (Route 795)
- g. Osprey Drive (Route 737)
- h. Richmond Avenue (Route 1007)
- i. Tabiatha Lane (Route 1016)

BE IT FURTHER RESOLVED that no golf carts shall be permitted on any of the designated streets until the County receives full payment for all signage required by Section 13-62 of the County Code and such signage is installed.

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 23rd day of October, 2007.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, BY ADDING ARTICLE IV, DESIGNATION OF PUBLIC HIGHWAYS FOR GOLF CART OR UTILITY VEHICLE USE; SECTION 13-60, USE OF GOLF CARTS OR UTILITY VEHICLES ON PUBLIC HIGHWAYS; SECTION 13-61, DEFINITIONS; SECTION 13-62, DESIGNATION OF PUBLIC HIGHWAYS FOR GOLF CART AND UTILITY VEHICLE OPERATIONS; SECTION 13-63, LIMITATIONS ON GOLF CART AND UTILITY VEHICLE OPERATIONS ON DESIGNATED PUBLIC HIGHWAYS; SECTION 13-64, APPLICATION PROCEDURE; SECTION 13-65, PENALTY; AND SECTION 13-66, REVOCATION OF DESIGNATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended by adding Article IV, Designation of Public Highways for Golf Cart or Utility Vehicle Use; Section 13-60, Use of golf carts or utility vehicles on public highways; Section 13-61, Definitions; Section 13-62, Designation of public highways for golf cart and utility vehicle operations; Section 13-63, Limitations on golf cart and utility vehicle operations on designated public highways; Section 13-64, Application procedure; Section 13-65, Penalty; and Section 13-66, Revocation of designation.

ARTICLE IV.

DESIGNATION OF PUBLIC HIGHWAYS FOR GOLF CART OR UTILITY VEHICLE USE.

Section 13-60. Use of golf carts or utility vehicles on public highways.

No person shall operate a golf cart or utility vehicle on or over any public highway in the county except as provided in this article.

State law reference - Code of Va. § 46.2-916.1.

Section 13-61. Definitions.

For the purposes of this article, the following words shall have the meaning given herein:

Chief of police: The chief of the James City County Police Department or his designee.

Golf cart: a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

Highway: The entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the county, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the board of supervisors and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

Utility vehicle: A motor vehicle that is (i) designed for off-road use, (ii) powered by an engine of no more than 25 horsepower, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include all-terrain vehicles as defined in section 46.2-100 of the Code of Virginia, riding lawn mowers, or any other vehicle whose definition is included in section 46.2-100 of the Code of Virginia.

State law reference - Code of Va. § 46.2-100.

Section 13-62. Designation of public highways for golf cart and utility vehicle operations.

(a) No portion of the public highways may be designated for use by golf carts and utility vehicles unless the board of supervisors has reviewed and approved such highway usage.

(b) The board of supervisors may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within the county after (i) considering the speed, volume, and character of motor vehicle traffic using such highways, and (ii) determining that golf cart and utility vehicle operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in Section 33.1-23.03:001 of the Code of Virginia.

(c) No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

(d) Signs alerting motorists that golf carts may be in operation shall be erected along all roads designated for golf cart and utility vehicle operation or in such locations as determined by the chief of police. The county shall be responsible for the installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles. The cost of the installation and continued maintenance of the signs on streets and highways designated for golf cart use shall be the responsibility of the organizations, individuals, homeowners associations or other entities requesting the designations. All costs incurred by the county for the installation and maintenance of the signs shall be assessed to and recovered from the organization, individual, or entity that requested the designation.

State law reference - Code of Va. § 46.2-916.2.

Section 13-63. Limitations on golf cart and utility vehicle operations on designated public highways.

(a) Golf cart and utility vehicle operations on designated public highways shall be in accordance with the following limitations:

(1) *A golf cart or utility vehicle may be operated only on designated public highways where the posted speed limit is 25 miles per hour or less. No golf cart or utility vehicle shall cross any highway at an intersection where the highway being crossed has a posted speed limit of more than 25 miles per hour;*

(2) *No person shall operate any golf cart or utility vehicle on any public highway unless he has in his possession a valid driver's license;*

(3) *Every golf cart or utility vehicle, whenever operated on a public highway, shall display a slow-moving vehicle emblem in conformity with section 46.2-1081 of the Code of Virginia;*

(4) *Golf carts and utility vehicles shall be operated upon the public highways only between sunrise and sunset, unless equipped with such lights as are required in Article 3 (§ 46.2-1010 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia for different classes of vehicles; and*

(5) *Golf carts and utility vehicles operating on designated streets and highways pursuant to this article shall be insured by a recreational vehicle policy of insurance with coverage of not less than fifty thousand dollars (\$50,000.00) per accident. Proof of such insurance shall be maintained in such golf cart or utility vehicle at all times such golf cart or utility vehicle is in operation on a designated street or highway.*

(b) *The limitations of subsection (a)(1) above shall not apply to golf carts and utility vehicles being operated as follows:*

- (1) *To cross a highway from one portion of a golf course to another portion thereof or to another adjacent golf course; or to travel between a person's home and golf course if (i) the trip would not be longer than one-half mile in either direction, and (ii) the speed limit on the road is no more than 35 miles per hour;*
- (2) *To the extent necessary for local government employees, operating only upon highways located within the locality, to fulfill a governmental purpose, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less; and*
- (3) *As necessary by employees of public or private two-year or four-year institutions of higher education if operating on highways within the property limits of such institutions, provided the golf cart or utility vehicle is being operated on highways with speed limits of 35 miles per hour or less.*

State law reference - Code of Va. § 46.2-916.3.

Section 13-64. Application procedure.

(a) *Any individual, organization, or entity may apply to the clerk of the board of supervisors to have a qualifying public highway in the county designated for golf cart or utility vehicle use, provided, however, that:*

- (1) *If the public highway is located within a neighborhood with a homeowners association, whether mandatory or not, such application shall be in the name of the homeowners association and shall be signed by a duly-authorized representative of the homeowners association.*

(2) *If the public highway is not located within a neighborhood with a homeowners association, or is otherwise located outside of a neighborhood, such application shall be accompanied by a petition affirmatively seeking such designation. Such petition shall include signatures representing at least 51% of the parcels adjacent to each of the public highways proposed for designation.*

(b) *At a minimum, each application shall include the following:*

(1) *The full legal name of the individual, organization, or entity making the application;*

(2) *The name and route number of each public highway to be designated;*

(3) *A petition, if one is required by section 13-64(a)(2); and*

(4) *An application fee of \$250.00.*

(c) *Upon receipt and acceptance of the application by the clerk of the board of supervisors, it shall be considered by the chief of police, who shall make a recommendation to the board of supervisors.*

(d) *Following a public hearing, the board of supervisors shall consider the recommendations of the affected property owners and the chief of police, the factors set forth in section 13-62(b), and the general merits of the application before making a determination.*

State law reference - Code of Va. § 46.2-916.3.

Section 13-65. Penalty.

A civil penalty in the amount of \$100.00 shall be assessed for any violation of this article. A civil penalty in the amount of \$250.00 shall be assessed for a repeated violation of this article. The imposition of civil penalties shall not preclude the use of injunctive relief.

State law reference - Code of Va. § 46.2-916.3.

Section 13-66. Revocation of designation.

The board of supervisors may, at its sole discretion and upon recommendation of the chief of police, suspend the designation of any public highway for golf cart or utility vehicle use at any time.

State law reference - Code of Va. § 46.2-916.3.

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 23rd day of October, 2007.

GolfCarts_ord

MEMORANDUM

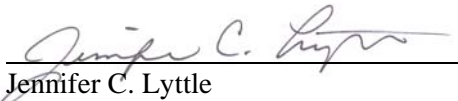
DATE: October 23, 2007
TO: The Board of Supervisors
FROM: Jennifer C. Lyttle, Assistant County Attorney
SUBJECT: Ordinance to Amend James City County Code Chapter 22, Wetlands

Attached for your consideration is a proposed ordinance which updates the County's Wetlands Ordinance by changing the designation of the Office of Code Compliance to the Environmental Division, and clarifies that wetlands permit applications are filed through the Marine Resources Commission.

When the County's Wetlands Ordinance was last amended on January 4, 1993, the County's Office of Code Compliance handled the processing, recordkeeping, and filing of information regarding wetlands permit applications. Since then, the processing, recordkeeping, and filing of information regarding wetlands permits are performed by the County's Environmental Division. In addition, the procedure for filing an application for a wetlands permit is done through the Commissioner of Marine Resources and is not filed directly with the County's Wetlands Board, as it is currently stated in the Wetlands Ordinance.

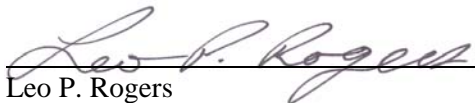
The proposed amendments in the attached ordinance are consistent with State Law, and reflect the County's current and standard operating procedures for wetlands permit applications and information.

Staff recommends adoption of the attached ordinance.



Jennifer C. Lyttle

CONCUR:



Leo P. Rogers

JCL/nb
Wetlands_ord.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 22, WETLANDS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, USE PERMITS, SECTION 22-4, REQUIRED FOR CERTAIN ACTIVITIES; APPLICATION GENERALLY; FEE; SECTION 22-5, APPLICATIONS, MAPS, DOCUMENTS TO BE OPEN TO PUBLIC INSPECTION; AND SECTION 22-7, WETLANDS BOARD ACTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 22, Wetlands, is hereby amended and reordained by amending Article II, Use Permits; Section 22-4, Required for certain activities; application generally; fee; Section 22-5, Applications, maps, documents to be open to public inspection; and Section 22-7, Wetlands board action.

Chapter 22. Wetlands

Article II. Use Permits

Sec. 22-4. Required for certain activities; application generally; fee.

(a) Any person who desires to use or develop any wetland within this county, other than for the purpose of conducting the activities specified in section 22-3 above, shall first file an application for a permit ~~with the wetlands board directly or~~ through the Commission.

Sec. 22-5. Applications, maps, documents to be open to public inspection.

All applications, maps and documents submitted shall be open for public inspection at the ~~code compliance~~ *environmental division* office.

Sec. 22-7. Wetlands board action.

(d) If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the ~~code compliance~~ *environmental division* office of this county.

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 23rd day of October, 2007.

Wetlands_ord

MEMORANDUM

DATE: October 23, 2007

TO: The Board of Supervisors

FROM: David W. German, Senior Planner

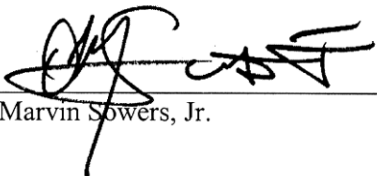
SUBJECT: ZO-0011-2007. R-4 (Residential Planned Community) Ordinance Amendment - Initiating Resolution

Staff has been made aware through review of a proposed addition to Ford’s Colony that Sections 24-275 and 24-283 of the Zoning Ordinance are worded in such a manner as to prohibit the reasonable development of planned communities in the County. Governor’s Land, Greensprings, Kingsmill, Powhatan, and Ford’s Colony are examples of R-4, Planned Communities. In short, a strict reading of the language in these Sections would require all R-4 Planned Communities in James City County to maintain “400 acres or more under single ownership or control” in perpetuity, in order to maintain compliance with the Zoning Ordinance over time. Staff believes that the original intent of the ordinance was to establish the minimum 400-acre requirement and to require a single applicant at the time of application for rezoning of the district. The main problem with the existing language is the requirement for “single ownership or control.” It is not logical or practical to expect that 400 acres would remain in single ownership or control and not be developed and sold in a given planned community over time, and this has not occurred in any of the planned communities in the County. Instead, lots or sections of a planned community would naturally be, and have been, developed and sold off to individual owners in all of the planned communities in the County. Properties in a planned community develop under the guidance of a master plan with accompanying requirements, including density caps and a 40 percent open space provision. Powhatan Planned Community, for example, is 536 acres. It and all other planned communities would be non-compliant with the ordinance as it is currently written and interpreted. Staff feels that “single ownership or control” places an impractical requirement on the reasonable and practical development of planned communities under the ordinance.

Staff recommends adoption of the attached resolution to initiate consideration of an amendment to the Zoning Ordinance to clarify and correct this situation.

David W. German

CONCUR:



O. Marvin Sowers, Jr.

DWG/gb
R4OrdAmend.mem

Attachment:
1. Initiating Resolution

RESOLUTION

ZO-0011-2007. R-4 (RESIDENTIAL PLANNED COMMUNITY) ORDINANCE AMENDMENT -

INITIATING RESOLUTION

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2286 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required, pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending the language of Article V. Districts, Division 5, Residential Planned Community District, R-4, by amending the provisions and procedures relating to existing, proposed, and additions to existing residential planned communities. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

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 23rd day of October, 2007.

R4OrdAmend.res