

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

October 14, 2008

7:00 P.M.

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I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Board of Building Code Adjustments and Appeals
 - b. Comprehensive Plan – Steering Committee

M. ADJOURNMENT to 4 p.m. on October 28, 2008

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF SEPTEMBER 2008, 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

Bruce C. Goodson, Chairman, Roberts District
James G. Kennedy, Vice Chairman, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District
Mary Jones, Berkeley District

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

C. BOARD DISCUSSIONS

1. Subscription-Based Residential Solid Waste Collection Program

Mr. John Horne, General Services Manager, introduced Stephen Geissler, Virginia Peninsulas Public Service Authority (VPPSA), and Jim Hill, James City County Solid Waste, who helped him to present. Mr. Horne presented the details of the proposed subscription-based residential solid waste collection program. He noted that it was a voluntary program and explained potentially offsetting the costs for curbside recycling, which was a separate contract with VPPSA. He gave an overview of the service including standard pickup, low generation pickup, and front and back yard service. He also highlighted the bulky waste pickup portion of the program and explained the fee structure and billing requirements and the administration of the program. He asked for Board guidance on how to proceed with the fees, assumption of recycling costs, and whether or not to move forward with the negotiations.

The Board and staff discussed the citizen inquiries that led to the discussion and benefits of the program such as traffic reduction, bulky waste pickup, and competitive prices in relation to the costs and impact on local hauler businesses and communities.

Discussion was held on the benefits and drawbacks of implementing the program inside the Primary Service Area (PSA) only versus in the entire County and on the possibility of including this bill on the Hampton Roads Utility Billing Service (HRUBS) bill that citizens receive for water and sewer service. There was discussion about three-tiered billing through homeowners associations that subscribed to the program. In addition, the select vendor could also provide the billing service.

The Board discussed whether or not this was an instance of the County endorsing one vendor in the market and harming other businesses. Discussion was held on the voluntary nature of the program and proposing it through the Neighborhood Connections office. The Board and staff discussed how competitive the market would become and participation expectations.

Discussion was held regarding Convenience Center access for customers and non-subscribers, fees for use and the contract length and terms. The Board discussed the incentives of the program versus the potential implications in the future. Staff explained the differences between use of the Convenience Center and the Transfer Station.

The Board directed staff to move forward with this proposal without free access to the Convenience Center and with voluntary offset of the recycling program costs. The Board asked staff to provide information on caps on the price escalation, and Consumer Price Index (CPI) information on staff time requirements, and York County comparison information. The Board and staff discussed an information package from York County and the potential for another work session.

2. Powhatan Creek Flood Study

Ms. Fran Geissler, Stormwater Management Director; Darryl Cook, County Engineer; and Scott Blossom and Chris Kuhn, Williamsburg Environmental Group; presented information on the Powhatan Creek Flood Study in anticipation of the Comprehensive Plan update. Mr. Blossom explained the study process and necessity, and went over the key results.

The Board and staff discussed the results of the study and the depths of flooding within the floodplain. The scope of the study was discussed and the relation to the upper part of the creek. Discussion was held on flooding on roads and accommodating water to prevent dangerous road conditions during flood events. The potential for increased water levels was discussed, and it was determined that while this was not likely to increase greatly, it was hard to predict what could happen in the future. The impacts of development on surrounding land were discussed.

3. Allocations Review

Mr. Doug Powell, Community Services Manager; accompanied by Diana Hutchens, Director of Social Services; and Barbara Watson, Assistant Manager of Community Services; gave an overview of the Allocations Review process and Allocations Review Team which evaluated funding of nonprofit and outside agencies. Mr. Powell explained the audit process and how each recipient of County funds was evaluated and that this was being presented prior to the budget retreat because the application process was beginning shortly.

D. BREAK

At 6:10 p.m. the Board took a break.

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 23RD DAY OF SEPTEMBER 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
James G. Kennedy, Vice Chairman, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District
Mary Jones, Berkeley District

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

C. PLEDGE OF ALLEGIANCE – Destyni Kuhns Gray, a fifth-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Residency Administrator, stated at the July 22 Board meeting that the Board requested VDOT to do a speed study on Lake Powell Road. He indicated that the study should be completed in the next month. He gave an update on median mowing and litter pickup on primary roads and noted there would be two more rounds this season. He stated that the recent project which added a turn lane on Ironbound Road was completed ahead of schedule and under budget. He noted that temporary signs were posted to indicate the new traffic pattern.

Mr. McGlennon congratulated Mr. Halacy on his permanent appointment as Residency Administrator and thanked him for his attention to the previous requests regarding Lake Powell Road.

E. PUBLIC COMMENT

1. Mr. Alex Kuras, 112 Pasbehegh Drive, on behalf of the James City County Citizens Coalition (J4C) Budget Advisory Committee, commented on school construction and how to address the school construction budget gap, and presented the findings of the Committee's report.

2. Mr. Marc Sharp, 16 Bray Wood, commented on the school construction budget, and stated that the education system needed to be enhanced to create an effective and competitive school system. He requested approval of the school construction budget.

3. Ms. Colleen Lynch, 9409 Ashlock Court, President of Williamsburg-James City County PTA, requested approval of the school construction budget.

4. Mr. Jim Sammons, 104 Pebble Beach, commented on test scores that he distributed to the Board and requested approval of the school construction budget.

5. Mr. Jack Haldeman, 1597 Founder's Hill North, on behalf of J4C, explained the mission and composition of J4C.

6. Mr. Bill Spaller, 1556 Harbor Road, commented that the J4C has put forth an effort to do studies in great detail to aid staff and the Board in decision-making. He commented that water is a key issue for the County and noted comments about expanding the Primary Service Area (PSA). He asked to respect the PSA as a boundary for excessive growth.

7. Mr. John Rhein, 3505 Hunters Ridge, on behalf of the National Federation of the Blind (NFB), Greater Williamsburg Chapter, commented on equipping sound on hybrid cars to protect the blind and other pedestrians. He stated that he requested a programming schedule with sound on the County cable channel.

8. Mr. David Bush, 3913 Philip Ludwell, on behalf of the Williamsburg-James City County Education Foundation, requested approval of the school construction budget.

9. Ms. Meredith Fernandez, 7639 Cypress Drive, requested approval of the school construction budget on behalf of parents and commented on the rate of growth and the necessity of the additional schools.

10. Mr. Steve Mathiasan, Williamsburg-James City County Education Foundation, requested approval of the school construction budget and noted that the timing of the construction is very good.

11. Mr. Ed Oyer, 139 Indian Circle, commented on County schools and excessive budgets; Route 60 East traffic; adding onto schools rather than additional construction; commercial and retail construction without tenants; and traffic lights on Monticello Avenue.

Mr. Goodson asked that Mr. Wanner respond to the question raised by Mr. Rhein.

Mr. Wanner stated that this was investigated by staff and in most cases there would be competing sounds, which would be a problem.

Mr. Goodson asked to see how other localities address this.

Mr. Goodson recognized the presence of School Board members Ms. Ruth Larson, Ms. Mary Ann Maimone, Ms. Elise Emanuel, and Superintendent Gary Mathews in the audience.

F. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the Consent Calendar with the amendment to the minutes.

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

1. Minutes – September 9, 2008, Regular Meeting

2. Dedication of Streets – Stonehouse Phase I, Section 5A – Lisburn

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE PHASE 1, SECTION 5A - LISBURN

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 (VDOT) advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of VDOT; and

WHEREAS, the County and VDOT 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 VDOT 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 VDOT'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 VDOT.

3. Contract Award – Phase I – Point of Service Solid Waste Collection and Recycling Services for James City County and Williamsburg-James City County (WJCC) Schools – \$52,447.32

RESOLUTION

CONTRACT AWARD – PHASE I – POINT OF SERVICE SOLID WASTE COLLECTION

AND RECYCLING SERVICES FOR JAMES CITY COUNTY AND WILLIAMSBURG-JAMES

CITY COUNTY SCHOOLS (WJCC) – \$52,447.32

WHEREAS, the Request for Proposals has been advertised and three interested firms submitted proposals; and

WHEREAS, the staff reviewed and evaluated the proposals, conducted interviews, and selected Waste Industries, LLC as the most qualified to provide the Point of Service Solid Waste Collection and Recycling Services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes an award of contract to Waste Industries, LLC to provide Point of Service Solid Waste Collection and Recycling Services for James City County for a total annual amount of

\$52,447.32 (Trash \$48,404.88; Recycling \$4,042.44).

4. Contract Award – Community Center Whirlpool Replacement - \$238,000

RESOLUTION

CONTRACT AWARD - COMMUNITY CENTER WHIRLPOOL REPLACEMENT - \$238,000

WHEREAS, a Request for Proposals to furnish and install a replacement whirlpool system at the James City/Williamsburg Community Center was publicly advertised and staff reviewed the proposal from Greenland Enterprises, Inc.; and

WHEREAS, upon evaluating the proposal, staff determined that Greenland Enterprises, Inc. was fully qualified to perform the work, the proposed solution suited the County's needs as defined in the Request for Proposals, and a fair and reasonable price had been negotiated.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$238,000 contract to furnish and install a replacement whirlpool system at the James City/Williamsburg Community Center to Greenland Enterprises, Inc.

5. Contract Change Order – \$69,900 – AES Consulting Engineers, Architectural and Engineering Services for Residential Revitalization of Ironbound Square

RESOLUTION

CONTRACT CHANGE ORDER – \$69,900 – AES CONSULTING ENGINEERS,

ARCHITECTURAL AND ENGINEERING SERVICES FOR RESIDENTIAL

REVITALIZATION OF IRONBOUND SQUARE

WHEREAS, on May 22, 2001, the James City County Board of Supervisors awarded a Project Planning and Engineering Services Contract for the Ironbound Square Residential Revitalization to AES Consulting Engineers; and

WHEREAS, the scope and duration of the Project have changed such that a change order is necessary to increase the total compensation for the contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the change order to increase the total compensation for the contract by \$69,900.

G. BOARD CONSIDERATIONS

1. Right-of-Way Agreement – Dominion Virginia Power – Freedom Park

Mr. Darryl Cook, County Engineer, stated that this item was a consideration of a right-of-way agreement with Dominion Virginia Power at Freedom Park and that the easement would be used to connect two electric lines. Mr. Cook explained that this item was deferred to allow for discussion with Dominion Virginia Power to place the lines underground and that these meetings have taken place, but Dominion Virginia Power maintained that it was necessary for it to place the lines overhead.

Staff recommended approval of the resolution.

Mr. Icenhour commented on the reading file information that explained that there would be a new opening at Bush Neck Road.

Mr. Cook stated that he was not familiar with that information.

Mr. Icenhour asked if the issue with creating the underground lines was monetary.

Mr. Wanner stated that he and Mr. Hicks had discussions with Dominion Virginia Power about placing the lines underground. He stated that due to soil conditions and other reasons, underground lines were not feasible and that the job would move more slowly than originally intended to coordinate with schools. He stated that underground lines were more expensive, compared to the overhead lines.

Mr. Icenhour stated that this easement would still have problems with trees.

Mr. Wanner stated that from his discussions with Dominion Virginia Power, trees and other obstacles that may obstruct the lines would receive quick attention.

Mr. McGlennon stated that he appreciated the willingness to look at underground lines and that there should be a serious approach to placing lines underground. He stated that development occurring should provide power lines underground, and that hundreds of hours of time were lost due to inability to work due to placement of utilities.

Mr. Kennedy stated that he had experienced many instances without power, so he would support utilities being placed underground.

Mr. McGlennon said that the benefit of this particular project would be to create repetition for greater reliability.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

RIGHT-OF-WAY AGREEMENT - DOMINION VIRGINIA POWER -

FREEDOM PARK

WHEREAS, James City County (County) owns 675.64 acres located at 5537 Centerville Road, commonly known as Freedom Park (Park) and designated as Parcel No. 0100009 on James City County Real Estate Tax Map No. (30-1); and

WHEREAS, Dominion Virginia Power (Dominion) requires a right-of-way and utility easement of 30 feet in width across a portion of the Park in order to improve reliability to its customers on Jolly Pond Road by creating a looped system as part of Dominion's service reliability study; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey a right-of-way and utility easement to Dominion.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the right-of-way agreement and other such documents necessary to convey the utility easement to Dominion for improved reliability of electrical service to citizens on Jolly Pond Road.

2. School Construction Budget for the Fourth Middle and Ninth Elementary Schools – \$67,000,000

Mr. Wanner stated that the 2007 amended and restated School Contract for the joint operation of the Schools, approved by the City of Williamsburg and the Board of Supervisors of James City County, set forth a contract provision that for any school capital project with an estimated cost of \$1 million or more, to appropriate funds to the project in two phases. He explained that Phase 1 included site acquisition and sufficient engineering and design services to produce reliable cost estimate and constructability, peer review, and value engineering reports shall be reviewed and critically evaluated. He explained that Phase 2 would come at the conclusion of Phase 1 and result in the appropriation of sums sufficient for construction. He noted that this process was a result of the inflated construction costs of Warhill High School.

Mr. Wanner stated that upon completion of Phase 1 of the process, Williamsburg and County staff met with WJCC School staff, and the construction management firm to evaluate the proposed cost for the construction of the new fourth middle and ninth elementary schools. As a result of that discussion and evaluation of the proposed project, it was recommended that a construction budget of \$67 million be established for the construction of the fourth middle and ninth elementary schools. He said that the construction budget includes off-site road improvements, traffic signs, elementary school construction including installation of geothermal wells, middle school construction including geothermal wells, site and civil construction, the early site work package, wastewater force main and information technology lines, wetland mitigation fees, Virginia Aquatic Resource Trust fees, fees for utilities, and a five percent contingency.

Mr. Wanner noted that the construction budget does not include funds for fixtures, furnishings, and equipment (FF&E), technology, additional buses, and a contingency associated with those items and stated that funding for those items would be addressed during the fiscal year 2010 budget process.

Mr. Wanner recommended approval of the resolution establishing a \$67,000,000 construction budget for the fourth middle and ninth elementary schools.

Mr. Kennedy stated his appreciation for school staff and its Board members in attendance. He stated that schools in the Stonehouse District are overcrowded. He stated his concern for school trailers being used for kindergarteners, which do not provide access to technology that is used in the rest of the school. He commented that he was supportive of the school construction project and that the budgets should be scrutinized. He stated that the bond referendum for the third high school was deferred by the schools several times, and asked that redistricting be investigated, green design and construction be implemented, and classroom sizes and utilization be evaluated.

Mr. Kennedy made a motion to approve the resolution.

Mr. McGlennon thanked the schools for cooperation as the process of approval moves forward and stated that it has been helpful for the schools to incorporate changes to provide better stewardship of the taxpayers' dollars. He stated his appreciation for implementation of many recommendations including geothermal heating and cooling as an environmentally and fiscally responsible choice. He stated that once the current housing crisis subsided, the school facilities would be needed and that this investment provided value to the community. He stated his support for this item.

Mr. Icenhour stated his support of the resolution and commented on the timing of the construction. He stated that there was a responsibility to spend money wisely, that this situation was a result of the approval of development from previous Boards, and that the construction was necessary.

Ms. Jones asked Dr. Bob Becker, WJCC Schools Operations Officer, to confirm the capacity for the two new schools which she understood to be approximately 500 for elementary level instruction, 200 for preschool, and 860 for middle school level instruction.

Dr. Becker stated that 524 would be the capacity for elementary students, 200 for prekindergarten, and 864 for middle school students.

Mr. Goodson asked how many students are in the current prekindergarten program.

Mr. Scott Burckbuchler said that there are approximately 300 preschool students.

Mr. Goodson asked if this would be increased by 150.

Mr. Scott Burckbuchler stated that this construction project would increase capacity by 150 preschool students.

Mr. McGlennon asked if prekindergarten students were not included in typical enrollments projected.

Mr. Scott Burckbuchler stated that enrollment figures typically do not include preschool students.

Mr. McGlennon asked if this programming was included in the budget.

Mr. Scott Burckbuchler stated that preschool funding was included in the budget.

Mr. McGlennon stated that in looking at the budget versus enrollment, this should be considered.

Ms. Jones stated her appreciation for the attendance of the School Board members and staff, her appreciation for the concerns of parents, and that there was an effort to be fiscally responsible. She stated that she was glad to note there would be a School Board member on the Comprehensive Plan Steering Committee. She stated that communities want smaller class sizes and that through the Comprehensive Plan, ranges of student enrollment should be considered. She stated that in the Stonehouse District there was crowding but

that other districts were below capacity and that redistricting was a way to alleviate problems in the short-term.

Mr. Goodson commented on the two-phase process for construction and stated that it was a good way to represent the taxpayers. He stated it was a positive construction economy and stated his support for the resolution. He stated that growth was labeled as the reason for construction, but the expansion of programs also created this need. He stated that educational standards have changed and the needs of schools have changed. He stated there were additional efficiencies with one parcel and one contract, and that timing was being considered for opening the middle school based on need.

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

RESOLUTION

SCHOOL CONSTRUCTION BUDGET FOR THE FOURTH MIDDLE AND

NINTH ELEMENTARY SCHOOLS - \$67,000,000

WHEREAS, the 2007 amended and restated School Contract approved by the City of Williamsburg and the Board of Supervisors of James City County sets forth a provision that appropriations of funds for school capital projects be completed in two phases for projects estimated at \$1 million; and

WHEREAS, Phase 1 includes preliminary steps for construction including site acquisition and completion of sufficient engineering and design services to provide reliable estimates to be evaluated; and

WHEREAS, Phase 1 of the process has been completed, including evaluation of value engineering reports, capital impact on new buses, as well as independent constructability analysis and peer review and staffs of both jurisdictions have met with the appropriate Williamsburg-James City County School staff and management to evaluate the cost information for the two new schools; and

WHEREAS, Phase 2 allows for the appropriation of funds sufficient for construction and shall follow the conclusion of Phase 1.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the construction budget is set at \$67,000,000 for the construction of the fourth middle and ninth elementary schools.

Mr. Goodson recognized Mr. Tony Obadal in attendance on behalf of the Planning Commission.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on excessive spending; York County school division budget reductions; York County school spending; and vacant storefronts.

2. Mr. John Rhein, 3505 Hunters Ridge, asked again why the cable channel could not allow for an audio program directory.

Mr. Wanner stated that this was evaluated and the problem was with competing sounds.

Mr. Goodson asked that the process used by other localities should be examined.

Mr. Rhein stated that he does not have the information and that he would like to have the music removed to have an audible programming guide. He stated that the Board was more concerned with the comments on the school construction budget than his issue.

3. Ms. Ruth Larson, Ms. Mary Ann Maimone, and Ms. Elise Emanuel, on behalf of the School Board, thanked the Board for its approval of the school budget.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that there needed to be a meeting of the James City Service Authority (JCSA) and closed session. He stated that when the Board completed its business it should adjourn to 7 p.m. on October 14, 2008. He stated that the Board should do its Board Requests and Directives, recess the Board for a meeting of the JCSA, and then hold a closed session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy expressed concern that small car sale lots were prevalent on County roads. He stated concern about signage and noticed election signs in the County and asked to evaluate the ordinances if necessary.

Mr. McGlennon asked Mr. Rogers to bring forward information on signage requirements.

Mr. Rogers stated that this would come from the Development Management department.

Mr. McGlennon stated that Mr. Rhein had raised a concern and this was a matter that needed to be taken seriously. He stated that there needed to be a way to provide information to citizens to whom it was not readily accessible and that there was an opportunity for someone to record the words appearing on the screen.

Mr. Goodson recessed the Board at 8:24 p.m.

Mr. Goodson reconvened the Board at 8:50 p.m.

K. CLOSED SESSION

Mr. Kennedy made a motion to go into closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Colonial Services Board, the Comprehensive Plan Steering Committee, and the Stormwater Program Advisory Committee.

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

At 8:51 p.m., Mr. Goodson recessed the Board into Closed Session.

At 9:05 p.m., Mr. Goodson reconvened the Board.

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

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy, Goodson (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)(1), to consider personnel matters, the appointment of individuals to County boards and/or commission.

Mr. McGlennon made a motion to appoint Mr. William Pugh to an unexpired term on the Colonial Services Board, term to expire on June 30, 2010. He made a motion to appoint Ms. Julie Leverenz to the Comprehensive Plan Steering Committee as a citizen appointment, as well as Board of Supervisors member Mary Jones, Economic Development Authority (EDA)/Business Climate Task Force (BCTF) member Tom Tingle, School Board member Jim Nichols, Citizen-At-Large member Bill Porter, and Parks and Recreation Advisory Commission (PRAC) member Mark Wenger. He made a motion to appoint the following individuals to the Stormwater Program Advisory Committee: John Haldeman, John Schmerfeld, Mac Mestayer, Tom Abrials, Kathleen Lindsay, Aaron Small, Jody Davis, Debra Siebers, Charles Brewster, Robin Bledsoe, Terence Elkins, Douglas Haller, Brian Noyes, and Todd Halacy.

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

L. ADJOURNMENT to 7 p.m. on October 14, 2008.

Mr. McGlennon made a motion to adjourn.

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

At 9:09 p.m., Mr. Goodson adjourned the Board to 7 p.m. on October 14, 2008.

The Board reconvened at 9:10 p.m. for the Planning Commission Appointments to the Steering Committee.

Mr. Kennedy made a motion to appoint Mr. Jack Fraley, Mr. Chris Henderson, Mr. George Billups, and Mr. Joe Poole to the Steering Committee.

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

The Board adjourned to 7 p.m. on October 14, 2008.

Mr. McGlennon made a motion to adjourn.

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

At 9:11 p.m., the Board adjourned.

Sanford B. Wanner
Clerk to the Board

092308bos_min

M E M O R A N D U M

DATE: October 14, 2008

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Resolution for James City-Bruton Volunteer Fire Department

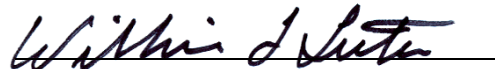
In 1948, a small group of citizens in the Stonehouse District of James City County realizing a need for local fire protection organized themselves into a volunteer fire department. The James City-Bruton Volunteer Fire Department continues that tradition today, 60 years later. The small volunteer fire department was the seed that evolved into the comprehensive fire protection, fire prevention, and emergency medical system that protects all citizens in James City County today.

The James City-Bruton Volunteer Fire Department continues to serve the residents of the upper end of the County. Their members contribute to the identity of this community every day, whether it is at their semi-annual fish fry, the farmers market, or just folks stopping by the firehouse for a visit. The members contribute thousands of hours of their time and energy every year so that the community can rest comfortably in the realization that they are well protected.

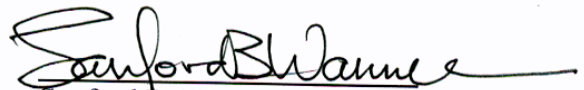
The members respond 24 hours a day, seven days a week. They often respond from their homes during the worst weather and in the most inhospitable conditions. They respond to vehicle accidents on the roadways, brush fires in the forests, and fires in or threatening our homes. They are there when we suffer medical illnesses and accidents tending to our immediate life-threatening needs.

The second week of October is National Fire Prevention Week each year, and the month of October is considered Fire Prevention Month. This time is set aside to contemplate and work towards community fire prevention in remembrance of the Great Fire in Chicago. It is fitting that we honor the 60 years of dedication, courage, and loyalty of the James City-Bruton Volunteer Fire Department during this month of October, 2008.

Staff recommends adoption of the resolution.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
BrutonVFD_mem

Attachment

RESOLUTION

JAMES CITY-BRUTON VOLUNTEER FIRE DEPARTMENT

WHEREAS, James City County is committed to an enduring partnership supporting Fire Protection and Prevention among its citizens, James City County Fire Department, and the James City-Bruton Volunteer Fire Department; and

WHEREAS, James City-Bruton Volunteer Fire Department has served the citizens of James City County for 60 years; and

WHEREAS, three-fourths of all firefighters in the United States are volunteers; and

WHEREAS, the month of October is recognized as National Fire Prevention Month; and

WHEREAS, the men and women of the James City-Bruton Volunteer Fire Department have demonstrated their dedication and commitment to the welfare and safety of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize James City-Bruton Volunteer Fire Department as a vital public safety component of the community.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

BrutonVFD_res

MEMORANDUM

DATE: October 14, 2008

TO: The Board of Supervisors

FROM: Grace A. Boone, General Services Operations Administrator

SUBJECT: Installation of "Watch for Children" Signs – Lake Powell Forest Subdivision

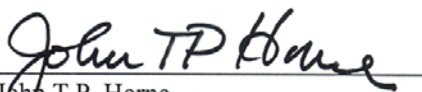
Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing it to take this action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

Residents of the Lake Powell Forest community have requested the Board seek approval for two "Watch for Children" signs to be installed on Hillside Way and Durfey's Mill Road at the locations shown on the attached map. The attached resolution requests VDOT to install and maintain two "Watch for Children" signs on Hillside Way and Durfey's Mill Road.

Staff recommends adoption of the attached resolution.


Grace A. Boone

CONCUR:


John T.P. Horne

GAB/nb
WFCsignsLPF_mem

Attachments

RESOLUTION

INSTALLATION OF “WATCH FOR CHILDREN” SIGNS –

LAKE POWELL FOREST SUBDIVISION

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

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

WHEREAS, residents of the Lake Powell Forest community have requested that “Watch for Children” signs be installed on Hillside Way and Durfey’s Mill Road as illustrated on the attached map titled “Lake Powell Forest Subdivision ‘Watch for Children Signs’.”

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

Bruce C. Goodson
Chairman, Board of Supervisors

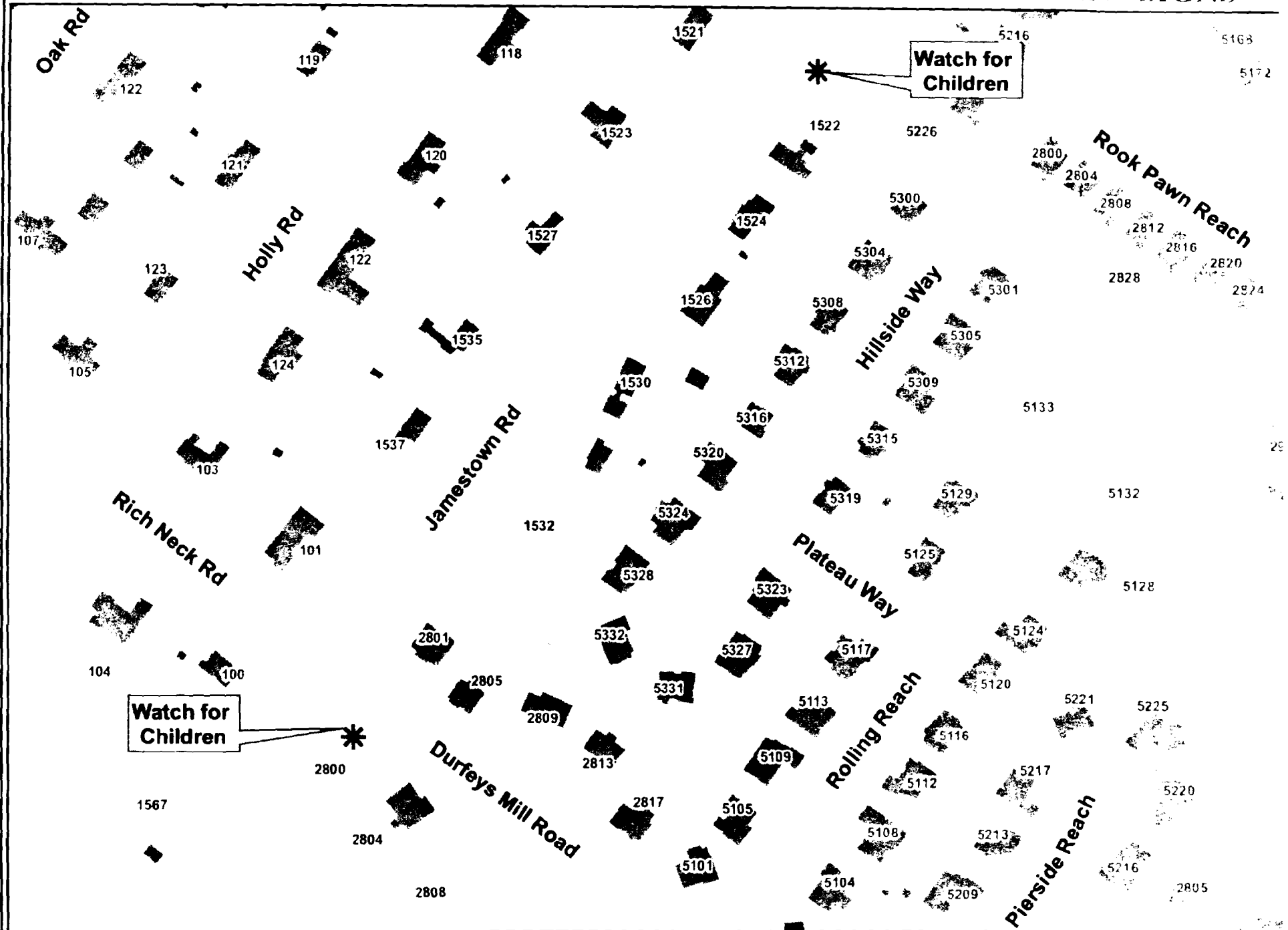
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

WFCsignsLPF_res

LAKE POWELL FOREST SUBDIVISION - "WATCH FOR CHILDREN" SIGNS



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

1 inch equals 200 feet

0 0.025 0.05 Miles



MEMORANDUM

DATE: October 14, 2008

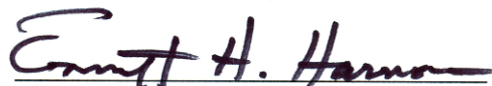
TO: The Board of Supervisors

FROM: Emmett H. Harmon, Police Chief

SUBJECT: Grant Award - Department of Alcoholic Beverage Control (ABC) - \$5,000

As part of its continued efforts towards enforcing underage drinking laws, the Virginia Department Alcoholic Beverage Control has awarded the James City County Police Department a grant in the amount of \$5,000. The funds will be used to augment the Department's alcohol education programs. The grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/gb
ABCAward_mem

Attachment

RESOLUTION

GRANT AWARD - DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC) -

\$5,000

WHEREAS, as part of its continued efforts towards enforcing underage drinking laws, the Virginia Department Alcoholic Beverage Control (ABC) has awarded the James City County Police Department a grant in the amount of \$5,000; and

WHEREAS, the grant requires no match; and

WHEREAS, the funds will be used to augment the Department's alcohol education programs.

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

Revenue:

ABC Grant – FY 09	<u>\$5,000</u>
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Expenditure:

ABC Grant – FY 09	<u>\$5,000</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

ABCAward_res

MEMORANDUM

DATE: October 14, 2008

TO: The Board of Supervisors

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

SUBJECT: Grant Appropriation - Clerk of the Circuit Court - \$283,993

The State Compensation Board has awarded the Clerk of the Circuit Court a grant from its Technology Trust Fund totaling \$283,993. The grant will allow the Clerk to continue to modernize the office and its records system.

Staff recommends approval of the attached resolution authorizing a budget appropriation of \$283,993 to the Special Projects/Grants Fund.

John E. McDonald

JEM/nb
clerkgrant08_mem

Attachment

RESOLUTION

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT - \$283,993

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court a technology grant totaling \$283,993; and

WHEREAS, there is no local match required.

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

Revenue:

State Compensation Board Technology Grant	<u>\$283,993</u>
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Expenditure:

Circuit Court Clerk Technology Upgrades	<u>\$283,993</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

clerkgrant08_res

MEMORANDUM

DATE: October 14, 2008

TO: The Board of Supervisors

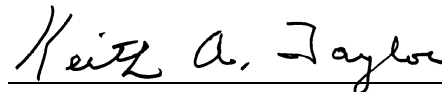
FROM: Keith A. Taylor, Economic Development Director and Secretary, Economic Development Authority

SUBJECT: Resolution Approving Issuance of a Revenue Bond for D & D Properties, LLC - \$1.78 million

At its September 23, 2008, regular meeting, the Economic Development Authority approved a Resolution of Inducement for the Funding of D & D Properties, LLC for up to \$1.78 million worth of revenue bonds to finance the costs of expanding the existing manufacturing facility of Nicewood Enterprises, Inc. that produces high-end custom case goods and retail display fixtures for prominent national retailers. This expansion will help retain a longstanding County company, bring additional revenue to the County, and will potentially create five new jobs.

The Board is reminded that neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County of James City, and the Authority are pledged toward these bonds. Nor are these entities in any way liable for any costs or financial obligations incident thereto.

Staff recommends approval of the attached resolution.


Keith A. Taylor

KAT/gb
IssueRevBond_mem

Attachments

RESOLUTION

APPROVING ISSUANCE OF A REVENUE BOND FOR D&D PROPERTIES LLC –

\$1.78 MILLION

WHEREAS, there have been described to the Economic Development Authority of James City County, Virginia (the Authority), the plans of D & D Properties, LLC (the Company) to finance through the issuance of a revenue bond in the principal amount not to exceed \$1,780,000 (the Bond) the construction and equipping of manufacturing facilities for custom case goods and retail display fixtures (the Facility) to be located at 9001 Westmont Drive in James City County, Virginia (the County); and

WHEREAS, a public hearing with respect to the Bond as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), and the Internal Revenue Code of 1986, as amended (the Code), was held by the Authority on September 23, 2008; and

WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the issuer of private activity bonds shall approve the issuance of such bonds; and

WHEREAS, the Authority issues its bonds on behalf of the County and the members of the Board of Supervisors of James City County (the Board) constitute the highest elected governmental officials of the County; and

WHEREAS, Section 15.2-4906 of the Virginia Code provides that the Board shall, within 60 calendar days from the public hearing with respect to industrial development revenue bonds, either approve or disapprove the issuance of such bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bond, a reasonably detailed summary of the comments expressed at the public hearing with respect to the Bond and the Facility and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board, together with the Authority's recommendation that the Board approve the issuance of the Bond.

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

1. The recitals made in the first preamble to this Resolution are hereby adopted as a part of this Resolution.
2. The Board approves the issuance of the Bond by the Authority to assist in the plan of finance described herein for the benefit of the Company to the extent required by the Code and Section 15.2-4906 of the Virginia Code.
3. The approval of the issuance of the Bond, as required by the Code and Section 15 2-4906 of the Virginia Code, does not constitute an endorsement to a prospective

purchaser of the Bond of the creditworthiness of the Company, and, as required by Section 15.2-4909 of the Virginia Code, the Bond shall provide that neither the County nor the Authority shall be obligated to pay the Bond or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefore and neither the faith or credit nor the taxing power of the Commonwealth of Virginia, the County nor the Authority shall be pledged thereto.

4. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaim all liability for any damage to the Company or the Facility, direct or consequential, resulting from the Authority's failure to issue the Bond for any reason.
5. This resolution shall take effect immediately upon its adoption.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

IssueRevBond_res

RESOLUTION OF THE
ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

WHEREAS, there have been described to the Economic Development Authority of James City County, Virginia (the Authority), the plans of D&D Properties LLC (the Company) to finance the construction and equipping of manufacturing facilities for custom case goods and retail display fixtures (the Facility) to be located at 9001 Westmont Drive in James City County, Virginia (the County); and

WHEREAS, the Company in its appearance before the Authority and its application has described the benefits to the County and has requested the Authority to agree to issue its industrial development revenue bonds under Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the Act), in such amounts as may be necessary to finance costs to be incurred in constructing and equipping the Facility; and

WHEREAS, a public hearing has been held as required by the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended, on September 23, 2008;

BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA:

1. It is hereby found and determined that the location of the Facility for the Company in the County will bring additional revenues and employment into the County and will promote the industrial development and economy of the County, benefit its inhabitants, increase their commerce and promote their safety, health, welfare, convenience and prosperity.

2. To induce the Company to locate the Facility in the County, the Authority hereby agrees to assist the Company to finance the construction and equipping of the Facility by undertaking the issuance of its industrial development revenue bonds therefor in an amount not to exceed \$1,780,000 upon terms and conditions to be mutually agreed upon between the Authority and the Company. The bonds shall be issued in form and pursuant to terms to be approved by the Authority.

3. It having been represented to the Authority that it is necessary to proceed immediately with the construction and equipping of the Facility, the Authority hereby agrees that the Company may proceed with plans for the Facility, enter into contracts for the construction and equipping and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Company to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Facility or the bonds.

4. The Authority hereby agrees to the recommendation of the Company that Kaufman & Canoles, Norfolk, Virginia, be appointed as bond counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the bonds.

5. All costs and expenses in connection with the financing and the construction and equipping of the Facility, including the Authority's administrative fees and the fees and expenses of bond counsel and counsel for the Authority, shall be paid from the proceeds of the bonds or from funds of the Company. If for any reason such bonds are not issued, it is understood that all such expenses shall be paid by the Company and that the Authority shall have no responsibility therefor.

6. In adopting this resolution the Authority declares its official intent to finance the Facility within the meaning of Section 1.150-2 of the treasury regulations issued by the Internal Revenue Service pursuant to the Internal Revenue Code of 1986, as amended (the Code). The Authority, including its directors, officers, employees, and agents, shall not be liable and hereby disclaims all liability to any person for any damages, direct or consequential, resulting from the Authority's failure to issue bonds for the Facility for any reason, and the Company shall agree to indemnify and hold harmless the Authority and its directors, officers, employees, agents and counsel from and against all liabilities, claims, penalties, losses, costs and expenses in any way connected with the Facility or the issuance of the bonds. Adoption of this resolution neither carries nor implies any assurance of or commitment for an allocation from the Commonwealth of Virginia's allowable private activity by bond volume cap, nor any obligation with respect thereto. By accepting and proceeding under authority of this resolution, the Company agrees to assume the risk that the entire volume of tax-exempt private activity notes or bonds authorized to be issued within the Commonwealth in any period may be allocated to others. Nothing contained in this Section 6 shall operate as or be deemed to be a condition precedent to or limitation on the approval of the issuance of the bonds and the plan of financing for the Facility for purposes of the Code, or for purposes of the Authority's declaring its official intent to finance the Facility.

7. The Authority shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings as hereinabove set forth, including filing a request to the Virginia Small Business Financing Authority for a portion of the Commonwealth's private activity bond allocation in the principal amount of the bonds.

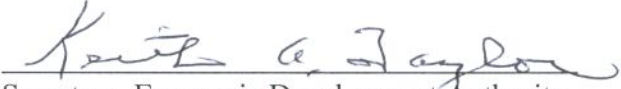
8. Unless this resolution is extended by the Authority, the bonds authorized hereunder shall be issued within one year from the date hereof.

9. The Authority hereby recommends that the Board of Supervisors of the County (the Board) approve the issuance of the bonds and hereby directs the Chairman or Vice Chairman to submit to the Board the statement in the form prescribed by Section 15.2-4907 of the Act, a reasonably detailed summary of the comments expressed at the public hearing required by Section 15.2-4906 of the Act, and a copy of this resolution.

10. This resolution shall take effect immediately upon its adoption.

The undersigned hereby certifies that the above resolution was duly adopted by roll call vote by a majority of the directors of the Economic Development Authority of James City County, Virginia, at a meeting duly called and held on September 23, 2008, and that such resolution is in full force and effect on the date hereof.

Dated: Sept. 23, 2008.


Secretary, Economic Development Authority
of James City County, Virginia

::13905253

FISCAL IMPACT STATEMENT
SUBMITTED TO THE
ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

The undersigned applicant, in order to permit the Authority to submit the following information in compliance with Section 15.2-4907 of the Code of Virginia of 1950, as amended, states:

Name of applicant: D&D Properties LLC

Facility: Manufacturing Facility

- | | | |
|----|--|-------------|
| 1. | Maximum amount of financing sought | \$1,780,000 |
| 2. | Estimated taxable value of facility's real property to be constructed in James City County | 1,640,000 |
| 3. | Estimated real property tax per year in James City County using present tax rates | 17,000 |
| 4. | Estimated personal property tax per year in James City County using present tax rates | 6,000 |
| 5. | Estimated merchant's capital tax per year in James City County using present tax rates | N/A |
| 6. | a. Estimated dollar value per year of goods that will be purchased from Virginia companies within James City County | 265,389 |
| | b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within James City County | 2,914,707 |
| | c. Estimated dollar value per year of services that will be purchased from Virginia companies within James City County | 315,060 |
| | d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within James City County | 504,120 |
| 7. | Estimated number of regular employees in James City County on year round basis (FTE) | 80 |
| 8. | Average annual salary per employee in James City County | 28,000 |

Dated: September 23, 2008

ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA

By: _____


Chairman

SUMMARY OF PUBLIC HEARING

The Chairman of the Economic Development Authority of James City County, Virginia (the Authority), opened a public hearing at 8:00 a.m. on September 23, 2008, in the Authority's Conference Room, Suite 203 at 5308 Discovery Park Boulevard, Williamsburg, Virginia 23188, with respect to the issuance of the Authority's revenue bond (the Bond) in an amount not to exceed \$1,780,000 to assist D&D Properties, LLC (the Company), a Virginia limited liability company, in financing (i) the construction and equipping of manufacturing facilities for custom case goods and retail display fixtures to be located at 9001 Westmont Drive in James City County, Virginia, and (ii) the cost of issuance of the Bond.

No members of the public requested to be heard and the Chairman of the Authority closed the public hearing at 8:05 a.m.

Respectfully submitted,


Secretary, Economic Development
Authority of James City County, Virginia

SPECIAL USE PERMIT-0009-2008. Greenwood Christian Academy at the King's Way Church

Staff Report for the October 14, 2008, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

September 10, 2008, 7:00 p.m.

Board of Supervisors:

August 12, 2008, 7:00 p.m. (remanded)

October 14, 2008, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Chris Basic, AES Consulting Engineers

Land Owner:

King's Way Church

Proposal:

To allow for the operation of an elementary school on-site (grades pre-K - 5) with a maximum enrollment of 200 students.

Location:

5100 John Tyler Highway

Tax Map/Parcel No.:

4720100057

Parcel Size:

4.56 acres

Zoning:

R-1, Limited Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff believes that this proposal is consistent with the Comprehensive Plan Land Use Map designation and Comprehensive Plan. Since no additional infrastructure is being proposed as a part of this application and since no additional students are going to be allowed, staff does not believe this application will have any negative impacts on the surrounding property by allowing the elementary school operation on-site. Based on this information, staff recommends that the Board of Supervisors approve this application with a one-year sunset provision as directed. If the Board of Supervisors concurs with the Planning Commission recommendation containing a 36-month sunset provision, an amended resolution has been provided.

Staff Contact:

Jason Purse

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 10, 2008, the James City County Planning Commission recommended approval of the above-referenced case by a vote of 5-2 with the following recommended amendments to the staff report: added language to Condition 1 to confine the operation of the school to the existing footprint of the church, amending the grade range from grades 1 through 5, as was stated in the staff report, to grades K through 5, and amending the sunset condition to a 36-month period.

Proposed Changes Made Since Planning Commission Meeting

Staff made two changes to the conditions based on Planning Commission comments. Staff added language confining the operation of the school to the existing footprint of the church and made the change to the grade range of the condition as well.

Since the Board of Supervisors requested the one-year sunset provision at its August 12, 2008, meeting, staff has left the condition with an expiration date of June 30, 2009. Should the Board concur with the Planning Commission recommendation, an alternate resolution has been provided for consideration that includes a 36-month sunset provision.

PROJECT DESCRIPTION

Prior to the August 12, 2008, Board of Supervisors meeting, staff became aware that Greenwood Christian Academy was operating as an elementary school as well as a preschool. The approved SUP only allowed for the operation of a preschool. Before the Board meeting, the applicant requested a change to the proposal to bring the operation of the elementary school into compliance. The Board of Supervisors remanded the case to the Planning Commission for further consideration.

Mr. Chris Basic, of AES Consulting Engineers, has amended the original Greenwood Christian Academy expansion request and is asking for an SUP to allow for the operation of an elementary school on-site, including grades pre-K through 5. The existing SUP allows 200 children to be enrolled for preschool. The application will not increase the number of students past 200 and will not seek to construct a new building. The amended request will allow the grade school to operate where the preschool is only permitted currently.

The conditions presented for Board consideration are the same ones that were attached to the SUP-30-2001 case. Since no additional infrastructure and no additional students are being added to the use, none of the previously presented conditions for expansion, such as new turn-lane striping or enhanced landscaping, are being conditioned as a part of this request. The preschool and elementary school will continue to operate in the existing church building on-site.

At the direction of the entire Board of Supervisors a condition has been placed on the SUP limiting the elementary school operation of the school till June 30, 2009. This means that should the applicant wish to have the elementary school portion of this operation after that date, they would need to reapply to the Board of Supervisors with a new application. Staff also included a condition requiring Greenwood Christian Academy to provide enrollment numbers at the start of each school year. Staff will be able to monitor not only the total enrollment, but also the number of students in each grade.

Environmental

Watershed: Mill Creek Watershed

Staff Comments: No new infrastructure is proposed as a part of this application.

Public Utilities

This application will be served by public water and sewer.

Staff Comments: No new infrastructure is proposed as a part of this application.

Transportation

Since no additional children are proposed as a part of this application, no additional trips will be created to or from the site.

2006 Traffic Counts (John Tyler Highway): From Ironbound Road to Stanley Drive there were 11,000 trips.

2026 Volume Projected: John Tyler Highway: from Ironbound Road to Route 199 there is anticipation of

12,000 trips, and it is listed in the Watch category.

Road Improvements: No additional road improvements are proposed as a part of this application.

VDOT Comments: Since no additional infrastructure changes are proposed, VDOT has no additional requirements for traffic improvements.

Staff Comments: Since no additional trips will be created to or from the site, staff does not suggest any additional traffic improvements. Even though no additional trips will be created for this site, since no additional students will be allowed under this SUP, staff thinks it's important to note that traffic distribution will be changing slightly. A majority of the students enrolled at Greenwood Christian Academy are currently attending the preschool program. A majority of those students arrive in the morning between 8:30-9:30 and leave at mid-day between 11:45-12:45, while the rest of the children arrive during mid-day and leave between 3-4 p.m. With the approval of the elementary school operation, additional students will arrive at 9 a.m. and leave at 3-4 p.m. Staff would note that none of these times are peak hour times for John Tyler Highway. Based on the applicant's traffic study, peak hours were between 7:15-8:15 in the morning and between 4:45-5:45 in the afternoon.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>Low-Density Residential (Pages 120-121):</i> Suggested land uses include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p> <p>Non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located and should have traffic, noise, lighting and other impacts similar to surrounding or planned residential uses. Very limited commercial establishments, schools, churches, and community-oriented facilities should generally be located on collector or arterial roads at intersections where adequate buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area.</p> <p>Staff Comment: Staff notes that Greenwood Christian Academy currently operates from this site. The school and the church are both uses referenced in the suggested land use description of low-density residential. Staff also notes that the site is located along a collector or arterial road as described as well.</p> <p>The site is located directly adjacent to a residential subdivision. Because of the proximity to these residences, staff believes that mitigating the impact to these areas is paramount to the application. Since the application does not expand the maximum number of children enrolled, staff does not believe that allowing the elementary school will have an added impact on the surrounding area. Given the limited nature of the time, children will be using the facilities (during school hours), and because the school already operates on this site, staff believes that this application is in accordance with the land use designation for low-density residential.</p>
Goals, strategies and actions	<p><i>Strategy #2 - Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control and other methods.</p> <p>Staff Comment: The maximum proposed number of enrolled students is the same as the previously approved SUP application (SUP-30-01), and the conditions that are attached to this case are the same as the ones previously approved. Conditions were placed on that SUP for enhanced screening of the playground, etc. No new plantings will be taking place as a part of this proposal. However, since no additional students are going to be enrolled over the 200 previously allowed, staff does not believe that this application will have additional impacts on the adjacent properties over what is currently allowed.</p>

Community Character

General	<i>John Tyler Highway (Route 5) Community Character Corridor - Pages 83-84:</i> The predominant visual character of the suburban CCC should be the built environmental and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape. Providing enhanced landscaping, preservation of specimen trees and shrubs, berming, and other desirable design elements which complement and enhance the visual quality of the urban corridor.
	Staff Comment: The site currently has on-site screening from John Tyler Highway because of the church located on the property. Since the application proposes to house the children in the church building for instruction and in the playground for recreation, staff does not believe additional screening is necessary to screen the property from John Tyler Highway.
Goals, strategies and actions	<i>Strategy #3 - Page 95:</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.
	Staff Comment: Staff believes that the existing landscaping on-site will promote the natural views of the area and enhance the experience of residents and visitors.

Transportation

General	<i>John Tyler Highway (Route 5) page 78:</i> Monticello Avenue has supplemented capacity in the Route 5 corridor. However, even with its addition, Route 5 is projected to be near capacity in some sections, and will not have any significant excess capacity. Minor intersection and pavement improvements should be consistent with the Route's Scenic Byway designation. Additional residential or commercial development along this corridor beyond that currently planned is strongly discouraged.
	Staff Comment: Since no additional infrastructure changes are proposed and no additional trips are being created to or from the site, staff does not suggest any additional traffic improvements for the site.

RECOMMENDATION

Staff believes that this proposal is consistent with the Comprehensive Plan Land Use Map designation and Comprehensive Plan. Since no additional infrastructure is being proposed as a part of this application and since no additional students are going to be allowed, staff does not believe this application will have any negative impacts on the surrounding property by allowing the elementary school operation on-site. Based on this information, staff recommends that the Board of Supervisors approve this application with a one-year sunset provision as directed. If the Board of Supervisors concurs with the Planning Commission recommendation containing a 36-month sunset provision, an amended resolution has been provided.

Jason Purse

CONCUR:

Allen J. Murphy, Jr.
Acting Development Manager

JP/gb
Sup0009-08Glenwood

ATTACHMENTS:

1. Resolution
2. Amended resolution
3. Unapproved minutes from the September 10, 2008, Planning Commission meeting
4. Location Map

RESOLUTION

CASE NO. SUP-0009-2008. GREENWOOD CHRISTIAN ACADEMY EXPANSION

AT KING'S WAY CHURCH

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Chris Basic has applied on behalf of King's Way Church for an SUP to allow for the expansion of the Greenwood Christian Academy to include grades pre-K through 5, but not to increase the maximum number of enrolled students past 200 on approximately 4.56 acres of land on parcels zoned R-1, Limited Residential; and

WHEREAS, the conditions for this application replace the originally approved SUP conditions (SUP-0030-2001) for this parcel; and

WHEREAS, the property is located at 5100 John Tyler Highway and can be further identified as James City County Real Estate Tax Map/Parcel No. 4720100057; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 10, 2008, recommended approval of this application by a vote of 5-2.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 0009-2008 as described herein with the following conditions:

1. This SUP shall be valid for the operation of a preschool within the existing church, limited to hours of operation from 8 a.m. to 5 p.m., Monday-Friday, and limited to an enrollment capacity of 200 children maximum. The operation of the school shall be confined to the existing footprint of the church.

The operation of an elementary school for grades K through 5 shall be permitted until June 30, 2009.

2. Should a new exterior site or building lighting be installed for the operation of the school, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher shall extend outside the property lines.
3. Any new exterior signage advertising the day care and/or school shall be combined with existing signage for the church and shall be in accordance with Article II, Division 3, of the James City County Zoning Ordinance.

4. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. Any new playground equipment and associated fencing installed shall be landscaped so as to screen the new playground equipment and fencing from adjacent property owners. Prior to final site plan approval, the landscaping plan shall be reviewed and approved by the Planning Director.
6. On or before September 30 of each year, the Church shall provide the Zoning Administrator actual school enrollment data for the previous school year and projected (and actual, if known) school enrollment data for the school year immediately followed. The school enrollment data shall include, at a minimum, the total number of children enrolled and the total number of children in each grade taught.
7. This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

Sup0009-08Glenwood_res

RESOLUTION

CASE NO. SUP-0009-2008. GREENWOOD CHRISTIAN ACADEMY EXPANSION

AT KING'S WAY CHURCH

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The operation of an elementary school for grades K through 5 shall be permitted until October 4, 2011.

2. Should a new exterior site or building lighting be installed for the operation of the school, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher shall extend outside the property lines.
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4. The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. Any new playground equipment and associated fencing installed shall be landscaped so as to screen the new playground equipment and fencing from adjacent property owners. Prior to final site plan approval, the landscaping plan shall be reviewed and approved by the Planning Director.
6. On or before September 30 of each year, the Church shall provide the Zoning Administrator actual school enrollment data for the previous school year and projected (and actual, if known) school enrollment data for the school year immediately followed. The school enrollment data shall include, at a minimum, the total number of children enrolled and the total number of children in each grade taught.
7. This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

Sup0009-08Glenwood2_res

UNAPPROVED MINUTES FROM THE SEPTEMBER 10, 2008 PLANNING
COMMISSION MEETING

SUP-0009-2008 Kingsway Church Greenwood Christian Academy Expansion

Mr. Jason Purse stated that Mr. Chris Basic of AES Consulting Engineers has amended the original Greenwood Christian Academy expansion request and was asking for a Special Use Permit to allow for the operation of an elementary school onsite, including grades pre-K through grade 5. The existing special use permit allows 200 children to be enrolled in pre-school. The application would not increase the number of students past 200 and would not seek to construct a new building. He stated the amended request would allow the grade school to operate where the pre-school is only permitted currently.

Mr. Purse stated the conditions presented were the same ones that were attached to SUP-0030-2001. Since no additional infrastructure and no additional students are being added to the use, none of the previously presented conditions for expansion, such as new turn lane striping or enhanced landscaping, are being conditioned as a part of this request. The applicant no longer wishes to have the Commission vote on the expansion plan under this application.

As a correction staff noted that, as a directive from the entire Board of Supervisors, staff has included a sunset provision on this application that would allow the operation of an elementary school until June 30, 2009. Staff would note that the condition should read "the operation of an elementary school for grades K through 5," rather than for grades 1 through 5. Staff also included a condition requiring Greenwood to provide enrollment numbers at the start of each school year. Staff will be able to monitor not only the total enrollment, but also the number of students in each grade. Mr. Purse stated that Staff recommended the Commission recommend approval with the conditions mentioned to the Board of Supervisors.

Mr. Poole asked if the applicant was comfortable with the seven conditions attached to the report.

Mr. Purse deferred the question to the applicant.

Mr. Obadal asked if the expansion application that went before the Board of Supervisors was for grades 1 through 3.

Mr. Purse stated that application was pre-K through 5.

Mr. Purse stated that at the Board of Supervisors meeting, it was discussed what grades were currently enrolled. He stated that at the time of application, grades 1 through 3 had students enrolled in them.

Mr. Obadal thought that the application to be considered was for grades K through 3 only and that this would terminate on June 30, 2009.

Mr. Purse stated the applicant has requested that they be allowed to operate grades K-5. Currently students are enrolled K through 3.

Mr. Peck asked Mr. Purse to review the history of the original special use permit.

Mr. Purse stated the original application was filed in 2001 and was for 200 pre-K students. He stated this application was approved by the Board of Supervisors in February 2002. He stated that in March 2008 there was an application submitted to allow for grades K through 5, to increase the number of students from 200 to 300, and to construct a new building. Mr. Purse stated that when the application was brought forward, Staff was unaware that the elementary school was already in operation. He stated that prior to the Board of Supervisors' meeting staff was made aware of this situation. He stated that at this time the applicant amended the application to request the number of students remain the same and to allow for an elementary school.

Mr. Peck asked how long the elementary school has been in operation.

Mr. Purse deferred the question to the applicant.

Mr. Obadal stated that when the Board of Supervisors remanded this case back to the Planning Commission, they had concerns with the violation to the original permit, but wanted to make sure parents were not hurt in this process. The Board recognized that parents had made a commitment and that it was too late to change. Mr. Obadal stated that as part of the discussion, Commissioners needed to take this into account.

Mr. Fraley reopened the public hearing.

Mr. Chris Johnson spoke on behalf of Kingsway Church and Greenwood Christian Academy. He stated that they supported the Board of Supervisors' decision to remand this application back to the Planning Commission for its full consideration. Mr. Johnson stated that this school is important to the community as a whole and its impacts should be measured with this in mind. He stated that when the Board approved the original special use permit, the school was operating solely as a pre-school. He stated that it was in the Fall of 2004 that kindergarten was added. Mr. Johnson said that subsequently each year, one grade has been added. When the application was submitted previously this year, at the time the enrollment allowed kindergarten through 3rd grade. He stated as of two weeks ago, fourth grade has been added. Mr. Johnson believed it was the Board of Supervisors' intentions, as recommended by the conditions attached to this application, to consider the operation of an elementary school. He does not recall any discussion to purposely limit the consideration of the application to the grades that were currently enrolled at the time the Board considered this case.

Mr. Johnson addressed the conditions stated with the application. He stated he believed the sunset clause was intended by the Board of Supervisors to give parents, students, faculty and administrators the understanding that while this application was being discussed there would be no risk or punitive action taken during the academic year. He stated decisions are made this

December and January for enrollment for 2009/2010. He felt that having a clause that allows for operation through 2009 would hinder parents and faculty to plan to the next year. Mr. Johnson asked the Planning Commission to broaden the sunset clause to a minimum of thirty six months. This would allow the students currently in the school to continue their elementary school education. Mr. Johnson stated that this extended time also allows the school and church to consider finding an alternative location. The church and school recognizes the limitations with the current site.

Mr. Johnson stated when the drop off times and pick up times would be and how they would not affect peak travel times. He stated that in the past three year sunset clauses have been established for day care centers within the interior of a residential neighborhood. He felt that if this was recommended for day care centers, this should be appropriate for a school that is located on an arterial road on the exterior of a residential neighborhood. Mr. Johnson stated in summary they request the Planning Commission recommend that the sunset clause to allow the school to operate be extended to thirty six months at a minimum.

Mr. Peck asked if the principals at the school were the same as when the original special use permit was granted.

Mr. Johnson answered yes.

Mr. Peck asked if they were fully aware of the special use permit that was granted in 2002.

Mr. Johnson answered yes.

Mr. Peck asked if they made the business decision to expand the enrollment.

Mr. Johnson answered that it was thought not to be an issue as long as they stayed within the maximum number of students allowed, which is 200. He stated that this was an issue that should have been addressed and a mistake was made.

Mr. Peck asked how special use permits are generally enforced on nursery schools.

Mr. Murphy stated that regular inspections are not normally done to determine the original enrollment specified by the original application.

Mr. Peck asked what the logic is between a nursery school and a school accommodating K through 12, and why they are viewed in a different light.

Mr. Murphy stated the original application was for a pre-school and is not aware of any definitive differences reflected in the ordinance.

Mr. Krapf stated he understood that the last thing the community would like to see happen is for the school of 200 students to disperse and require them to change schools once the school year has started. He also understands the length of time it takes to do a site search.

building permit process and so forth for a new school. He would like to suggest a periodic progress report that the applicant would be required to submit to the County to demonstrate that there is an active search occurring.

Mr. Johnson stated that they would be open to discussions with staff concerning submission of progress reports.

Mr. Henderson asked what the enrollment per grade level was.

Mr. Johnson answered that the 2007/2008 totals were 53 elementary students which were K through 3rd grade. Currently there are 37 elementary school students in the K through 4th grade with five 4th graders. He also stated there is a morning pre-school with 84 students and an afternoon pre-school with 40 students. This would bring the total number of students to 161.

Mr. Henderson asked if it were an option for the school to continue in perpetuity to operate as an elementary and pre-school with an enrollment of 200.

Mr. Johnson stated the conditions that were recommended would have to be amended to allow that. Currently the sunset clause limits the elementary school until June 2009. He stated the pre-school portion remains unchanged from when the original special use permit was received in 2002.

Mr. Henderson asked if the applicant would like to have the option to continue in perpetuity.

Mr. Johnson stated they do not feel the impacts associated with the long term use of this site would change dramatically in any way as long as the school operated with 200 students. They would like to have that option. He felt that the effort made by the Board of Supervisors was to encourage the church and school to locate a more permanent home should they consider expanding one day.

Mr. Obadal asked if the original special use permit contained a provision requiring the church to provide the Zoning Administrator with school enrollment data.

Mr. Johnson answered no, but that the Board of Supervisors added this as a condition when the case came before them in August. This condition was not in place in 2002.

Mr. Murphy clarified and stated that the condition was added by staff given the discussion at the Board of Supervisors' meeting.

Mr. Obadal asked if the applicant was willing to still make improvements with respect to the left turn lane.

Mr. Johnson stated that if it is the intention to encourage the church to find a more permanent home for the school, it would be not financially beneficial to the church to make improvements for a situation that might not be permanent. Mr. Johnson stated that the

improvements suggested in the original application were to improve turns into the school and church, not to improve traffic conditions on Route 5.

Mr. Obadal expressed his concerns about safety.

Mr. Johnson stated they felt that safety was not an issue given that the peak hours of operation are exclusive of the peak a.m. and p.m. hours on Route 5. He felt that the operation of the school and church do not cause conditions that are of concern on Route 5, but that it is the road itself.

Mr. Billups asked if the applicant considered another school that the children could have transferred to.

Mr. Johnson stated that up until the Board meeting in August, they were not under the impression they were in violation of their special use permit. He did state the school has looked at alternative sites over the past few years. He also stated that several conceptual plans were filed with the County during this search. Mr. Johnson stated that finding land inside the PSA is difficult. He stated this is why the current site was considered and promoted as part of the current application.

Mr. Billups asked if there was any resolution from the complaints that were brought up concerning the noise.

Mr. Johnson stated there were concerns expressed about the size of the facility, traffic conditions, noise and whether the church and school were good neighbors. He stated there will be no new facilities, the traffic impacts they addressed earlier, and he believes the church and school are good neighbors. He did compare the noise of children playing to noise generated from a fire station, which is across the street from the neighborhood where the complaints were generated. Mr. Johnson stated that children at play do make noise that can be heard at some distance. These however, are limited to a certain number of school days per year, weather and monitored by school and administrative staff.

Mr. Billups asked what the impact would be on the school if the school was just a pre-school.

Mr. Johnson stated that closing a private school would have implications on students enrolled in the public school system. He mentioned other private schools that had smaller acreages and different zonings, such as Limited Business. He also stated it would take away the decision a parent has as to whether they would like to enroll their child in a school such as Greenwood Christian Academy.

Mr. Obadal stated that the original application was solely for a pre-school.

Mr. Johnson stated in the beginning it was solely a pre-school. It was determined after some time operating that additional grades should be added.

Ms. Kitty Beatty, of 124 Kingspoint Drive, spoke on behalf of Greenwood Christian Academy. She gave a brief history of the school which started in 1962 as a kindergarten and pre-school. She stated that when the elementary grades were added a mistake was made. Ms. Beatty stated it was never the intention of the school or church to violate any of the conditions of the special use permit. She felt that the established commitment to the parents was that there will be a place up until the 5th grade so they would like to continue their commitment. She stated that there are never 200 children at the school at one time. Ms. Beatty stated that this school gives parents options of a private school setting with smaller classroom sizes.

Mr. George Turner, 107 Leon Drive, spoke on this application. He felt the current application is not expanding the school but actually bringing the school into compliance. He did state there is quite a bit of noise generated from the school.

Mr. Pete Childs, 3308 Isle of Wight Court, stated his daughter is a student at Greenwood Christian Academy. He stated that this school has made a big difference in their family's lives. Mr. Child stated this school makes a difference for children who do not handle other school situations as well. He also stated he has not encountered any problems with regards to traffic when picking up or dropping off his child.

Ms. Nell Taft, 107 Leon Drive, stated her property is next to the church. She stated that the playground for the school is 100 feet from her back porch, and she can hear noise from this on a constant basis. Her problem is not with the school itself, but was with the location of the playground. Ms. Taft stated the playground is right on the property line. She stated she has no issues with the school or the church or the way they run the school.

Ms. Joanne Spangler, 3923 Mathews, stated she is the principal of Greenwood Christian Academy. She stated she lives in the Jamestown Hundred subdivision, which shares an entrance with Jamestown High School. She is well aware of times where there is noise generated from the school and school events. Ms. Spangler stated she has also seen traffic problems with events at the school and traffic into her subdivision. She spoke on the benefits of a small school environment. She explained how at times the small school environment helps children with special needs. Ms. Spangler spoke on the opportunities where students volunteer in the community. She asked the Planning Commission to recommend approval of the application to the Board of Supervisors.

Mr. Fraley closed the public hearing.

Mr. Poole stated how he was impressed with the operation of Greenwood Christian Academy. He stated his opinion that houses of worship provide opportunities for schools in a way the infrastructure can be used on days other than worship days. He supports the application, but also recognizes that the County and the applicant missed the fact that it was originally for a pre-school. He also supports the thirty-six month clause for the school to continue while pursuing other locations or alternatives. Mr. Poole also can support the updates that were suggested by another Commissioner. He would also suggest adding a provision for a maximum number of students of 200 and that the building footprint would not be changed.

Mr. Henderson stated he felt that it was not practical to ask an applicant or business to report back to the Planning Commission or any other body as to what its future business plans may be. He would prefer to support the continuation of the business as it exists without a sunset provision. He does not view the addition of the elementary school grades as a material deviation from the original application, since the number of students has remained unchanged. Mr. Henderson does not feel there is a difference between a pre-school age child and an elementary school age child when it comes to land use. He cannot support the sunset provision or the reporting of what their progress is with respect to business plans.

Mr. Poole asked what about language in the conditions that the footprint of the building could not be expanded.

Mr. Henderson stated this probably could not be done without filing another special use permit application.

Mr. Murphy stated that this condition could be added to condition #1 of the application.

Mr. Henderson stated he felt choice in education was extremely important. He stated it goes to the heart of quality of life within the community. He also felt these options were important, especially for children who might perform better in a small setting.

Mr. Krapf stated his concern requesting the sunset clause has to do with the impact on the residential neighborhoods. He felt that the impact of fourth and fifth graders on school property is more intrusive than pre-schoolers would be. He felt that this was the best way to handle the situation with the school, realizing the planning calendar and that they do need the extra time. Mr. Krapf felt that the three year sunset clause was reasonable but would offer some closure so that the residents would realize this as well. He would still like to see a reporting provision.

Mr. Billups supported the June 30, 2009 sunset clause because he feels that something can be worked out. He also felt that there is a difference between a fourth or fifth grader, and a pre-schooler. His major concern is with the effect on the neighborhood surrounding the church and school. Mr. Billups stated that he felt the issues mentioned from citizens can be worked out with the church and school.

Mr. Peck stated he originally voted against the expansion, encouraging the applicant to look at other locations for expansion. He stated the Board of Supervisors made it clear that the parents of the school should not be penalized. He believes there should be a sunset clause and would leave the time frame up to the Board. Mr. Peck can support this application with the conditions that the number of students stays at 200 and the footprint of the building remains the same.

Mr. Obadal praised the idea of pre-schools and their contributions to the community. He agreed with comments made from other Commissioners. He agreed with the condition of limiting the use to the existing footprint of the building. Mr. Obadal suggested keeping the sunset clause with the time period that was requested from the Board of Supervisors. He would

like to keep the school operating. He would hope that parents have been notified as to the issues at hand.

Mr. Fraley stated he thought this school is an enriching experience for the children and the parents. He could support this application with language added to limit the footprint of the building to what is currently on site. He could also support a three year sunset clause as opposed to a one year. Mr. Fraley stated this would help the school and parents plan for their children's education. He would not favor adding a provision requiring the school to provide updates as to their business plan.

Mr. Poole made a motion to approve the special use permit application with the change to condition #1 adding that the operation of the school would be limited to the current footprint without any building expansion. He also suggested changing the grades listed to K-5 instead of 1-5 and to include a thirty six month sunset clause.

Mr. Henderson made the point that what the Commission is asking the applicant to accomplish in the thirty-six month time period is difficult, and they themselves have stated it is almost impossible to accomplish. He felt that the Commission was setting them up to fail.

Mr. Fraley stated the applicant can come back before the Commission and request an extension.

Mr. Billups requested clarification on the need to expand given the number of students is remaining the same.

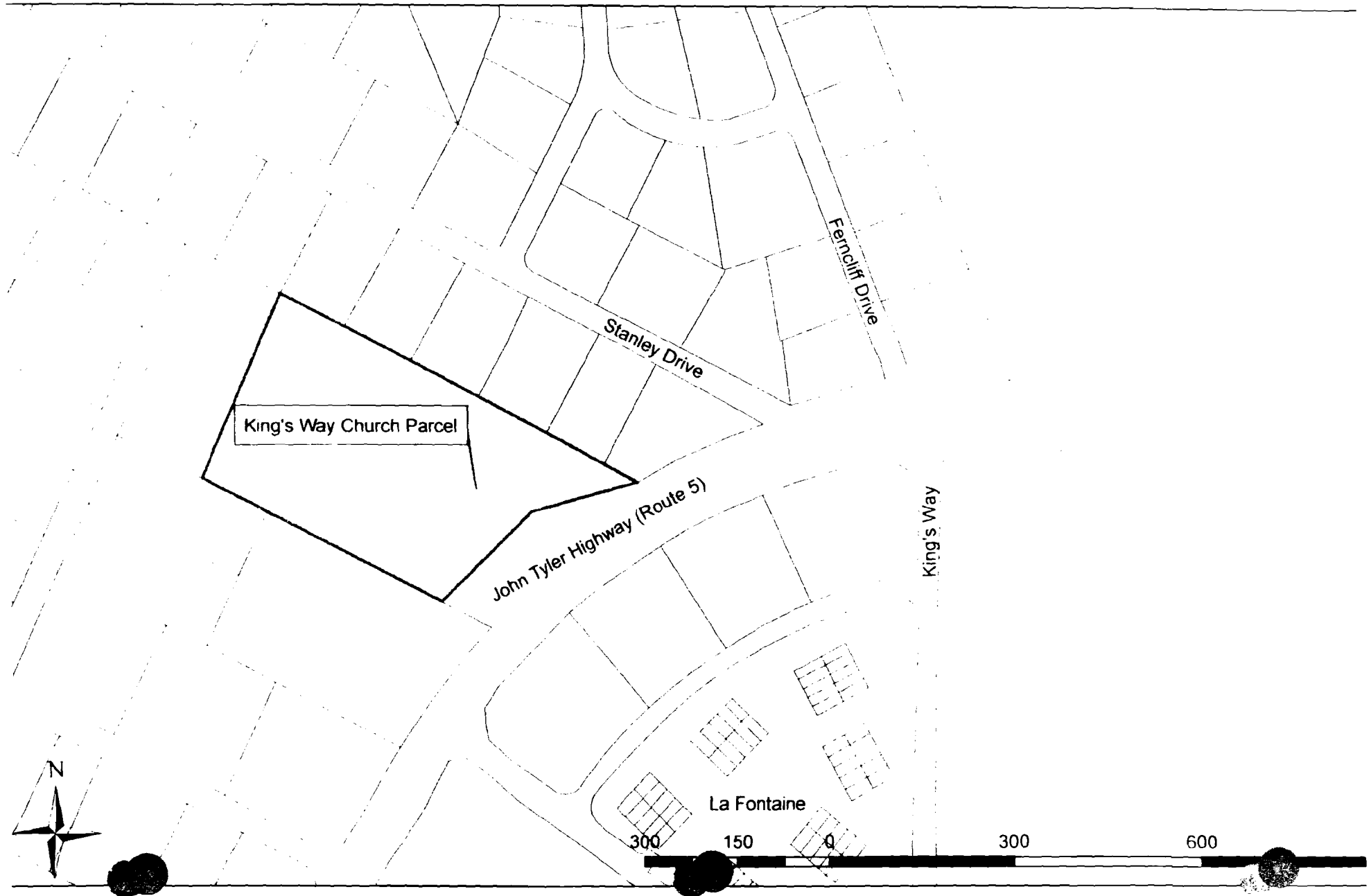
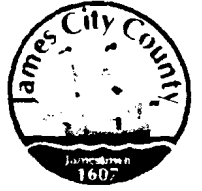
Mr. Johnson answered that it has not been requested to extend beyond 200 students or beyond the 5th grade.

Mr. Peck seconded the motion.

In a roll call the motion was approved. (5-2) AYE: Krapf, Peck, Poole, Obadal, Fraley. NAY: Billups, Henderson.

SUP-0009-2008

Greenwood Christian Academy



**SPECIAL USE PERMIT-0017-2008. Burlington Woods Subdivision - SUP Renewal
Staff Report for the October 14, 2008, 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 1, 2008, 7:00 p.m.
October 14, 2008, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III, on behalf of Burlington Woods, L.L.C.

Land Owner: Burlington Woods, L.L.C.

Proposal: To establish a new Special Use Permit (SUP) to allow for the Burlington Woods Subdivision to be constructed as originally approved under SUP-0035-2004, Z-0016-2004, and MP-0012-2004. The previous SUP-0035-2004 expired on May 24, 2008, necessitating that a new SUP be approved for this development.

Location: 3931 Longhill Road (Route 612), Powhatan District

Tax Map/Parcel No.: 3130100020

Parcel Size: 17.22 acres

Zoning: R-2, General Residential, with proffers

Comprehensive Plan: Low-Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff believes that unexpected delays occurred on this project which led to the previously granted SUP expired prior to the issuance of a Land Disturbing Permit. Staff further notes that the developer has been very responsive and cooperative during the development process, which has led to a project improved over what was originally envisioned. Because the circumstances surrounding the proposal for development are substantially unchanged and because this project has been diligently pursued by the developer and has moved forward with steady progress from the date of its first submittal, staff recommends that the Board of Supervisors (Board) approve this SUP with the conditions listed at the end of this staff report.

Staff Contact: David W. German Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On October 1, 2008, the Planning Commission voted 6-0 to recommend approval of this application to the Board (Mr. Obadal absent).

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Vernon Geddy, III, has applied on behalf of Burlington Woods, L.L.C. for an SUP to support and allow for the continued development and construction of the Burlington Woods subdivision. This subdivision features 26 single-family detached home lots on 17.22 acres and would be located at 3931 Longhill Road in the Powhatan District. The subject property is zoned R-2, General Residential, with proffers, and is designated "Low Density Residential" in the 2003 James City County Comprehensive Plan.

The project originally approved a recommendation of approval from the Planning Commission on April 4, 2005, and was approved by the Board on May 24, 2005, under Special Use Permit SUP-0035-2004, Rezoning Z-0016-2004, and Master Plan MP-0012-2004. (A copy of the staff report which was presented to the Board in May 2005 is included as an attachment to this staff report for reference.) SUP-0035-2004 was needed to allow the density of the development to increase from the 1.0 dwelling units per acre (normally allowed in the R-2 Zoning District) to 1.5 dwelling units per acre as provided for in Section 24-254(c) of the Zoning Ordinance. This section specifies that the density of a development may be increased from 1.0 dwelling units per acre to a maximum of 2.0 dwelling units per acre if the Board can find that 1) the application implements Streetscape Guidelines, as outlined in the Streetscape Guidelines Policy; 2) the application implements the County's Archaeological Policy; 3) sidewalks are provided along at least one side of all internal streets in the development, including the entrance road; 4) recreational amenities are provided for the development in accordance with the County's Comprehensive Parks and Recreation Master Recreation Plan; and 5) the application implements the County's Natural Resources Policy. The SUP included a condition of approval which stated that the SUP would expire three years from the date of approval if a Land Disturbing Permit had not been secured, and land disturbing activities started on the site by the expiration date. In accordance with this condition, SUP-0035-2004 expired on May 24, 2008. The applicant is now seeking an SUP to replace SUP-0035-2004, which will allow development of the project to continue. The applicant is not seeking to alter the terms or content of Z-0016-2004 or MP-0012-2004 previously approved for the development.

Since the point when the Board approved the rezoning, SUP, and master plan, the developer has been actively involved with engineering the subject property, designing appropriate subdivision construction plans for the project, and addressing the various requirements required by both the conditions attached to the SUP and the proffers associated with the rezoning. One of the proffers for the project required that plans for recreation amenities be developed for the site and approved by the Development Review Committee of the Planning Commission (DRC). The recreation amenities plan was presented to the DRC on January 4, 2008, at which time the DRC deferred the case and requested that further work be done on the amenities plan. A revised amenities plan was presented to the DRC on March 26, 2008. The DRC recommended approval of the new plan, and the full Planning Commission confirmed this recommendation on April 2, 2008, which granted Preliminary Approval to the subdivision construction plans for the project. Since that time, the developer has been working with his engineer (Bury + Partners) and the County to finalize and gain approval of the subdivision construction plans. Substantial delays with this effort were encountered when the developer and engineer entered into negotiations with a neighboring property owner to secure an off-site JCSA utility easement, which is required for the case. These delays were compounded when the easement had to be repositioned so that the project would meet Zoning Ordinance requirements. The subdivision construction plans are now ready for final approval, pending the approval of a new SUP by the Board. The project has received a Land Disturbing Permit, and clearing and grading work is underway on the site. The developer has also turned in the Preliminary Plats for the project; review of these plats is ongoing.

STAFF RECOMMENDATION

Staff believes that unexpected delays occurred on this project led to the previously granted SUP expired prior to the issuance of a Land Disturbing Permit. Staff further notes that the developer has been very responsive and cooperative during the development process, which has led to a project improved over what was originally envisioned. Because the circumstances surrounding the proposal for development are substantially unchanged and because this project has been diligently pursued by the developer and has moved forward with

steady progress from the date of its first submittal, staff recommends that the Board approve this SUP with the following conditions:

- 1. Terms and Validity of Special Use Permit:** This SUP allows for the creation of a 26-lot, single-family detached home subdivision (“the Project”), as originally laid out in Z-0016-2004 and SUP-0035-2004. This SUP allows for the density of the project to be increased from 1.0 dwelling units per acre to a maximum density of 1.5 dwelling units per acre in accordance with the provisions of Section 24-254(c) of the Zoning Ordinance. A final plat must be recorded for the project within 24 months of the approval of this SUP, or the SUP shall become void. If a final plat is properly approved and recorded within the time allowed, the SUP shall run in perpetuity with the land.
- 2. Development of the Subdivision:** The project, to be located at 3931 Longhill Road and further identified as James City County Real Estate Tax Map No. 3130100020 (the “Property”), shall be generally developed in accordance with and as depicted on the Master Plan drawing entitled “Burlington Woods Master Plan,” prepared by Rickmond + Bury Engineering Solutions, and dated December 23, 2004, (further identified by the County as MP-0012-2004 and hereafter referred to as “the Master Plan”) as determined by the Planning Director of James City County (“Planning Director”). Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
- 3. Landscape Plan:** A landscaping plan shall be approved by the Planning Director or his designee prior to final approval of any subdivision plat for the development. The owner shall provide enhanced landscaping for the area along the property frontage on Longhill Road and adjacent to any existing residential dwellings on neighboring properties. Enhanced landscaping shall be defined as 133 percent of Zoning Ordinance landscape requirements.
- 4. Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

David W. German

CONCUR:

Allen J. Murphy, Jr.
Acting Development Manager

DWG/gb
Sup0017-2008

ATTACHMENTS:

1. Minutes from the October 1, 2008, Planning Commission Public Hearing
2. Board of Supervisors Resolution
3. Copy of Original Staff Report for May 10, 2005, Board of Supervisors Public Hearing
4. Copy of Original Staff Report for May 25, 2005, Board of Supervisors Public Hearing
5. Copy of Original Special Use Permit Resolution
6. Copy of Original Proffers
7. Copy of Original Master Plan

RESOLUTION

CASE NO. SUP-0017-2008. BURLINGTON WOODS SUBDIVISION – SUP RENEWAL

WHEREAS, Mr. Vernon Geddy, III, on behalf of Burlington Woods, L.L.C., has applied for a Special Use Permit (SUP) to replace expired SUP-0035-2004 to allow for the continued development and construction of the Burlington Woods subdivision on a 17.22-acre parcel zoned R-2, General Residential, with proffers; and

WHEREAS, the proposed development is shown on a binding Master Plan, entitled “Burlington Woods Master Plan,” prepared by Rickmond + Bury Engineering Solutions, identified by James City County as MP-0012-2004, and dated December 23, 2004; and

WHEREAS, the proposed development was initially approved by the Board of Supervisors on May 24, 2005, with Rezoning Z-0016-2004 and Special Use Permit SUP-0035-2004 as a 26-lot, single-family detached home subdivision; and

WHEREAS, the subject parcel may be identified as James City County Real Estate Tax Map Parcel No. 3130100020 located at 3931 Longhill Road; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 1, 2008, recommended approval of this application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0017-2008 with the following conditions:

- 1. Terms and Validity of Special Use Permit:** This SUP allows for the creation of a 26-lot, single-family detached home subdivision (“the Project”) as originally laid out in Z-0016-2004 and SUP-0035-2004. This SUP allows for the density of the project to be increased from 1.0 dwelling units per acre to a maximum density of 1.5 dwelling units per acre in accordance with the provisions of Section 24-254(c) of the Zoning Ordinance. A final plat must be recorded for the project within 24 months of the approval of this SUP, or the SUP shall become void. If a final plat is properly approved and recorded within the time allowed, the SUP shall run in perpetuity with the land.
- 2. Development of the Subdivision:** The Project, to be located at 3931 Longhill Road and further identified as James City County Real Estate Tax Map No. 3130100020 (the “Property”), shall be generally developed in accordance with and as depicted on the Master Plan drawing entitled “Burlington Woods Master Plan,” prepared by Rickmond + Bury Engineering Solutions, and dated December 23, 2004, (further identified by the County as MP-0012-2004 and hereafter referred to as “the Master Plan”) as determined by the Planning Director of James City County (“Planning Director”). Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.

3. **Landscape Plan:** A landscaping plan shall be approved by the Planning Director or his designee prior to final approval of any subdivision plat for the development. The owner shall provide enhanced landscaping for the area along the property frontage on Longhill Road and adjacent to any existing residential dwellings on neighboring properties. Enhanced landscaping shall be defined as 133 percent of Zoning Ordinance landscape requirements.
4. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

sup0017-2008_res

UNAPPROVED MINUTES FROM THE OCTOBER 1, 2008 PLANNING
COMMISSION MEETING

SUP-0017-2008 Burlington Woods Subdivision SUP Renewal

Mr. David German stated that Mr. Vernon Geddy has applied for a renewal of an expired Special Use Permit, SUP-0035-2004, to allow for the continued development and construction of the Burlington Woods Subdivision, located at 3931 Longhill Road. The now-expired SUP was originally approved by the Board of Supervisors in conjunction with a Rezoning on the property (Z-0016-2004), for the purpose of developing a new 26-lot single family detached home subdivision, to be known as Burlington Woods. The SUP was necessary to exceed the density allowed by right in the R-2 zoning district. The rezoning and Special Use Permit needed to create the new development were originally approved by the Board of Supervisors in May 2005. The SUP included conditions, one of which specified that the SUP would expire if construction on the project had not commenced within three years of the date of approval of the SUP. Mr. German stated that when this requirement was not met in May of this year, the SUP expired, necessitating that the developer come back before the Board to request a replacement Special Use Permit. The developer was not seeking to change or amend the project in any way, but merely to obtain a replacement SUP to allow the project's continued development.

Mr. German stated that the development plans for the project are near to receiving final approval. All reviewing agencies have approved the construction drawings for the subdivision, and work has now commenced on completing the development plats. Because the SUP expired simply because unexpected events occurred during the development process, staff recommended that the Planning Commission recommend approval of the application to the Board of Supervisors.

Mr. Fraley asked Mr. Murphy to comment on some information that was printed in the newspaper concerning the work being done on the subdivision.

Mr. Murphy was not familiar with what was stated in the newspaper. He stated that staff did not stop the clearing and grading that was being done, as there is no real specific violation that would provide a reason to do so. He further stated that plats will not be able to be recorded that allow for the density that was approved in the original SUP unless the Board of Supervisors renews the SUP. Mr. Murphy said plats would be able to be recorded with a density of one unit per acre which would be permitted by right. There is an approved grading and clearing plan, and there is a rezoning in place. Mr. Murphy did advise the applicant and the applicant's attorney that work was being continued at their risk.

Mr. Peck asked how many cases have there been in the past where the Special Use Permit has expired. He also asked whether it was a standard provision that if work has not commenced within thirty six months that the SUP expires.

Mr. Murphy stated there have been several SUP's that have expired for a variety of reasons. He also stated that a thirty six month or a twenty four month was a typical time frame for a sunset provision. This particular development proceeded at a pace where it was necessary

to come back before the Commission and Board to renew the SUP.

Mr. Peck asked if this was the standard operating procedure to come back before the Commission and Board of Supervisors.

Mr. Murphy stated yes. He stated it does not preclude consideration of other items nor should it preclude consideration of items that have been reviewed thus far by the Commission and the Board, and consideration of investment into the project, not just by the applicant, but also by the County.

Mr. Henderson asked if there were provisions in the Code for a renewal of an SUP.

Mr. Kinsman answered no there was not but that the existing SUP was rendered void after the time period expired.

Mr. Henderson stated that in essence the prior action has been set aside and this is a new application.

Mr. Kinsman answered that is correct.

Mr. Henderson asked if there were any sensitive environmental areas that might be located on the property.

Mr. Woolson displayed the map showing topography and location of the subdivision. He stated that there were some conditions for the sanitary sewer line for the project that required that the applicant acquire an offsite easement, which, in turn, required a Chesapeake Bay Board action to allow for the connection of the sewer line through a Resource Protected Area (RPA). He stated there are no further constraints on the site.

Mr. Henderson asked about slope impacts at the rear of the property.

Mr. Woolson stated that the impacts do not approach the 25% threshold identified in the Chesapeake Bay Ordinance.

Mr. Henderson asked if the buffers under the original rezoning include resource protected areas, or if they were simply perimeter buffers.

Mr. Woolson stated the buffers were perimeter buffers, but that they are also acting as stormwater management facilities in certain areas. He stated the stormwater management plan was developed as a bioretention plan requiring replanting in those areas that were open space per the landscape plan. He further stated that a wet pond is located at the rear of the property that collects all of the drainage at the outfall.

Mr. Henderson asked if the trees depicted on the master plan are actual existing hardwoods. He asked if the trees noted were specimen hardwood trees, and whether the trees are in a protected area such as an RPA area.

Mr. Woolson stated he did not have a specific answer about the trees being depicted on the master plan, but that none of them were located in an RPA area.

Mr. Henderson asked about the access management program that has been developed by VDOT that calls for jurisdictions to limit access to primary roads. He asked if there was any consideration during the initial rezoning or SUP hearing process held for the Burlington Woods project.

Mr. Murphy stated that he believed it was not a consideration back in 2005. He pointed out that standards regarding connectivity between a proposed subdivision and future subdivisions have not been finalized by VDOT. He stated that VDOT has finalized some standards with respect to access management, but believed that they would cover proposed entrances on a collector or primary road, and where those entrances should be placed.

Mr. Fraley opened the public hearing.

Mr. Vernon Geddy spoke on behalf of Burlington Woods. He stated that the special use permit had expired but plans continued to be processed, land disturbing permits issued, loans closed on, and construction activities were underway. He stated that the applicant has been diligently working on this case, but had some unexpected design and environmental constraints, and had to go before the Development Review Committee. Mr. Geddy stated that this is not a situation where the applicant is trying to change anything that they have already committed to. The only request here is to renew the special use permit to allow the applicant to continue to finish the subdivision under the approved construction drawings. Mr. Geddy stated there is considerable investment on the part of the applicant in this project.

There being no further public comments, Mr. Fraley closed the public hearing.

Mr. Henderson asked what the minimum lot size would be under the current rezoning and SUP.

Mr. Murphy stated that the minimum lot size in the R-2 zoning district, which is what the property was rezoned, is 10,000 square feet and a 75 foot lot width.

Mr. Henderson asked if the frontage was known.

Mr. German stated that typically the lot frontage is between 75 and 80 feet.

Mr. Billups made a motion to approve this application.

Mr. Billups felt that some notification should be given to applicants or developers keeping them apprised of deadlines as well as keeping staff apprised of the stage of development that the project is in. He was thinking of the rationale of bringing these cases back to the Commission and the Board of Supervisors if there were no changes. The only thing requested in this case was for renewal.

Mr. Fraley asked Mr. Kinsman to comment on the legal foundation of why this case needs to come back to the Commission and the Board of Supervisors.

Mr. Kinsman answered that this SUP was rendered void when condition #1 was not met. This condition stated that construction needed to commence within thirty six months from the issuance of the SUP.

Mr. Billups stated that he was referring to the process, and the proper notification that the SUP was expiring. He acknowledged that his comments were suggesting an overall process change, and not necessarily the case at hand.

Mr. Kinsman stated that to his knowledge, staff does not notify applicants when applications are expiring.

Mr. Murphy stated that staff is currently developing a process where applicants would be notified.

Mr. Henderson expressed his concerns about being consistent with sunset clauses. He referred to a case last month of where a sunset clause was suggested for a nonconforming use, and the time frame suggested was twelve months. He stated that if there is a policy, it needs to be applied consistently. Mr. Henderson agreed there should be administrative discretion but at the same time circumstances and conditions change, and this allows an opportunity to review the application under new regulations.

Mr. Krapf stated that it appears that a valid rezoning has been approved and preliminary work has been done at the site. He stated it appeared that the applicant acted in good faith to comply with everything, but was faced with unanticipated issues. He restated the motion to approve the case.

Mr. Fraley indicated that a motion had already been made to approve the case, and that he was looking for a second to the motion.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (6-0) AYE: Krapf, Peck, Poole, Henderson, Billups, Fraley. (Obadal absent)

REZONING CASE NO. 16-04/SPECIAL USE PERMIT CASE NO. 35-04/MASTER PLAN CASE NO.

12-04. Burlington Woods

Staff Report for the May 10, 2005, 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

April 4, 2005, 7:00 p.m.

May 10, 2005, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Michael Baust, Rickmond + Bury

Land Owner:

Mr. Michael Smith, Tidewater Partners Property & Development, LLC

Proposal:

26-lot single-family subdivision

Location:

3931 Longhill Road, Powhatan District

Tax Map/Parcel No.:

(33-3)(1-20)

Primary Service Area:

Inside

Parcel Size:

17.32 acres

Existing Zoning:

R-8, Rural Residential

Proposed Zoning:

R-2, General Residential, with proffers

Comprehensive Plan:

Low-Density Residential

STAFF RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends the Board of Supervisors approve the rezoning, special use permit, and master plan applications, and accept the voluntary proffers.

Staff Contact:

Christopher Johnson, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On April 4, 2005, the Planning Commission recommended approval of the rezoning, special use permit, and master plan applications by a vote of 5 to 1.

Proposed Changes Made After Planning Commission Consideration

The applicant has submitted revised proffers that provide a \$3,692 contribution per lot to offset the cost of providing sanitary sewer for this project. The proffers also have increased the per lot cash contribution for CIP projects, including schools from \$2,451 per lot to \$2,939 per lot.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

Cash Proffer Summary (See staff report narrative and attached proffers for further details)	
Use	Amount
Water (CIP contribution)	\$1,061 per lot
Sanitary Sewer (project specific contribution)	\$3,692.31 per lot
CIP Projects (including schools)	\$2,939 per lot
Total Amount (2005 dollars)	\$200,000
Total Per Lot	\$7,692.31 per lot

PROJECT DESCRIPTION

Mr. Michael Baust of Rickmond + Bury, on behalf of Mr. Michael Smith of Tidewater Partners Property & Development, LLC, has submitted an application to rezone 17.32 acres from R-8, Rural Residential, to R-2 General Residential, with proffers. The property is located at 3931 Longhill Road and is further identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3). If approved, the developer would construct a 26-lot single-family subdivision at a gross density of 1.5 dwelling units per acre.

In accordance with Section 24-254(c) of the Zoning Ordinance, the Board of Supervisors may grant a special use permit for subdivisions to have a maximum gross density of two dwelling units per acre if the developer provides the following:

1. Implementation of the County's Streetscape Guidelines;
2. Implementation of the County's Archaeological Policy;
3. Provision of sidewalks along one side of all internal streets;
4. Provision of recreation facilities in accordance with the County's parks and recreation guidelines; and
5. Implementation of the County's Natural Resources Policy.

PUBLIC IMPACTS

Archaeological Impacts

- ◆ **Staff Comments:** There are several known archaeological sites in the vicinity of the subject property. The design and layout of the development may need to be altered to incorporate measures necessary to preserve, protect, and restore any archaeological sites that may be found on the property following a Phase 1A archaeological survey.
- ◆ **Proffers:** The County archaeological policy has been proffered.

Environmental Impacts

- ◆ **Watershed:** Powhatan Creek
- ◆ **Environmental Comments:** The use of Low Impact Development (LID) practices is encouraged for use on the site. Based on the Environmental Inventory letter submitted with the application, there does not appear to be any perennial streams or Resource Protection Area features on the site.
- ◆ **Proffers:** The applicant has proffered to incorporate on-site stormwater management strategies and on-lot practices to reduce run-off and pollutant loading into the stormwater management system in accordance with

the goals and priorities of the adopted Powhatan Creek Watershed Management Plan. These practices will include the use of rain gardens, bio-retention cells and infiltration swales where possible on the property.

Public Utilities

- ♦ **Utilities:** The site is located inside the Primary Service Area (PSA) and is served by public water and sewer.
- ♦ **JCSA Comments:** The JCSA has reviewed the proposal and recommends the applicant proffer a cash contribution to offset the JCSA's direct costs associated with upgrading Lift Station 7-2 to allow gravity sewer to serve the development.
- ♦ **Proffers:** A cash contribution of \$1,061 per lot is proffered for water and a cash contribution of \$3,692 per lot is proffered for sanitary sewer. Water conservation measures will be developed and submitted to the JCSA for review and approval prior to any development plan approval. The applicant has also submitted a proffer which states that the site will be developed in accordance with water conservation standards which will be approved by the JCSA prior to site plan approval.

Fiscal Impacts

The applicant has provided a fiscal impact statement which is included as an attachment to this report. In summary, at buildout this project is expected to have an annual positive fiscal impact of between \$20,000 - \$30,000 (assuming a real estate value per dwelling of \$400,000 - \$450,000).

- ♦ **Proffers:** A cash contribution for CIP projects, including schools, emergency services, off-site road improvements, libraries, and public use sites of \$2,939 per lot, has been proffered by the applicant to mitigate impacts on County services.
- ♦ **Staff Comments:** The Department of Financial and Management Services concurs with the applicant's fiscal impact statement. While the cash contributions proffered for this development are higher than cash contributions for recent cases, the amount will not completely fund all capital costs to the County generated by this development.

School Impacts

Per the Adequate Public School Facilities Test policy adopted by the Board of Supervisors, all special use permit or rezoning applications should pass the test for adequate public school facilities. The following information is offered by the applicant:

<i>School</i>	<i>Design Capacity</i>	<i>Program Capacity</i>	<i>Current Enrollment (9/30/04)</i>	<i>Projected Students Generated</i>	<i>Enrollment + Projected Students</i>
D.J. Montague Elementary	757	645	738	5	743
Toano Middle	775	782	811	3	814
Lafayette High	1,250	1,296	1,536	4	1,540

- ♦ **Staff Comments:** The Adequate Public Schools Facility Test is based on design capacity. The proposal passes the adequate public school test at the elementary school level but fails at the middle school.

Although the design capacity of Lafayette High School is clearly exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP, the application will be deemed to have passed the test. On November 2, 2004, voters approved a bond

referendum for the construction of the third high school. The third high school is expected to be open by September 2007; therefore, staff believes that this proposal passes the test at the high school level.

Parks and Recreation/Greenways

The applicant proposes to construct a tot lot in an area approximately one acre in size within the development. The James City County Greenway Master Plan calls for a 10-foot-wide multiuse path along the north side of Longhill Road. The path is envisioned to connect Freedom Park to the Warhill Sports Complex, Thomas Nelson Community College, and the third high school. The applicant has provided a proffer to either construct the required five-foot sidewalk along the Longhill Road frontage or make a cash contribution to the County towards future construction of the multiuse path on the north side of Longhill Road.

- ◆ **Staff Comments:** Staff finds that this proposal satisfies the Parks and Recreation Master Plan and the Greenway Master Plan.

Traffic Impacts

- ◆ **2003 Traffic Counts:** 9,361 vehicle trips per day on Longhill Road from Route 614 (Centerville Road) to Route 1530 (entrance to the Season's Trace subdivision)
- ◆ **2026 Volume Projections:** 10,000 vehicle trips per day
- ◆ **Road Capacity:** A two-lane collector road with turn lanes has a capacity of 14,000 vehicle trips per day
- ◆ **VDOT Comments:** VDOT reviewed the traffic impact study submitted with the application and concurred with the analysis. VDOT recommended that the applicant provide a 100-foot right-turn taper from Longhill Road.
- ◆ **Staff Comments:** According to the traffic impact study, the development will generate approximately 302 vehicle trips per day with 28 a.m. peak hour vehicle trips and 32 p.m. peak hour vehicle trips.
- ◆ **Proffers:** The proffers provide a guarantee that a 100-foot right-turn taper from Longhill Road into the development will be installed or bonded prior to subdivision plat approval by the County if VDOT concludes that road improvements are required during development plan review for the project.

COMPREHENSIVE PLAN

The James City County Comprehensive Plan Land Use Map designates this property as Low-Density Residential. Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher-quality design, a residential community with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. The Zoning Ordinance specifies the benefits which allow a development to achieve densities above one unit per acre. The location criteria for low-density residential require that these developments be located within the PSA where utilities are available. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

- ◆ **Staff Comments:** Section 24-254(c) of the Zoning Ordinance specifies what particular benefits must be offered in order to achieve a gross density of two dwelling units per acre. This development meets those specifications. In addition, the proposal provides additional public benefits as it is in accordance with the adopted Greenway Master Plan and Powhatan Creek Watershed Management Plan. The proposal is consistent with the Land Use policies of the Comprehensive Plan.


RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Board of Supervisors approve the rezoning and master plan applications, and accept the voluntary proffers.

Staff also recommends approval of the attached SUP. On April 4, 2005, the Planning Commission recommended approval by a vote of 5 to 1.


Christopher Johnson

CONCUR:


O. Marvin Sowers, Jr.

CJ/gb

Z-16-04SUP-35-04MP-12-04

Attachments:

1. Planning Commission Minutes from April 4, 2005
2. Location Map
3. Master Plan (under separate cover)
4. Fiscal Impact Statement
5. Proffers
6. Resolutions

**REZONING-16-04/SPECIAL USE PERMIT-35-04/MASTER PLAN-12-04. Burlington Woods
Staff Report for the May 24, 2005, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:	Building F Board Room; County Government Complex
Board of Supervisors:	April 4, 2005, 7 p.m.
	May 10, 2005, 7 p.m. (Deferred)
	May 24, 2005, 7 p.m.

SUMMARY FACTS

Applicant:	Mr. Michael Baust, Rickmond + Bury
Land Owner:	Mr. Michael Smith, Tidewater Partners Property & Development, LLC
Proposed Use:	26-lot single-family subdivision
Location:	3931 Longhill Road; Powhatan District
Tax Map and Parcel No.:	(33-3)(1-20)
Primary Service Area:	Inside
Parcel Size:	17.32 acres
Existing Zoning:	R-8, Rural Residential
Proposed Zoning:	R-2, General Residential, with proffers
Comprehensive Plan:	Low-Density Residential

STAFF RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends the Board of Supervisors approve the rezoning, special use permit, master plan, and accept the voluntary proffers.

Staff Contact:	Christopher Johnson	Phone: 253-6685
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PLANNING COMMISSION RECOMMENDATION

On April 4, 2005, the Planning Commission recommended approval by a vote of 5 to 1.

Proposal Changes Made After Planning Commission Consideration

Revised proffers were submitted on May 10, 2005, that increased the per lot cash contribution for CIP projects, including schools, from \$2,451 per lot to \$2,939 per lot.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

Cash Proffer Summary (See attached proffers for further details)

Use	Amount
Water (CIP contribution)	\$1,061 per lot
CIP Projects (including schools)	\$2,939 per lot
Total Amount (2005 dollars)	\$104,000
Total Per Lot	\$4,000 per lot

The Board of Supervisors deferred the above-referenced applications at the May 10, 2005, Public Hearing due to questions raised concerning revisions made to the voluntary proffers provided by the applicant. The applicant added a new proffer (No. 12), which obligates the owner to provide the necessary improvements to Lift Station 7-2 necessitated by the proposed development in lieu of a proffered cash contribution to the James City Service Authority (JCSA) in the amount of \$3,692.31 per lot. As shown in the above table, total cash proffers proffered by the owner total \$4,000 for each of the 26 lots.

Staff has advised counsel for the applicant that the Lift Station upgrades are a JCSA-required development improvement and will not be considered as a proffer. As of this writing, staff has been advised by counsel for the applicant that proffer No. 12 will be removed prior to Board consideration of the applications. The applicant has not made any other changes to the voluntary proffers or Master Plan since the May 10, 2005, Board of Supervisors meeting.

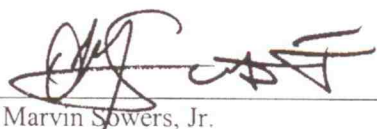
RECOMMENDATION

With the submitted proffers, staff finds the proposal will not negatively impact surrounding property. Staff also finds the proposal consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Board of Supervisors approve the rezoning, master plan, and accept the voluntary proffers. Staff also recommends approval of the attached SUP. On April 4, 2005, the Planning Commission recommended approval by a vote of 5 to 1.

Christopher Johnson

CONCUR:

CJ/gs
z-16-04_sup-35-04_MP-12-04.wpd3



O. Marvin Sowers, Jr.

ATTACHMENTS:

1. Location Map
2. Proffers
3. Resolutions

RESOLUTION

CASE NO. SUP-35-04. BURLINGTON WOODS

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

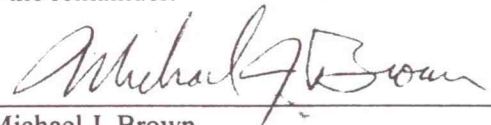
WHEREAS, Mr. Michael Baust of Rickmond + Bury has applied on behalf of Tidewater Partners Property & Development, LLC for a special use permit to allow a single-family subdivision with a maximum gross density of 1.5 units per acre in accordance with the provisions of Section 24-254 (c) of the Zoning Ordinance; and

WHEREAS, the property is identified as Parcel No. (1-20) on James City County Real Estate Tax Map No. (33-3); and

WHEREAS the Planning Commission of James City County, following its Public Hearing on April 4, 2005, recommended approval of Case No. SUP-35-04 by a vote of 5 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 35-04 as described herein with the following conditions:

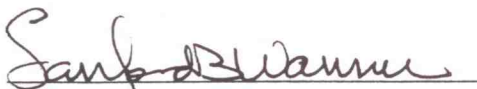
1. If construction has not commenced on this project within thirty-six months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining a land-disturbing permit and start of land-disturbing construction activities for the project.
2. A landscaping plan shall be approved by the Planning Director or his designee prior to final approval of any subdivision plat for the development. The owner shall provide enhanced landscaping for the area along the property frontage on Longhill Road and adjacent to any residential dwellings. Enhanced landscaping shall be defined as 133 percent of Zoning Ordinance landscape requirements.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.


Michael J. Brown

Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
GOODSON	AYE
MCLENNON	NAY
BRADSHAW	NAY
BROWN	AYE

ATTEST:


Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of May,

2005.

PROFFERS

THESE PROFFERS are made this 29th day of April, 2005 by TIDEWATER PARTNERS PROPERTY & DEVELOPMENT, LLC, a Virginia limited liability company (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 3931 Longhill Road, Williamsburg, Virginia and being Tax Parcel 33-3-1-20 containing approximately 17.32, being more particularly described on Schedule A hereto (the "Property").

B. The Property is designated Low Density Residential on the County's Comprehensive Plan Land Use Map and is now zoned R-8. Owners have applied to rezone the Property from R-8 to R-2, General Residential District, with proffers.

C. Owners have submitted to the County a master plan entitled "Burlington Woods Master Plan" prepared by Bury + Partners - Virginia, Inc. dated December 23, 2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the

Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Master Plan.** The Property shall be developed generally in accordance with the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be a maximum of 26 lots on the Property.

2. **Owners Association.** There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association, shall require each

initial purchaser of a lot to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the lot (but no less than \$100.00) and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

3. **Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards

shall be approved by the James City Service Authority prior to final subdivision or site plan approval.

4. Cash Contributions for Community Impacts. (a) A contribution of \$1,061.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$484.75 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$2,454.25 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation

of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(d) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat approval for such unit.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (c) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no

change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

5. **Longhill Road Community Character Buffer.** There shall be a 150 foot buffer along the Longhill Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots or units. There shall be installed landscaping in the buffer of at least 125% of ordinance requirements, unless otherwise approved by the Director of Planning, pursuant to a landscape plan approved by the Director of Planning. With the prior approval of the Development Review Committee, trails, sidewalks, bike lanes, utilities, lighting, entrance features and signs may be located in the buffer. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area. The 35 foot perimeter buffer adjacent to Tax Parcel 3130100019 (Wallace parcel) and Tax Parcel 3130100020A (New Zion Baptist Church parcel) shall be landscaped in accordance with a landscape plan approved by the Director of Planning.

6. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the development plan approval process.

7. **Recreation.** (a) Owner shall provide a tot lot, with play equipment, and parkland of approximately one acre prior to issuance of the first certificate of occupancy for a dwelling unit on the Property.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Recreation Master Plan or in lieu of such additional facilities Owner shall make cash contributions to the County in amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(e)) or some combination thereof. All cash contributions proffered by this Proffer 7 shall be used by the County for recreation capital improvements or for any other project in the County's capital

improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

8. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I,

Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

9. **Sidewalks**. There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall either (i) install a sidewalk along the Longhill Road frontage of the Property or (ii) in lieu thereof, make a payment to the County for sidewalk improvements included in the County's capital improvements plan in an amount acceptable to the Director of Planning based on the estimated costs of construction of the sidewalk.

10. **Taper**. If required by the Virginia Department of Transportation, there shall be installed or bonded in form acceptable to the County Attorney prior to final subdivision plat

approval a 100 foot right turn taper from Longhill Road into the entrance to the Property.

11. **Environmental**. The Property is located within Subwatershed 204, Catchment 204-101-1 of the Powhatan Creek watershed. Pursuant to the County's Comprehensive Plan and the goals of the Powhatan Creek Watershed Management Plan, Owner shall incorporate on-site stormwater management strategies and on-lot practices to reduce stormwater run-off and pollutant loading into the stormwater management system for the Property as approved by the Director of Environmental Division. These practices shall include, but are not limited to, rain gardens, bio-retention cells and infiltration swales and shall compliment but not replace traditional stormwater management practices.

12. **Pump Station Improvements**. Owner shall improve JCSA pump station 7-2 by demolishing the existing four foot diameter wet well and replacing it with a new six foot diameter pre-cast concrete wet well in accordance with plans and specifications prepared by Owner's engineer and approved by JCSA and other required governmental agencies. The County shall not be obligated to issue certificates of occupancy for dwelling units on the Property such improvements are completed and accepted by JCSA.

WITNESS the following signatures.

TIDEWATER PARTNERS PROPERTY &
DEVELOPMENT, LLC

By: _____
Title: _____

STATE OF _____
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____
day of _____, 2005, by _____, as _____
_____ of TIDEWATER PARTNERS PROPERTY & DEVELOPMENT, LLC on behalf
of the company.

NOTARY PUBLIC

My commission expires: _____.

EXHIBIT A

All that certain piece or parcel of land situate in Berkeley Magisterial District, James City County, Virginia, containing 17.32 acres, more or less and being shown and designated as 20.4 acres "Theodore Wallace" on that certain plat entitled "Wallace - Taylor, Plat showing division of Property Situated near Centerville, Jamestown Magisterial District, James City County, Va." dated March 7, 1952, made by R. V. Carter, Certified Land Surveyor, recorded in the Clerk's Office of James City County along with a partition deed between Theodore Wallace and Pearl Wallace Taylor dated April 21, 1952, and recorded in the Clerk's Office May 6, 1952, in Deed Book 47, page 326. The said property is bounded on the North by State Highway No. 612, on the East by the property now or formerly of Elizabeth (Lizzie) Lee and New Zion Baptist Church, on the South by the property formerly owned by Siggarr Bradby and on the West by the property of Pearl Wallace Taylor and James Melvin Wallace and Betty W. Wallace. Being a part of Parcel B conveyed to Theordore Wallace and Lillian B. Wallace by deed dated April 21, 1952, recorded in the Clerk's Office of James City County, Virginia in Deed Book 47, page 328, SAVE AND EXCEPT a portion of the property containing 1.0796 acres which was conveyed to James Melvin Wallace and Betty W. Wallace by Deed dated January 9, 1970, from Theodore R. Wallace and Lillian B. Wallace, recorded in Deed Book 125, at page 39, LESS AND EXCEPT a portion of the property containing 0.99 acres, more or less, which was conveyed to New Zion Baptist Church by Deed dated September 8, 1997, from Thomas B. Wallace, recorded as instrument number 970016355, LESS AND EXCEPT a portion of the property containing 1.00 acres, more or less, which was conveyed to Geneva Wallace, James Jackson, Sr., Willie Brown, Elvin Jones, and Robert Kenneth Taylor, Sr., Trustees of the New Zion Baptist Church dated November 12, 2001, from Thomas B. Wallace, recorded as instrument number 010021684.

Together with all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Subject, however, to all easements, conditions, and restrictions of record affecting said property.

**SPECIAL USE PERMIT-0013-2008. Lafayette High School Wireless Tower
Staff Report for the October 14, 2008, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 6, 2008 (deferred)
September 10, 2008, 7:00 p.m.
October 14, 2008, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Febronia Christ, LeClair Ryan Attorneys-at-Law

Land Owner: Williamsburg-James City County School Board

Proposal: The applicant has proposed to replace an existing abandoned guyed 145-foot tower with a 155-foot monopole.

Location: 4460 Longhill Road

Tax Map/Parcel No.: 3230100001

Parcel Size: 49.78 acres, approximately

Zoning: Public Lands

Comprehensive Plan: Federal, State, and County Land

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff believes that the replacement of the existing abandoned guy wired tower is generally compatible with the 2003 Comprehensive Plan and the Performance Standards for Wireless Communication Facilities as outlined in the staff report. Staff recommends the James City County Board of Supervisors approve this application with the attached conditions.

Staff Contact: Kathryn Sipes, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On September 10, 2008, the Planning Commission recommended approval of this application by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

There have been no changes in the case since the Planning Commission meeting on September 10, 2008.

PROJECT DESCRIPTION

Ms. Febronia Christ has applied on behalf of Verizon Wireless for a Special Use Permit (SUP) for a proposed 145-foot non-camouflaged monopole wireless communications tower on the site of Lafayette High School. A ten-foot lightning rod would make the total height of the tower 155 feet. The 12-panel full antenna array would be located at a centerline of 141 feet above ground level. Based on propagation maps included with the application, the objective of the applicant is to infill coverage approximately between Centerville Road and Richmond Road, including the northern half of Ford's Colony subdivision (please see Tabs 7B and 7C in the attached binder).

Existing on the site is an abandoned 145-foot tower with four guy wires, each surrounded by chain link fence. This tower is proposed to be removed. Williamsburg-James City County (WJCC) School Board records regarding the tower are not detailed; Mr. Alan Robertson with WJCC Community Schools has indicated this tower seems to have been on-site since at least the early 1970s and has not been in service for at least 20 years. The original purpose is not known, but suspected to be related to a previous long-distance learning project that is no longer active. In addition to the replacement of the existing tower, a 12-foot by 30-foot equipment shelter within a secured fenced compound is proposed on the site.

PUBLIC IMPACTS

Visual Impacts

Staff Comments: Section 24-128(b)(3) of the Zoning Ordinance requires the applicant to provide verifiable evidence that all existing towers have been evaluated for collocation. Opportunities for collocation are discussed later in this staff report under Tower Policy: Collocation and Alternatives Analysis.

A balloon test was conducted on July 16, 2008, to simulate the height of the proposed tower. Photographs from the balloon test are included in the attached binder (please see Tab 14, View Nos. 5 and 7 for balloon test photographs and View Nos. 1, 2, 3, and 6 for photo simulations of the proposed tower). Based on the balloon test, the proposed tower will be visible from Blue Bill Road and Canvas Back Run in the Mallard Hill Subdivision, as well as from points along Longhill Road and inside the Warhill Sports Complex. The existing tower is also visible from these same locations, though staff believes the proposed tower may have a larger profile due to the massing of the tower and antennae. The existing tower is more of a lattice design.

Environmental

Watershed: Powhatan Creek Watershed

Staff Comments: Environmental staff had no comments on this SUP application. Staff did note, however, that an environmental inventory, Land-Disturbing Permit, and compliance with the County's Special Stormwater Criteria will be necessary at the time of plan of development. The proposed tower location is outside the Resource Protection Area (RPA) and construction will involve minimal clearing.

Tower Policy

On May 26, 1998, the James City County Board of Supervisors adopted performance criteria for Wireless Communications Facilities that require an SUP (a copy of these standards is attached). The standards seek to minimize the impacts of towers by encouraging collocation on other towers, minimizing new areas where towers are located and reducing their height or visual impacts.

A. Collocation and Alternatives Analysis

Standards A.1 and A.2 call for the applicant to investigate and provide verifiable evidence of having investigated all possible alternatives for locating prior to making a request to construct new facilities.

Staff Comments: The applicant considered collocation at two alternative locations: across Longhill Road at the Christian Life Center and the new water tower at the Warhill Sports

Complex. Information submitted by the applicant indicates the existing monopole at the Christian Life Center already accommodates three carriers and the remaining mounting heights available would not provide the needed coverage to meet Verizon's objective in the specific search area. Furthermore, the application states that even at the highest possible mounting height, currently occupied by another carrier, the existing monopine would not provide the required coverage.

The applicant also considered collocating on the new water tower at the Warhill Sports Complex. The addendum to the application includes a propagation map that indicates the desired coverage area would not be served using this location (please see Tab 4A).

At staff's request, the applicant considered locations at Lafayette High School farther away from Longhill Road, which may result in less visibility from the Community Character Corridor. Input from school officials, however, confirmed that the proposed location is their preferred location for a variety of reasons. These reasons include the protection of an endangered flower currently being studied and monitored by the school's science program and preserving flexibility for competing needs for space on school grounds.

Planning staff also requested the applicant investigate the possibility of a second tower at the Christian Life Center location, consistent with the adopted performance criteria. An addendum to the application indicates a second tower would have to be constructed at a height of 180 feet to achieve the coverage objectives (please see Tab 4B). No propagation maps for a shorter tower at this location were provided. In the interest of pursuing all available options, the applicant agreed to consider the possibility of extending the height of the existing tower at the Christian Life Center to that height, which would eliminate the need for a second tower. The applicant has not been able to verify the existing structure could accommodate such an expansion; however, staff is not certain this would result in a more desirable view shed than the current proposal.

Standards A.3 and A.4 call for a new tower to be sited to allow for the construction of a second tower and that all towers be designed to accommodate as many collocations as possible.

Staff Comments: While there are no plans for a second tower at the Lafayette High School site, the applicant has indicated the willingness to allow other carriers to collocate on the proposed tower. The *Verizon Wireless Collocation Guidelines* are included in the application binder provided by the applicant. The high school property is large enough to accommodate a second tower per policy guidelines. However, this would be subject to negotiation with the WJCC School Board.

B. Location and Design

Standard B.1 states towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. Towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses while protecting the character of the County's scenic resource corridors and its view sheds.

Staff Comments: Staff believes the proposed tower is generally consistent with this standard due to the existing tower on the site, but notes the proposed tower will likely be more noticeable from Longhill Road than the existing tower as previously discussed.

Standard B.2 states that towers located within a historic or scenic resource area or within a scenic resource corridor should use a camouflaged design or have minimal intrusion on residential areas, historic and scenic resource areas or roads in such areas, or scenic resource corridors.

Staff Comments: Longhill Road is a Community Character Corridor. Staff notes the existing tower is visible from Longhill Road, but finds the proposed tower to be more visible and have a larger profile (based on photo simulations provided). Planning staff requested the applicant consider a location further north into the wooded area for the proposed tower, minimizing the view both from Longhill Road and the Mallard Hill subdivision. The application addendum

indicates the suggested location would interfere with objectives of school officials as previously discussed in this staff report. Additionally, the suggested location has steeper slopes resulting in a significant drop in elevation.

The applicant has indicated a camouflage tower would not achieve its objectives in this location. Staff finds minimal benefit may be achieved from a camouflage tower in this instance, given the proposed location in an existing wooded buffer.

Standards B.3 and B.4 state that the tower should be less than 200 feet to avoid lighting and should be freestanding rather than supported by guy wires.

Staff Comments: Staff finds the proposed tower meets these requirements.

C. Buffering

Standards C.1 and C.2 state that towers should be placed in a manner that maximizes buffering from existing trees, including maintaining a recommended 100-foot-wide buffer around the site and that access roads should be designed in a manner that provides no off-site view of the tower base and facilities.

Staff Comments: The existing tower is approximately 400 feet from Longhill Road and approximately 750 feet from the nearest residence in Mallard Hill, in an existing wooded buffer along most of the Longhill frontage and between the site and the Mallard Hill subdivision. The proposed tower and related equipment will be in the approximate same location, just inside the existing tree line. Staff finds the proposed tower in general compliance with these standards.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>State, Federal, and County Land (Page 130):</i> Publicly owned lands included in this category are Eastern State Hospital, military installations, County offices and facilities, and larger utility sites such as the Hampton Roads Sanitation District treatment plant.</p> <p>Staff Comment: While a tower is not specifically listed as a recommended use in any Land Use designation, this tower will replace an existing tower in approximately the same location.</p>
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Community Character

General	<p><i>Longhill Road Community Character Corridor (CCC)-Page 83-84:</i> The predominant visual character of the suburban CCC should be the built environment and natural landscaping, with parking and other auto-related uses clearly a secondary component of the streetscape.</p>
Goals, strategies and actions	<p><i>Strategy #3-Page 95:</i> Ensure that development along CCCs and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks, and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Action #5-Page 95:</i> Encourage beautification of existing development to improve the overall visual quality of the County.</p> <p>Staff Comment: The proposed tower replaces an existing abandoned guyed tower. Alternatives were considered and have been discussed earlier in this staff report.</p>

RECOMMENDATION

Staff believes that the replacement of the existing abandoned guy wired tower is generally compatible with the 2003 Comprehensive Plan and the Performance Standards for Wireless Communication Facilities as outlined in the staff report. On September 10, 2008, the Planning Commission recommended approval of this application by a vote of 7-0. Staff recommends the James City County Board of Supervisors approve this application with the following conditions:

1. This SUP shall be valid for a total of one wireless communications facility at a total height of 155 feet including all appurtenances on the property as depicted on Sheet C-1 of the *Survey and Site Plan* prepared by Clark Nexsen and stamped June 10, 2008, by Stuart Patterson, Professional Engineer (Tab 5 in the applicant binder).
2. All colors used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
3. Within 30 days of 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 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.
4. No advertising material or signs shall be placed on the tower.
5. At a distance of 2 feet the enclosed generator associated with this structure shall produce sound no greater than 70 decibels.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Kathryn Sipes

CONCUR:

Allen J. Murphy, Jr.

KS/nb
Sup13_08LHS

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Application Binder (under separate cover)
4. Resolution

RESOLUTION

CASE NO. SUP-0013-2008. LAFAYETTE HIGH SCHOOL WIRELESS TOWER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicant has requested an SUP to allow for a 155-foot-tall non-camouflaged monopole wireless communications tower in the PL, Public Lands, zoning district, located at 4460 Longhill Road, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (32-3), and also known as Lafayette High School; and

WHEREAS, a public hearing was advertised, adjoining property owners were notified, and a hearing was held on Case No. SUP-0013-2008; and

WHEREAS, on September 10, 2008, the Planning Commission recommended approval of the application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0013-2008 as described herein with the following conditions:

1. This SUP shall be valid for a total of one wireless communications facility at a total height of 155 feet including all appurtenances on the property as depicted on Sheet C-1 of the *Survey and Site Plan* prepared by Clark Nexsen and stamped June 10, 2008, by Stuart Patterson, Professional Engineer (Tab 5 in the applicant binder).
2. All colors used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
3. Within 30 days of 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 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.
4. No advertising material or signs shall be placed on the tower.
5. At a distance of 25 feet the enclosed generator associated with this structure shall produce sound no greater than 70 decibels.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of
October, 2008.

Sup13_08LHS_res

UNAPPROVED MINUTES FROM THE SEPTEMBER 10, 2008 PLANNING
COMMISSION MEETING

SUP-0013-2008 Lafayette High School Wireless Tower

Ms. Kate Sipes stated that Ms. Febronia Christ has applied on behalf of Verizon Wireless for a special use permit to allow for the construction of a 145 foot wireless communications tower on the site of Lafayette High School. The parcel is approximately 50 acres and is zoned PL, Public Lands. She stated a ten foot lightning rod would make the total height of the tower 155 feet. She also stated that existing on the site is an abandoned 145 foot tower with four guy wires, each surrounded by a chain link fence. This tower would be removed and replaced with the Verizon tower in approximately the same location. Ms. Sipes stated that according to Mr. Alan Robertson with the WJCC Schools, this tower has not been in service for at least 20 years. The applicant has negotiated with the school system to provide a \$20,000 cash donation toward the construction of a pavilion on site to be used as an outdoor classroom for the science department. This is not relevant to land use considerations and was not factored into staff's analysis, but is included in the applicant's proposal.

Staff finds the proposal, with conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map designation, and the Performance Standards for Wireless Communication Facilities. Staff recommended the Planning Commission recommend approval of the special use permit application, with conditions, to the Board of Supervisors.

Mr. Poole asked if the owner was responsible for removing a tower if it ceases to be in use.

Ms. Sipes stated the ordinance requires that prior to site plan approval that there is a bond for the removal of the tower at the point it is no longer being used.

Mr. Obadal asked if there were any other towers owned by corporations other than Verizon within this area.

Ms. Sipes deferred this question to the applicant.

Mr. Fraley opened the public hearing.

Mr. Steve Romine spoke on behalf of the applicant. He gave a presentation on wireless phones and stated that Verizon sought this site to increase their coverage in the area. He stated the company does not look to build infrastructure due to the cost factors involved. He also stated they will co-locate whenever it is feasible. Mr. Romine showed diagrams as to whether the current tower is and where the new tower will be. He stated there will be two additional carriers on the tower. He also showed reliable coverage currently, and how obtaining this permit will increase their coverage. Mr. Romine showed pictures of the balloon test, showing the current tower and showing the balloon where the proposed tower will be. He stated that the applicant

did look at other sites, and looked at other sites to co-locate, specially the tower at the Christian Life Center. He stated that currently the pole was at its maximum as far as carriers. Mr. Romine stated the applicant also looked at the Seasons Trace water tank site. It was determined that this site was too close to Verizon's other site at the Pottery. The applicant also looked at the tower on Jolly Pond Road. He stated that this site would not meet the applicant's objectives and was too far outside the area that they were attempting to cover.

Mr. Krapf asked what the vision was for the future and Verizon's goal for cell phone coverage in the County.

Mr. Romine answered that this is the need the company sees now for the coverage in this area of the County. He stated this process is customer complaint driven.

Ms. Kathy Faulkner of Verizon Wireless spoke of a current project where Verizon is co-locating on a tower that is at the Government Complex.

Mr. Fraley recommended that Verizon look at the County in a more strategic manner as to what the plans are for James City County. He understands that some things are customer driven, but thinks it would be beneficial to come up with some type of master plan. He also encouraged Verizon to search for alternative technologies for use in the County.

Mr. Krapf asked when the simulation was done of the Warhill water tower which concluded there was a fifty percent reduction in the coverage cap, was this done with booster power scenario and redirecting the antenna.

Mr. Romine stated that normally there is certain spacing on the towers between antennas. When testing coverage the power was boosted and it was determined that the best alternative was the Lafayette site.

Mr. Krapf stated that what he is seeing is that not only is there a lack of strategic planning for the County, but also a map showing the enhanced power of the third antenna that was not shown and the applicant did not provide a propagation map for the tower at the Christian Life Center for a lower location. He stated that when he read through the staff report, he felt he could not get a complete picture of all of the alternatives.

Mr. Romine stated this application was brought forward after two years of research and discussion with the school system. He said every effort was made to try and find a co-location site. He stated that what the applicant was asked to do was not technologically feasible. He explained what testing was done at the different sites that were considered for co-location.

Mr. Henderson asked about the merger that was mentioned earlier between Verizon and Alltel. He asked if the overlap in the two networks was taken in account when determining what was the most coverage that could be obtained.

Mr. Romine answered that those evaluations are being done at different levels and in all areas of Virginia. He stated that evaluation did not change the outcome of what was determined

to be the best site to extend coverage.

Mr. Henderson asked about the four existing antennas that were mentioned at the Christian Life Center.

Mr. Romine stated that there are two currently and a third committed on a third slot. He stated that if Verizon were to co-locate there it would be at eighty feet and that would not be feasible for the amount of coverage they are trying to obtain.

Mr. Obadal asked if there were any other towers in the area that were not on the map provided by Mr. Romine.

Mr. Romine showed the map that outlined the three mile area that they are trying to cover. He stated that those in the engineering division researched and for the coverage they are trying to obtain, co-locating on other towers did not provide the most effective coverage. He stated there may have been other towers within a six mile radius but they were not looked at because they were determined not to be feasible from the start. Mr. Romine pointed out that once the area has matured with tower sites, the goal is to cover as much of the gap area as possible. He stated this really focuses where the company needs to be.

Mr. Obadal asked if there were any complaints received concerning reception in the area.

Ms. Sipes answered that no complaints were received; however, that type of complaint is the type that is probably not normally received by the Planning Division.

Mr. Romine stated that Verizon has received complaints and this is what normally drives these applications for new towers, or co-locating on other towers.

Mr. Obadal asked what the requirements would be should Verizon vacate the site at some point in the future.

Mr. Romine stated that as part of the ordinance, Verizon is subject to a bond if they vacate the site or they would remove the structure under an obligation imposed by the County.

Mr. Obadal asked if notification was given to residents surrounding the site area.

Ms. Sipes answered as part of the normal special use permit process staff notified adjacent property owners of the application. There was also a separate notification to property owners and a separate advertisement in the newspapers concerning the balloon test.

Mr. Henderson asked whether there was any consideration of stealth technologies for this particular tower.

Mr. Romine stated that discussion did occur with staff and the school division. It was a preference not to camouflage the pole given the surrounding area at the site. There was a discussion about moving the pole, but Mr. Romine stated the school system was very adamant

about keeping the same location.

Mr. Fraley closed the public hearing.

Mr. Poole stated he supported this application and saw a number of benefits to the community, the most important being there was a 145 foot guy wired tower presently there that was not being utilized. He also felt that the new pole will be less intrusive than the one that will be removed. There is also a benefit to the schools with the money for the science pavilion committed and the annual lease for the site.

Mr. Obadal agreed with Mr. Poole. The new tower, while being taller, will still serve as a benefit to the community.

Mr. Krapf expressed his concerns that he does not feel due diligence was done in providing a complete picture for the Planning Commission to look at. He stated that if it were not for the fact of replacing an existing pole, he would have suggested the applicant request a deferral in order to obtain more information concerning propagation maps. Mr. Krapf does feel the net benefit to the community is greater and he can support the application.

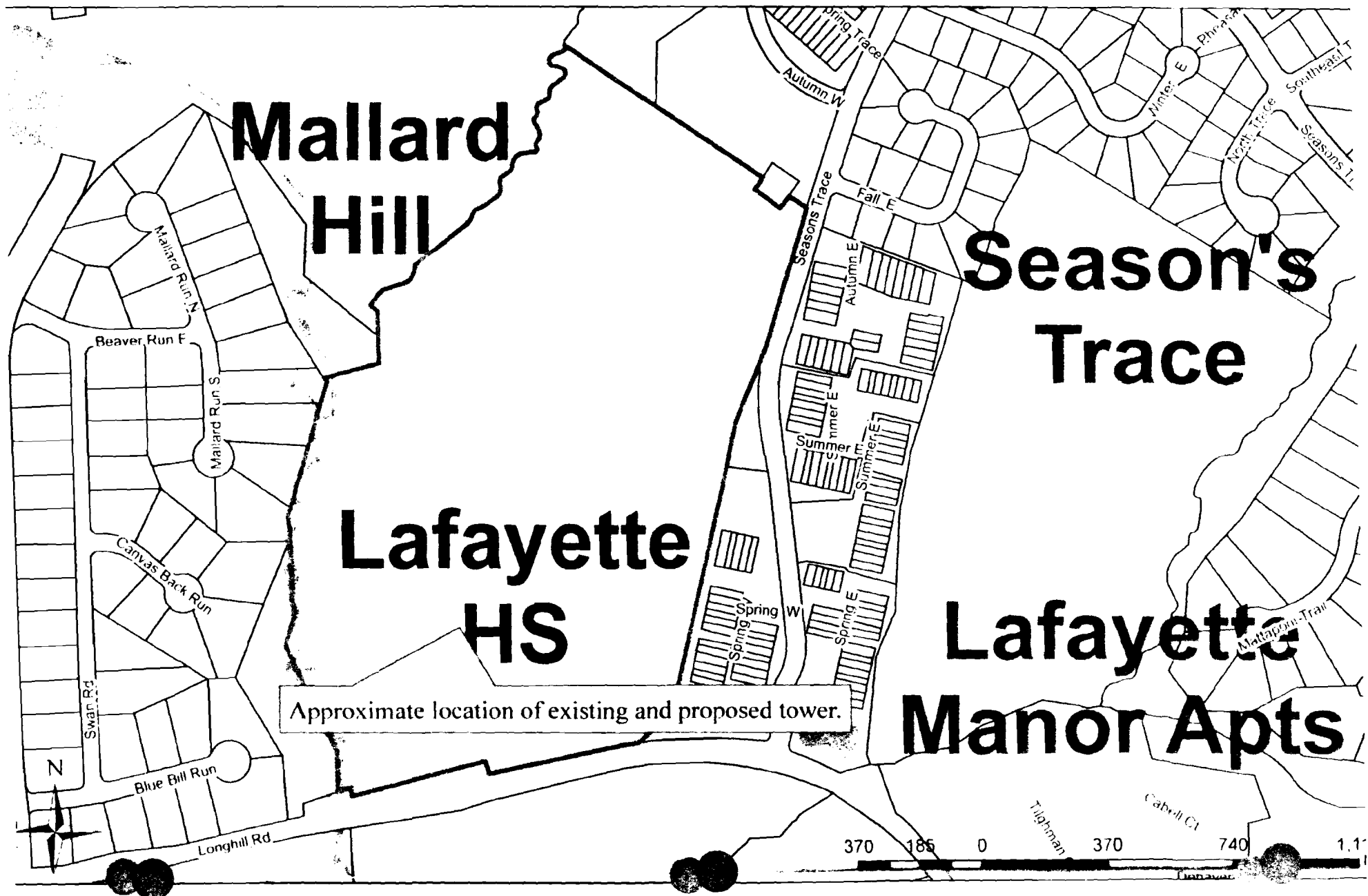
Mr. Henderson made a motion to approve the special use application.

Mr. Poole seconded the motion. He stated that he was sympathetic to comments made concerning having a long term plan for wireless facilities.

In a roll call vote the motion was approved. (7-0) AYE: Billups, Krapf, Peck, Poole, Henderson, Obadal, Fraley.

JCC-SUP-0013-2008

Lafayette High School Wireless Tower



MEMORANDUM

DATE: October 14, 2008

TO: The Board of Supervisors

FROM: Richard B. Hanson, Director, Office of Housing and Community Development

SUBJECT: Conveyance of Drainage Easement – Ironbound Square

The Ironbound Square Revitalization Roadway Improvement Phase 1 Project completed in 2007 eliminates the need for the County to retain a 20-foot drainage easement. The easement was obtained in 1980 and is located to the south of Carriage Road and to the west of Watford Lane. The Roadway Improvement Project included installation of a system of storm drains and pipes that carries stormwater to the detention basin constructed east of Watford Lane. The storm sewer system was constructed within the rights-of-way on Carriage Road and Watford Lane in accordance with the Roadway Improvement Site Plan approved in 2006.

A property line extinguishment plat approved by the County Subdivision Agent in 2008 identifies the County's 20-foot drainage easement and indicates it as "to be abandoned." Conveyance of the obsolete easement to the Williamsburg Redevelopment and Housing Authority will accomplish the elimination of the easement and will facilitate the development and sale of affordable homes in the Ironbound Square Subdivision.

Staff recommends approval of the attached resolution authorizing the County Administrator to convey the easement to the Williamsburg Redevelopment and Housing Authority.


Richard B. Hanson

CONCUR:


Doug Powell

RBH/nb
IronbndCODE_mem

Attachment

RESOLUTION

CONVEYANCE OF DRAINAGE EASEMENT – IRONBOUND SQUARE

WHEREAS, the County of James City owns a 20-foot drainage easement shown and described as, “20’ EXISTING DRAINAGE EASEMENT TO JAMES CITY CO., D.B. 205, PG. 520-522, (TO BE ABANDONED)” on that certain plat entitled, “PLAT SHOWING PROPERTY LINE EXTINGUISHMENT NORTH AND SOUTH OF WATFORD LANE OWNED BY WILLIAMSBURG REDEVELOPMENT AND HOUSING AUTHORITY, PREPARED FOR JAMES CITY COUNTY HOUSING AND COMMUNITY DEVELOPMENT, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA” made by AES Consulting Engineers, dated October 8, 2007, and recorded in the Circuit Court Clerk’s Office for the City of Williamsburg and County of James City on April 25, 2008, as Instrument No. 080011210. Said easement is over and across the properties more commonly known as 4380 Ironbound Road, designated as Parcel No. (1-160) on James City County Real Estate Tax Map No. (39-1) and 107 Carriage Road, designated as Parcel No. (19-48) on James City County Real Estate Tax Map No. (39-1) in the Berkeley District of James City County, Virginia; and

WHEREAS, the James City County Board of Supervisors finds that the above-described 20-foot drainage easement is no longer in use and is made obsolete by the storm sewer system constructed by James City County within the rights-of-way on Carriage Road and Watford Lane in accordance with the Ironbound Square Revitalization Roadway Improvement Phase 1 site plan approved in 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after conducting a public hearing, hereby authorizes the County Administrator to execute the appropriate documents conveying the said 20-foot drainage easement to the Williamsburg Redevelopment and Housing Authority.

Bruce C. Goodson
Chairman, Board of Supervisors

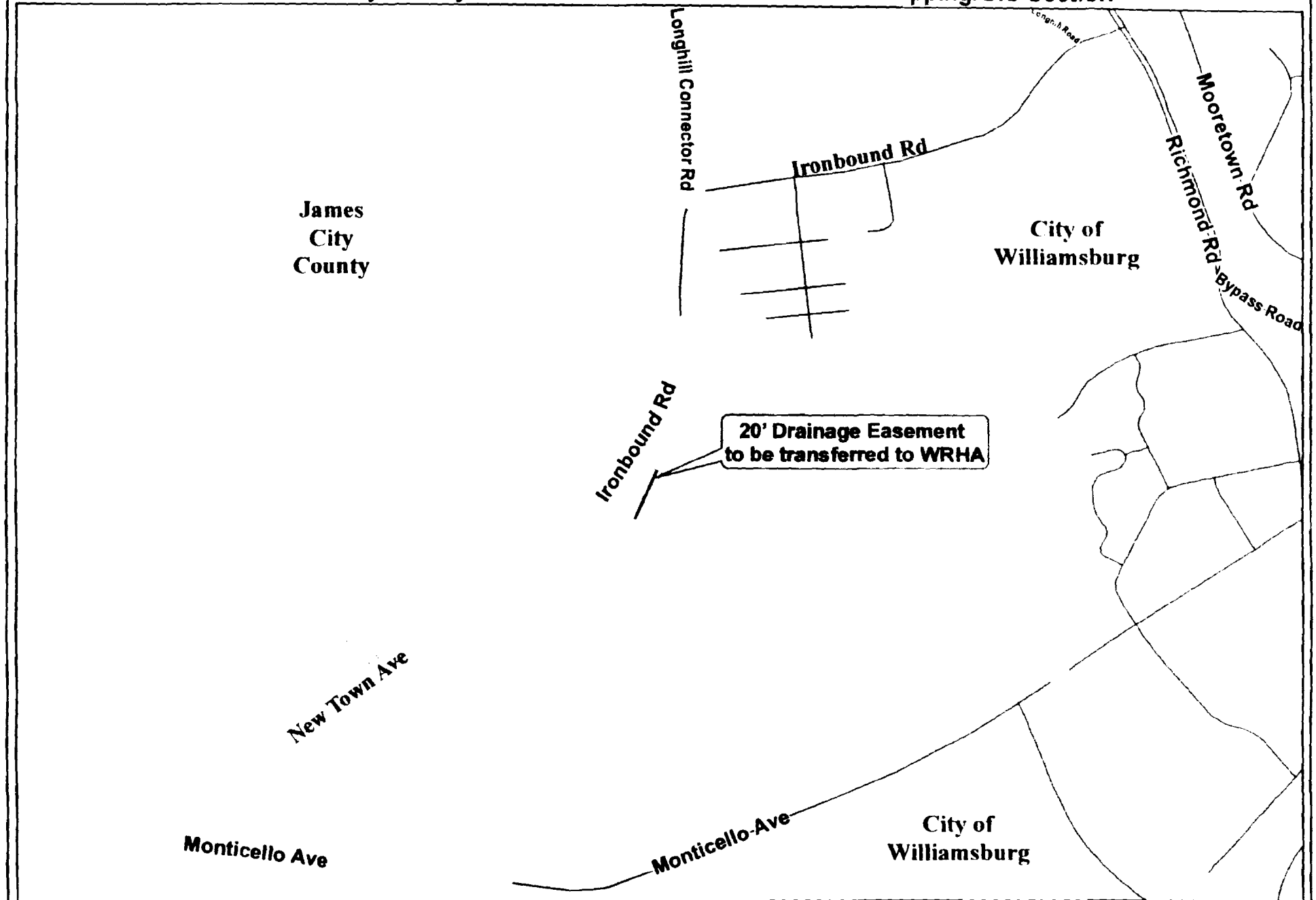
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

IronbndCODE_res

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



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

1 inch = 852 feet

0 0.1 0.2 Miles



**SPECIAL USE PERMIT-0014-2008. Freedom Park Water Main Extension
Staff Report for the October 14, 2008, 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

August 6, 2008, 7:00 p.m.
September 9, 2008, 7:00 p.m. (deferred)
October 14, 2008, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Aaron Small, AES Consulting Engineers

Land Owner: James City County

Proposal: To construct approximately 13,400 linear feet of maximum 12-inch water main through Freedom Park from existing services located at the intersection of Centerville Road and Theodore Allen Road. The extension is proposed to primarily follow the entrance road and old logging road in Freedom Park, would serve amenities within the park, and connect to proposed services at the 4th middle school and 9th elementary school site on Jolly Pond Road. An approximately 1,000-foot connection is also proposed to stem off the main to service the proposed Freedom Park Interpretive Center and additional line to serve the proposed Education Center.

Location: 5537 Centerville Road

Tax Map/Parcel No.: 3010100009

Parcel Size: 675 acres

Zoning: PL, Public Land

Comprehensive Plan: Park, Public, or Semi-Public Open Space

Primary Service Area: Outside

STAFF RECOMMENDATION

While extending utilities beyond the Primary Service Area (PSA) boundaries is contrary to the Comprehensive Plan, the Public Facilities section stresses that the location of new public facilities should be closest to the greatest number of people served and located so that accessibility is maximized with minimal neighborhood effects. A condition has been added to this application that limits connections to the service from this site, thus prohibiting further encroachment of utilities outside the PSA. Staff recommends that the Board of Supervisors approve this Special Use Permit (SUP) for a 12-inch looped waterline with the attached conditions. Through the 12-inch loop is preferred, staff has provided an alternative resolution for the extension of a 12-inch waterline to be truncated in Freedom Park and would find this an acceptable alternative as well.

Staff Contact: Leanne Reidenbach

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on August 6, 2008, the Planning Commission recommended approval of the originally proposed 12-inch looped waterline by a vote of 4-2. The Commission recommended that the policy pertaining to central well systems in developments located outside the PSA be reevaluated as part of the land use discussions of the Comprehensive Plan update. The Commission also recommended that the County and James City Service Authority (JCSA) contact several of the developers with projects outside the PSA along Centerville Road, including Liberty Ridge and Ford's Colony, to extend an invitation for them to participate in the land use discussions.

Proposed Changes Made Since Planning Commission Meeting

There were no changes made between the Planning Commission meeting and the September 9, 2008 Board of Supervisors meeting.

Proposed Changes Made Since September 9, 2008, Board of Supervisors Meeting

At the September 9, 2008, meeting, the Board of Supervisors requested that staff look into alternative options for providing public water to Freedom Park and present an alternative analysis detailing the benefits, negatives, and cost estimates for the proposed alternatives, including installation of an independent central well facility and variations of waterline size. Please see Attachments 3 and 4 for the full range of alternatives explored. Staff has investigated numerous options and concluded that the original 12-inch loop proposal connecting Centerville Road, through Freedom Park, to the Jolly Pond middle and elementary school remains the ideal option (see Attachment 5). Benefits of this option include redundancy and improved reliability for the schools, improved water quality as a result of the looped system, elimination of waste water due to flushing lines to maintain water quality, improved flexibility for future Park development, and better fire flow/protection for Park amenities. Please note that even if the SUP is granted for the entire 12-inch loop, the project is proposed to be phased as Freedom Park facilities are constructed. The first two phases would involve installation of approximately 5,400 linear feet of 12-inch line and 1,700 linear feet of 8-inch line to service the Interpretive Center and Education Center. The third phase would involve installation of the remaining 4,300 linear feet of 12-inch line to loop to the Jolly Pond schools. Funding for Phase I is available presently but no construction timetable has been proposed for Phases II or III.

Alternatively, the option that would best suit the needs of Freedom Park as presently master planned is Alternative 3A, a 12-inch waterline extended into the Park with smaller lines extended to service the Education and Interpretive Centers (see Attachment 6). This also corresponds to Phases I and II of construction as described above. This alternative will allow for more flexibility than installation of a smaller line and would be able to accommodate potential Park expansions if necessary. Staff finds this an acceptable alternative to the 12-inch loop at this time.

PROJECT DESCRIPTION

Mr. Aaron Small, on behalf of James City County, has applied for an SUP to allow for the extension of approximately 13,400 linear feet of maximum 12-inch waterline from existing services located along Centerville Road near its intersection with Theodore Allen Road. The extension is proposed to primarily follow the entrance road and old logging road in Freedom Park, would serve amenities within the Park, and connect to the previously approved waterline at the 4th middle school and 9th elementary school site on Jolly Pond Road to improve reliability and fire flow. The proposed route generally follows that of the sewer force main approved by the Board of Supervisors on January 8, 2008, and so would also include the construction of a paved multiuse trail in the same cleared area. The parcel is located on a portion of 5537 Centerville Road which can be further identified as James City County Real Estate Tax Map No. 3010100009. An approximately 1,000-foot connection is also proposed to stem off the main to service the proposed Freedom

Park Interpretive Center and additional line to serve the Educational Center. The project would be completed in multiple phases with the first phase including the extension to serve the Interpretive Center and the second and third phases extending the line to the Education Center and school site respectively to create a larger waterline loop.

Surrounding Zoning and Development

The parcel is zoned PL and designated as Park, Public, or Semi-Public Open Space on the 2003 Comprehensive Plan Land Use Map. The project site is surrounded to the north, north-east, and west by parcels zoned A-1, General Agriculture, which include a variety of uses including residential and the School Operations building. Parcels across Centerville Road (Forest Glen and Burton Woods) are zoned R-2, General Residential, and R-5, Multi-family Residential. Freedom Park, zoned PL, Public Land, is the parcel that the water main is proposed to be extended through. The surrounding parcels are designated Rural Lands with the exception of the County landfill which is designated Federal, State, and County Land, and the properties between Freedom Park and Centerville Road are designated Low Density Residential.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Gordon Creek

Proposed Conditions:

1. Clearing. Where the water main is adjacent to the Freedom Park entrance road, it will generally be placed within the areas previously cleared for the road. Any additional clearing shall require approval by the Director of the Environmental Division.
2. Resource Protection Area. The final location of the waterline and force main and all construction-related activity shall avoid previously undisturbed areas of the Resource Protection Area (RPA) and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterlines shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed except as approved by the Director of the Environmental Division.
3. Reforestation. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, 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 as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee within two years of the initial clearing of the easement.

Environmental Staff Conclusions: The Environmental Division has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

Public Utilities

Freedom Park is located outside the PSA, but will be served by a public water extension from an existing 8-inch waterline near the intersection of Centerville Road and Theodore Allen Road. The waterline will cross Centerville Road to enter Freedom Park and will primarily follow the existing entrance road and an abandoned logging road that runs through the park property in order to minimize clearing. The line will then be placed within the right-of-way of Jolly Pond Road and connect into the already approved waterline around the school site by way of the middle school bus entrance. The majority of the proposed water main route is the same as that approved for the sanitary force main approved by the Board of Supervisors in January 2008 to serve the 4th middle/9th elementary school site.

Proposed Conditions:

1. Limitations on Connections to Water. No connections shall be made to the water main which would serve any property located outside the PSA except for connections of Freedom Park and the 4th Middle/9th Elementary School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of October 14, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.
2. Water Conservation. James City County shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the JCSA prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

JSCA Staff Conclusions: The James City County Service Authority has reviewed the proposal and concurs with the recommended options and conditions as proposed. JCSA staff has, however, expressed concerns regarding installation of a truncated line into the Park. In order to maintain adequate water quality, a dead-end waterline is required to be flushed a certain number of times a month to eliminate stagnant water. Clearly, the larger the waterline, the more frequently the line would have to be flushed and the more water would have to be removed from the line. For Phase I, the estimate is approximately 40,000 gallons of water flushed per month. Once Phase II is constructed, the estimate would be 80,000 gallons of water flushed per month. A portion of this water could be used to provide irrigation to the Williamsburg Botanical Garden Club's ellipse garden. This flushing would not be required if the line were looped.

Restrictions are included in the condition to preclude connections to more than one dwelling unit per parcel. The recommended conditions placed on the utility extensions are similar to those that were developed after direction by a previous Board of Supervisors and have been approved in the past by both the Commission and the Board. If the Board chooses the alternative proposal of a 12-inch truncated line into the park, no additional properties will have the ability to connect to public water. Specific details concerning the construction requirements will be considered with the forthcoming site plan submission. The water conservation condition would apply to facilities constructed within the park that get connected to the proposed waterline, such as the visitor's center.

3. Fire Department

A primary concern in consideration of alternatives was whether they would provide adequate fire flow and protection to buildings proposed by the Freedom Park master plan. The *James City Service Authority Design and Acceptance Criteria for Water Distribution and Sanitary Sewer Systems* lays out specific guidance regarding fire flow demands. These demands range from 1,000 gpm (residential) to 4,500 gpm (heavy industrial). This project would be considered light commercial and the water distribution system would be expected to provide 2,500 gpm. This flow is the same as would be required for apartments/townhouses/motels, etc. These numbers are guidelines and the Fire Chief has the authority to reduce (or raise) the requirements. Approval of a reduction in the standard demand usually involves building and site improvements (which would raise the cost to construct all subsequent facilities on the Park property) in order to offset the reduction in available water.

Fire Department Staff Conclusions: Based on fire flow demand calculations, none of the proposed options would meet the recommended 2,500 gpm fire flow. It is estimated that a 16-inch waterline with 12-inch branches to the buildings would need to be installed to meet this demand. AES has run additional calculations to demonstrate what fire flows would be appropriate for the Interpretive Center (1,500 gpm

without sprinklers, 750 gpm with sprinklers) and the Education Center (2,000 gpm without sprinklers and 1,000 gpm without sprinklers). Based on these calculations, the 12-inch looped line would provide adequate fire flow to both buildings without triggering the need for sprinklers. The 12-inch truncated line would provide adequate fire flow to the Interpretive Center, but sprinklers would likely need to be installed at the Education Center. Please see the alternatives analysis in Attachment 4 for additional detail.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Park, Public, or Semi-public Open Space (Page 129): Land included in this designation generally consists of large, undeveloped areas owned by institutions or the public. Areas typically serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.</p> <p>Staff Comment: Proposed amenities on the Freedom Park master plan include replicas of historic structures, a visitor's/history interpretive center amphitheater, and environmental education center, which are consistent with the Land Use designation. Many of these amenities will require connections to water for restrooms, which is best served by a waterline extension as opposed to installation of wells.</p>
Development Standards	<p><i>General Standard #4 - Page 134:</i> Protect environmentally sensitive resources including... archaeological resources... by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers and screening to adequately protect the resource.</p> <p><i>General Standard #6 - Page 135:</i> Provide for ultimate future road, bicycle and pedestrian improvement needs and new road locations through the reservation of adequate right-of-way, and by designing and constructing roads, drainage improvements, and utilities in a manner that accommodates future road, bicycle, and pedestrian improvements.</p> <p>Staff Comment: The route for the water extension will generally follow the route approved for the sewer force main approved by the Board in January 2008. Like the sewer route, the water route will be designed to avoid or minimize impacts to previously identified archaeological sites. An SUP condition addresses the need to conduct additional surveys along the proposed route in areas not previously investigated and for sites that cannot be avoided. A portion of the water route will follow an existing logging road which will serve to minimize the amount of clearing necessary and limit impacts to environmentally sensitive resources to a pre-existing wetlands crossing.</p> <p>Co-location of a multiuse trail from Centerville Road through Freedom Park is proposed to provide a connection to the schools site as shown on the adopted Bikeways Plan.</p>
Goals, strategies and actions	<p><i>Strategy #3 - Page 138:</i> Ensure that all land uses are located at appropriate sites in the Primary Service Area (PSA)...</p> <p><i>Strategy #5 - Page 138:</i> Promote pedestrian, bicycle, and automotive linkages between adjacent land uses where practical.</p> <p><i>Action #5 - Page 139:</i> Plan for and encourage the provision of greenways, sidewalks, and bikeways to connect neighborhoods with... parks, schools, and other public facilities.</p> <p>Staff Comment: A condition places limitations to connections to the extended services which will reduce the impact that this project has on lands outside of the PSA. The extension of the waterline will make public water available to only three additional parcels outside of the PSA. If the Board chooses the alternative proposal of a 12-inch truncated line into the Park (#3A), no additional properties will have the ability to connect to public water. Additionally, the multiuse trail promotes linkages between surrounding neighborhoods, the schools, and Freedom Park.</p>

Environment

Goals, strategies and actions	<i>Strategy #2 - Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment. <i>Action #3 - Page 65:</i> Ensure that development projects, including those initiated by the County, are consistent with the protection of environmentally sensitive areas and the maintenance of the County's overall environmental quality.
	Staff Comment: Impacts of the water extension through Freedom Park are mitigated by locating the main within an existing logging road that has already been cleared. One crossing through the RPA associated with Colby Swamp is necessary to extend the force main from Centerville Road to the school site. A condition requires that utility crossings through previously undisturbed RPA or RPA buffer be bored underground to avoid any aboveground disturbance. Other conditions also require the placement of the line in previously cleared areas where possible and reforestation of any temporary constructions easements that are cleared, but that do not need to remain clear after the completion of construction.

Comprehensive Plan Staff Comments

With the approval of a special use permit to allow for a water main extension through Freedom Park and connecting to the proposed schools site, the area would be in conformance and consistent with zoning for the Public Land District, and consistent with surrounding uses as indicated in the above discussion. Proposed conditions restricting number of connections serve to limit the impact the extensions have on areas outside of the Primary Service Area. Additionally, the extension would enable planned facilities within the park, such as the Interpretive Center and Educational Center, to be connected to public water and provide additional flexibility in design of these and future facilities. This is a more environmentally and fiscally sound option than providing wells for each use. Finally, the creation of a larger loop to the water lines at the school site marginally increases fire flow and improves the overall operation and maintenance of water quality of the entire system.

RECOMMENDATIONS

While extending utilities beyond the PSA boundaries is contrary to the Comprehensive Plan, the Public Facilities section stresses that the location of new public facilities should be closest to the greatest number of people served, and located so that accessibility is maximized with minimal neighborhood effects. A condition has been added to this application that limits connections to the service from this site, thus prohibiting further encroachment of utilities outside the PSA. Staff recommends that the Board of Supervisors approve the SUP for a 12-inch looped waterline with the attached conditions. Though the 12-inch loop is preferred, staff has provided an alternative resolution for the extension of a 12-inch waterline to be truncated in Freedom Park (Alternative #3A) and would find this an acceptable alternative as well.

At its meeting on August 6, 2008, the Planning Commission recommended approval of the originally proposed 12-inch looped waterline by a vote of 4-2. The Commission recommended that the policy pertaining to central well systems in developments located outside the PSA be reevaluated as part of the land use discussions of the Comprehensive Plan update. The Commission also recommended that the County and JCSA contact several of the developers with projects outside the PSA along Centerville Road, including Liberty Ridge and Ford's Colony, to extend an invitation for them to participate in the land use discussions.

Leanne Reidenbach

CONCUR:

Allen J. Murphy, Jr.

LR/nb
Sup0014-2008.doc

Attachments:

1. Resolution (12-inch looped line)
2. Alternate Resolution (12-inch truncated line)
3. Alternatives spreadsheet
4. Alternatives analysis by AES (fire flow demand)
5. Exhibit showing 12-inch loop line (original proposal)
6. Exhibit showing 12-inch truncated line (Alternative #3A)

RESOLUTION

CASE NO. SUP-0014-2008. FREEDOM PARK WATER MAIN EXTENSION -

12-INCH LOOP

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Aaron Small of AES Consulting Engineers, on behalf of James City County Parks and Recreation, has applied for an SUP to allow for the extension of approximately 13,400 linear feet of maximum 12-inch waterline from existing services on Centerville Road near its intersection with Theodore Allen Road; and

WHEREAS, the extension is proposed to service the amenities in Freedom Park and provide backup supply to the 4th middle school and 9th elementary school site on Jolly Pond Road; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 6, 2008, recommended approval of this application by a vote of 4-2; 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. 0014-2008 as described herein with the following conditions:

1. Where the water main is adjacent to the Freedom Park entrance road, it shall generally be placed within the areas previously cleared for the road. Any additional clearing shall require approval by the Director of the Environmental Division.
2. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, 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 as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee within two years of the initial clearing of the easement.
3. 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 to 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.

4. James City County shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA) prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections of Freedom Park and the 4th Middle/9th Elementary School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of October 14, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.
6. For water main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to limit adverse effects on adjacent property.
7. The final location of the water main and all construction related activity shall, where practical, avoid previously undisturbed areas of the Resource Protection Area (RPA) and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterline shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed except as approved by the Director of the Environmental Division.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

9. A Land Disturbing Permit shall be obtained within 24 months from the date of the issuance of this SUP, or this SUP shall be void.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

Sup0014-2008_res

RESOLUTION

CASE NO. SUP-0014-2008. FREEDOM PARK WATER MAIN EXTENSION

12-INCH TRUNCATED LINE

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Aaron Small of AES Consulting Engineers, on behalf of James City County Parks and Recreation, has applied for an SUP to allow for the extension of approximately 5,400 linear feet of maximum 12-inch waterline and 1,700 linear feet of maximum 8-inch waterline from existing services on Centerville Road near its intersection with Theodore Allen Road; and

WHEREAS, the extension is proposed to service the amenities shown on the approved Freedom Park Master Plan; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 6, 2008, recommended approval of this application by a vote of 4-2; 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 Special Use Permit No. 0014-2008 as described herein with the following conditions:

1. Where the water main is adjacent to the Freedom Park entrance road, it shall generally be placed within the areas previously cleared for the road. Any additional clearing shall require approval by the Director of the Environmental Division.
2. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, 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 as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee, within two years of the initial clearing of the easement.
3. 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.

4. James City County shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections to facilities shown on the approved Freedom Park Master Plan and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of October 14, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.
6. Any further extensions of the water main to private or public facilities outside of the PSA, including but not limited to schools, shall be required to receive an additional special use permit.
7. For water main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to limit adverse effects on adjacent property.
8. The final location of the water main and all construction related activity shall, where practical, avoid previously undisturbed areas of the RPA and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterline shall be bored underground to avoid any

aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed, except as approved by the Director of the Environmental Division.

9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.
10. A Land Disturbing Permit shall be obtained within 24 months from the date of the issuance of this special use permit, or this special use permit shall be void.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

Sup0014-2008_res2

Options	Pros	Cons	Estimate
Original: 12" loop	Easier to connect to Environ. Education Center Redundancy for school site in event of problem Improved water quality due to looped system Removes need to flush pipes- eliminates associated water waste More water available for future park amenities Lower cost than central well	Higher cost (capital) than 8" options or trunk line Permits 3 residential connections outside PSA	\$1.25 million (13,400 LF)
Alternate #2: 8" line to Park and buildings	Requires less water to be flushed in order to maintain water quality No additional connections outside PSA Lower cost than central well	Line has to be flushed to meet water quality (loss of 6,500 gallons/flush with 1 flush/month) Potential cost increases to meet fire protection (for building construction, sprinklers, dry hydrant) and need to demonstrate adequate protection in absence of 2500 gpm fire flow Less water available for future park development (limits type and size of amenities) Greater chance for poor water quality because of dead end line (lower cost to maintain quality than 12")	\$530,000
Alternate #3: 12" line to Park w/smaller lines to buildings	Would get close to meeting suggested 2500 gallon/minute fire flow No additional connections outside PSA More water available for future park development	Line has to be flushed to meet water quality (loss of 15,000 gallons/flush with 2 flushes/month) Greater chance for poor water quality because of dead end line (higher cost to maintain quality) Required to sprinkler 1 building	\$561,000
Alternate #3A: 12" line to EC Tee w/smaller lines to buildings	More water available for future park development and increased flexibility in building design No additional connections outside PSA Would get close to meeting suggested 2500 gallon/minute fire flow	Line has to be flushed to meet water quality (loss of 15,000 gallons/flush with 2 flushes/month) Required to sprinkler 1 building Greater chance for poor water quality because of dead end line (higher cost to maintain quality)	\$607,000
Alternate #4: 8" loop	Improved water quality due to looped system Increased fire flow Lower cost than central well	Permits 3 residential connections outside PSA Higher costs (though lower than 12" loop) Not preferred pipe size for extension of this nature	\$1.04 million

Options	Pros	Cons	Estimate
	Removes need to flush pipes- eliminates associated water waste	May not meet fire flow throughout entire system at all facilities	
Alternate #5: 8" line to Park w/4" loop	Improved water quality due to looped system Lower cost to construct than larger lines Removes need to flush pipes- eliminates associated water waste	Less water available for future park development (limits type and size of amenities) Required to sprinkler buildings Less benefits of redundancy to schools than a larger line	\$904,000
Alternate #6: 6" line with cisterns	Requires less water to be flushed in order to maintain water quality No additional connections outside PSA Lower installation cost than central well Additional water available for fire protection (above that available with only 6" line)	Less water available for future park development (limits type and size of amenities) Would require flushing once cisterns filled Each building needs a water holding tank Once tanks are emptied, left with inadequate fire flow (same flow as 6" trunk line) Required to sprinkler buildings	\$740,000
Alternate #7: Central well	No additional connections outside PSA	High cost (both capital and long-term operation and maintenance) Visual impacts of above ground facilities System would have to be owned and operated by JCSA Potential cost increases to meet fire protection (for building construction) Either need wells for each facility or additional line to connect each new facility	\$2 million + \$30,000/year operating



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Williamsburg, VA 23188
(757) 253-0040
Fax (757) 220-8994
www.aesva.com

September 26, 2008
Revised October 1, 2008

Ms. Leanne Reidenbach
Senior Planner
James City County Planning Division
101-A Mounts Bay Road
Williamsburg, VA 23187

**RE: Freedom Park Water Main SUP
Analysis of Alternatives for Water Supply
AES Project No. 9801-E-12**

Dear Ms. Reidenbach:

At the request of the Board of Supervisors and County Staff, I have analyzed the alternatives prepared in cooperation with staff for the above subject Special Use Permit application. It is my understanding that members of the Board desired this review to aid in their decision to grant the SUP at their upcoming October 14, 2008 meeting. In addition to the original 12-inch water main concept, six additional alternatives are proposed. Alternative #1 which is for a central well facility to serve the park was not analyzed as it is assumed that it will be designed to meet the required fire flow and domestic demands.

The proposed water supply would serve two main buildings within Freedom Park, both of which are proposed. A 3,200 SF Interpretive Center and a 5,000 SF Education Center are depicted on the master plan for Freedom Park and are the most substantial buildings. Other smaller buildings, such as the Free Black Domicile buildings do not have domestic water demands and have a lower fire flow requirement than the two major buildings and were ignored for this analysis. Both of these buildings were analyzed to determine fire flow requirements using ISO calculations. ISO calculations are the generally accepted method for determination of fire flow demand when standard fire flow requirements cannot be met by a water system. The Interpretive Center is shown to require 1,500 gpm available for fire flow if it does not contain sprinklers and 750 gpm if it is sprinkled. The Education Center requires 2,000 gpm if not sprinkled and 1,000 with sprinklers. The results of my analysis of the original concept and the other 5 alternatives are as follows.

- Original Concept – 12-inch Loop: This alternative consists of extending 12" water main from Centerville Road parallel to the proposed School force main and connecting to the two new schools on Jolly Pond Road. Minor branches off of the water main would serve the proposed Interpretive Center and Education Centers. Total length is 13,400 LF of 12-inch water main which includes a 600 ft directional drill under the wetlands of Colby Swamp. The system provides 2,260 gpm fire flow for the Interpretive Center and 2,390 gpm for the Education Center. Neither building would require sprinklers in this case. A marginal increase in available fire flow is observed at the two new schools with the loop.
- Alternative #2 – 8-inch lines to park buildings: This alternative consists of extending 8-inch water main from Centerville Road parallel to the proposed School force main but only extending to the Interpretive Center and Education Centers. Total length is 7,100 LF of 8-inch water main. The system provides 1,075 gpm fire flow for the Interpretive Center and 940 gpm for the Education Center. Both building would require sprinklers. While the flow available for the Education Center is less than required by the ISO calculations, it is marginally less and simply requires further scrutiny by the Fire Marshall during final design.
- Alternative #3 – 12-inch line to the Ellipse and 8-inch lines to buildings: This alternative is a variation on Alternative #2. Total length is 3,300 LF of 12-inch water main and 3,800 LF of 8-inch water main. The system provides 1,790 gpm fire flow for the Interpretive Center and 1,270 gpm for the Education Center. The Education Center would require sprinklers under this alternative, but not the Interpretive Center.
- Alternative #3A – 12-inch line to the E.C. Tee and 8-inch lines to buildings: This alternative is a variation on Alternative #3 and provides for potential extension of the larger main in the future. Total length is 5,400 LF of 12-inch water main and 1,700 LF of 8-inch water main. The system provides 1,790 gpm fire flow for the Interpretive Center and 1,740 gpm for the Education Center. Again, the Education Center would require sprinklers under this alternative, but not the Interpretive Center.
- Alternative #4 – 8-inch loop: This alternative is a variation on the original concept with the substitution of smaller 8-inch water main for the 12-inch main. Total length is 13,400 LF of 8-inch water main including a 600 ft directional drill under the wetlands of Colby Swamp and extending to the new schools on Jolly Pond Road. The system provides 1,370 gpm fire flow for the Interpretive Center and 1,450 gpm for the Education Center. Both buildings would require Sprinklers under this alternative. Redundancy for the Schools is provided, however, only a very minor increase in available fire flow for schools is observed.

- Alternative #5 – 8-inch to Park w/ 4-inch loop: This alternative is a further variation of Alternative #4 but replaces the loop with an even smaller diameter 4-inch water main. The purpose of the 4-inch is to provide needed circulation for maintaining water quality. Total length is 7,100 LF of 8-inch water main and 6,300 LF of 4-inch water main. The system provides 949 gpm fire flow for the Interpretive Center and 920 gpm for the Education Center. Both buildings would require sprinklers and additional scrutiny of the Education Center by the Fire Marshall to be viable.
- Alternative #6 – 6-inch to Park w/ supplemental cisterns: This alternative provides one additional variation: the use of rainwater collection cisterns to supplement the fire flow provided by a smaller water main. A cistern was chosen over a open pond BMP because the collection can be restricted to the cleaner roof runoff and covered. Cleaner water is preferred for pumping through fire fighting apparatus. If sized properly, the cistern could also be used for irrigation and would serve as a disposal tank for periodic water main flushing. The size of the cistern is assumed to be the volume of water required to fight a fire for a 1 hour period at the required fire flow demand. If used solely for fire protection, the cistern would have to contain a minimum of 90,000 gallons and 120,000 gallons for the Interpretive Center and Education Center buildings, respectively because sprinklers would not operate with this configuration. By supplementing the cistern flow with a smaller water main, fire flow demand is reduced because sprinkled buildings are possible and the volume of the cistern is reduced to economical size. For the alternative reviewed, the total length of water main is 7,100 LF of 6-inch water main. The water system provides 519 gpm fire flow for the Interpretive Center and 447 gpm for the Education Center. This would require a 15,000 gallon cistern and a 30,000 gallon cistern at each respective building to meet the required fire flow demand. If irrigation or other uses were permitted, the cisterns would need to be larger to accommodate them as the volume for fire flow would need to be available at all times. Both buildings would require sprinklers.

Another scenario briefly evaluated was to determine the configuration of water mains where each of the buildings could be served with a water system to meet the minimum 2,500 gpm fire flow standard. The successful scenario most closely resembles Alternative #3A except that the 12-inch mains would be upsized to 16-inch and the 8-inch mains upsized to 12-inch.

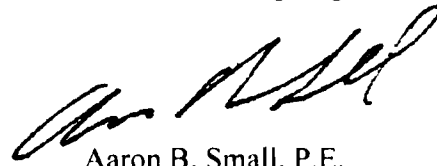
Ms. L. Reidenbach
September 26, 2008
Revised October 1, 2008

AES # 9801-E-12
Page 4 of 4

I hope that I have adequately addressed the concerns of the Board and have provided enough information to permit the staff to make a recommendation. As discussed, I will be available the week of September 29, 2008 to meet with the staff and further assist with this project. If you have any questions or require additional information, please do not hesitate to contact me by phone at 253-0040 or via e-mail.

Sincerely,

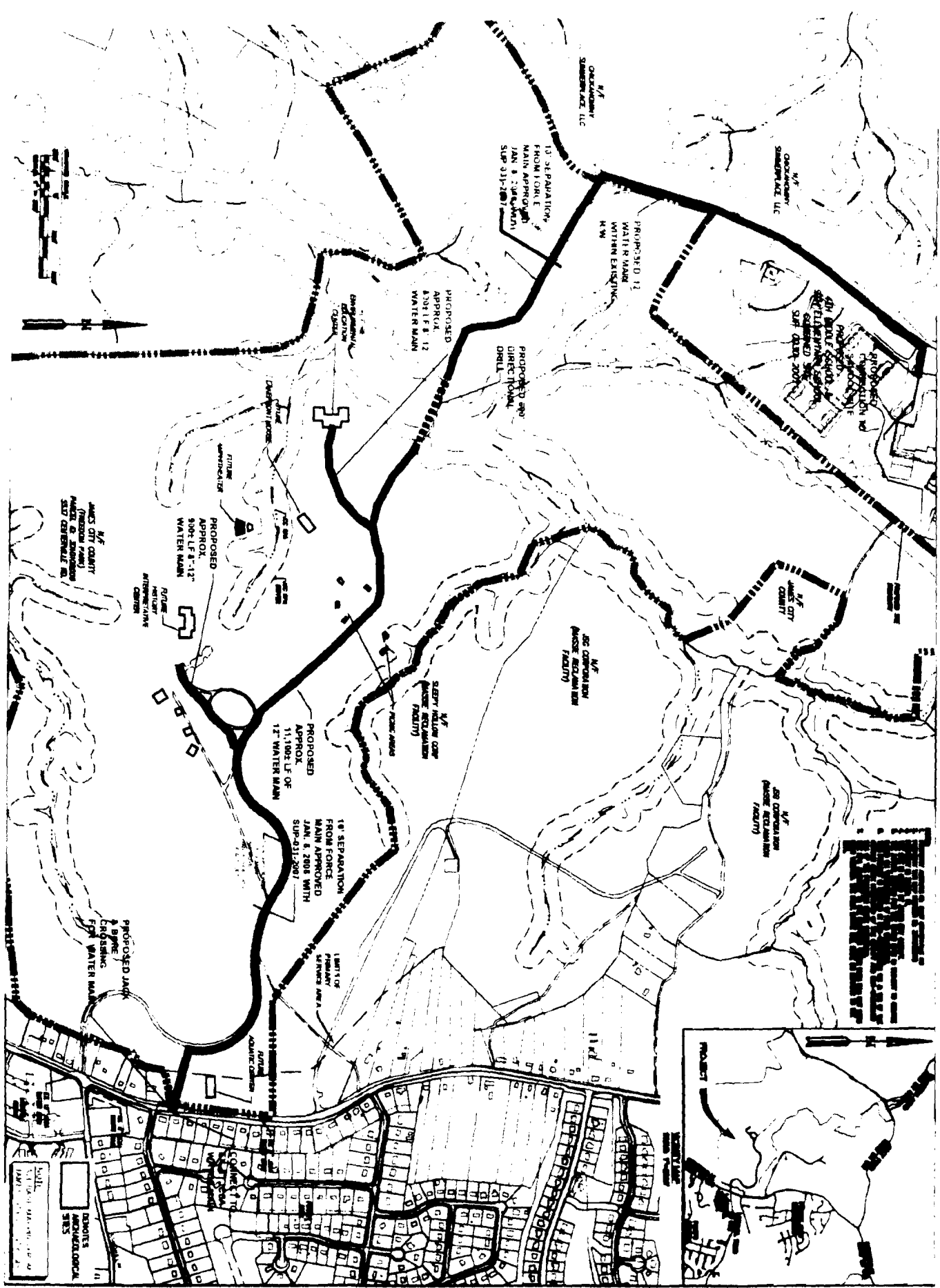
AES Consulting Engineers



Aaron B. Small, P.E.
Project Manager
asmall@aesva.com

ABS:abs

Enclosure(s): ISO calculations for proposed buildings
Plots of Original and Alt #3A highlighted for pipe size.
Comparative cost estimates for each alternative



ORIGINAL ALIGNMENT
FREEDOM PARK WATER MAIN
 JCC CASE NO. SUP-0014-2008



1240 East 12th Avenue, Suite 100
 Denver, CO 80202
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 Fax: 303.733.1101
 Email: info@aes-engineers.com



REVISIONS	
NO.	DESCRIPTION
1	ISSUED FOR PERMIT
2	AS NOTED
3	AS NOTED
4	AS NOTED
5	AS NOTED
6	AS NOTED
7	AS NOTED
8	AS NOTED
9	AS NOTED
10	AS NOTED



MEMORANDUM

DATE: October 14, 2008

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: Adoption of Revised Code of Ethics

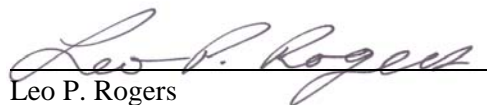
On March 28, 2006, the Board of Supervisors (the "Board") adopted the Code of Ethics, which sets forth ethical guidelines by which members of all County boards, commissions, and committees are asked to operate. Language in the Code of Ethics requires that it be reviewed and, if necessary, updated, on an annual basis. Because the Code of Ethics had only been in place for a year, there was no review performed last year. Now that all County boards, commissions, and committees have worked with the Code of Ethics for two years, a few changes were suggested.

At the Board's August 12, 2008, work session, these suggested changes were presented to the Board, along with an analysis of the potential effect of each of the changes. The Board agreed to the vast majority of the changes, most of which simply clarified how the Code of Ethics was already interpreted or implemented by each of the County boards, commissions, and committees. The Board members also requested that several other changes and clarifications be made to the Code of Ethics.

Substantive changes were made to Paragraph 8, Conflict of Interest; Paragraph 12, Representation of Private Interests; Paragraph 17, Implementation; and Paragraph 18, Compliance and Enforcement. The changes to those paragraphs are as follows:

- Paragraph 8 makes the State and Local Government Conflict of Interest Act ("COIA") the standard to determine whether a conflict exists. In addition, members of boards, commissions, and committees are to use their own subjective judgment to determine when a business or personal relationship would interfere with their judgment on a matter of public business.
- Paragraph 12 clarifies when members may speak before public bodies to advocate for a particular application or public matter. Often the Board solicits input on an application or matter from a County board, commission, or committee and members felt it important to clarify the Code of Ethics to ensure that such advocacy was not deemed in violation of the Code of Ethics.
- Paragraph 17 deleted the requirement that all members must sign a statement assuring they will comply with the Code of Ethics. The Code of Ethics will still be distributed to each member and training and staff assistance will still be available. Also, the annual review requirement was changed to a biennial review.
- Paragraph 18 was amended to clarify that the Code of Ethics is self-enforcing. Members are responsible for making sure that their own conduct is in accordance with the Code of Ethics. Any additional responsibility for enforcement by the chair of a board, commission, or committee was deleted.

I recommend that the Board adopt the revised Code of Ethics.


Leo P. Rogers

LPR/gb
EthicsUpdate_mem

Attachments

RESOLUTION

ADOPTION OF REVISED CODE OF ETHICS

WHEREAS, the James City County Board of Supervisors adopted the Code of Ethics for members of all County boards, commissions, and committees on March 28, 2006; and

WHEREAS, the Board of Supervisors performed a review of the Code of Ethics where it solicited comments, suggestions, and changes from the members of all County boards, commissions, and committees; and

WHEREAS, the Board of Supervisors held a work session on August 12, 2008, to review the Code of Ethics and consider proposed changes; and

WHEREAS, the citizens and businesses of James City County are entitled to have fair, ethical, and accountable local government which has earned the public's full confidence; and

WHEREAS, the Board of Supervisors has determined that the adoption of a revised Code of Ethics will assist in achieving these ends.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached Code of Ethics dated October 14, 2008.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

EthicsUpdate_res

**JAMES CITY COUNTY
BOARD OF SUPERVISORS
CODE OF ETHICS**

Preamble

The citizens and businesses of James City County, Virginia, are entitled to have fair, ethical, and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the James City County Board of Supervisors has adopted this Code of Ethics for members of the Board and of the County's boards, commissions, and committees, to assure public confidence in the integrity of local government and its effective and fair operation.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of James City County and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the James City County Board of Supervisors, boards, commissions, and committees.

2. Comply with the Law

Members shall comply with the laws of the nation, the Commonwealth of Virginia, and the County of James City in the performance of their public duties. These laws include, but are not limited to: the United States and Virginia constitutions; the Code of the County of James City; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and County ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of *the public*, other members of the Board of Supervisors, boards, commissions, ~~and committees, or the staff or public.~~

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the Board of Supervisors and boards, *commissions, and* committees, ~~and~~

~~commissions~~ governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Board of Supervisors by County staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly *and promptly* share substantive information that is relevant to a matter under consideration by the Board of Supervisors or boards, *commissions, and* committees, ~~and commissions~~, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a *“personal interest” as defined by the State and Local Government Conflict of Interests Act (“COIA”).* ~~a material financial interest and shall disclose any substantial organizational responsibility or personal or business relationship to the parties in any matter coming before them. In addition, members shall make their own subjective determination whether a personal or financial relationship, not covered by COIA, would interfere with their responsibility to act on a matter of public business in a fair, honest and impartial manner. This paragraph is not intended to unduly restrict members who have minor business or professional dealings with clients whose matters come before them.~~

In accordance with ~~the law~~ *COIA*, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

A member ~~should never~~ *shall not* accept for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

10. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the County. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

11. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as County staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Private Interests

In keeping with their role as stewards of the public interest, members of the Board shall not appear on behalf of the private interests of third parties before the Board of Supervisors or any board, *commission*, committee, ~~commission~~, or proceeding ~~of-involving~~ the County, nor shall members of boards, *commissions, or* committees, ~~or commissions~~ appear before their own bodies or before the Board of Supervisors on behalf of the private interests of third parties ~~on matters related to the areas of service of their bodies~~, *except that members of boards, commissions, and committees may appear before other public bodies, including the Board of Supervisors, to advocate for a particular application or other matter of public business related to their role as a public official.*

13. Advocacy

Members shall represent the official policies or positions of the Board of Supervisors, boards, commissions, or committees to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions, members shall explicitly state they do not represent their body or James City County, nor will they allow the inference that they do.

14. Policy Role of Members

The Board of Supervisors determines the policies of the County with the advice, information, and analysis provided by the public, boards, commissions, and committees, and County staff. The Board of Supervisors delegates authority for the administration of the County to the County Administrator.

Members, therefore, shall not interfere with the administrative functions of the County or the professional duties of County staff; nor shall they impair the ability of staff to implement Board policy decisions. Inquiries to staff shall be made through the County Administrator or the appropriate department manager or director.

15. Independence of Board and Commissions

Because of the value of the independent advice of boards, *commissions*, and committees, ~~and commissions~~ to the public decision-making process, members of the Board of Supervisors shall refrain from using their positions to unduly influence the deliberations or outcomes of board, *commission*, or committee, ~~or commission~~ proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive workplace environment for County employees and for citizens and businesses dealing with the County. Members shall recognize their special role in dealings with County employees and in no way create the perception of inappropriate direction to staff.

17. Implementation

As an expression of the standards of conduct for members expected by the County, the James City County Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for the Board of Supervisors, applicants to boards, *commissions*, committees, ~~commissions~~, and newly elected and appointed officials. ~~Members entering office shall sign a statement affirming they have read and understood the James City County Code of Ethics.~~ In addition, the Board of Supervisors, boards, *commissions*, and committees, ~~and commissions~~, shall ~~annually~~ *biennially* review the Code of Ethics and the Board of Supervisors shall consider recommendations from boards, *commissions*, and committees, ~~and commissions~~ to update it as necessary.

18. Compliance and Enforcement

The James City County Code of Ethics *is intended to be self-enforcing.* ~~It~~ expresses standards of ethical conduct expected of members of the James City County Board of Supervisors, boards, *commissions*, and committees, ~~and commissions~~. ~~Members themselves have the primary responsibility to assure that ethical standards are understood and met, are responsible for assuring that their own conduct is in accordance with these ethical standards and that the public can continue to have full confidence in the integrity of government.~~

~~The chairs of boards, committees and commissions and the Chairman of the Board of Supervisors have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention.~~

~~The Board of Supervisors may impose sanctions on members whose conduct does not comply with the County's ethical standards, such as public or private reprimand, formal censure, loss of seniority or committee assignment, or budget restriction. Where allowed by law, the Board of Supervisors also may remove members of Board appointed boards, committees and commissions from office.~~

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Board of Supervisors, board, ~~commission, or~~ committee, ~~or commission~~ decision.

**~~MODEL OF EXCELLENCE~~
~~JAMES CITY COUNTY BOARD OF SUPERVISORS,~~
~~BOARDS, COMMITTEES, AND COMMISSIONS~~
~~MEMBER STATEMENT~~**

~~As a member of the James City County Board of Supervisors, or of a James City County board, committee, or commission, I agree to uphold the Code of Ethics for elected and appointed officials adopted by the County and conduct myself by the following model of excellence. I will:~~

- ~~• Recognize the worth of individual members and appreciate their individual talents, perspectives, and contributions;~~
- ~~• Help create an atmosphere of respect and civility where individual members, County staff, and the public are free to express their ideas and work to their full potential;~~
- ~~• Conduct my personal and public affairs with honesty, integrity, fairness, and respect for others;~~
- ~~• Respect the dignity and privacy of individuals and organizations;~~
- ~~• Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;~~
- ~~• Avoid and discourage conduct which is divisive or harmful to the best interests of James City County;~~
- ~~• Treat all people with whom I interact in the manner I wish to be treated.~~

~~I affirm that I have read and understand the James City County Code of Ethics.~~

~~-~~

~~-~~

~~Signature: _____~~

~~-~~

~~Date: _____~~

~~-~~

~~Name (printed): _____~~

~~-~~

~~Office(s) held: _____~~

~~-~~

M E M O R A N D U M

DATE: October 14, 2008

TO: The Board of Supervisors

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

SUBJECT: Contingency Transfer – Organizational Effectiveness and Efficiency Study – \$71,780

A Request for Proposals (RFPs) to provide consultant services to conduct an Organizational Effectiveness and Efficiency Study was publicly advertised. Thirteen (13) firms submitted proposals. An Evaluation Committee consisting of staff from Human Resources, Purchasing, Financial and Management Services and a representative from the Board of Supervisors evaluated the proposals and determined that Municipal and Financial Services Group was the most fully qualified firm and its proposal best suited the County's needs as defined in the RFPs. A price of \$71,780 was negotiated with Municipal and Financial Services Group for this project.

Funds will come from an Operating Contingency transfer because the need for this project was identified after the FY 2009 budget was approved.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gb
StudyAward_mem

Attachment

RESOLUTION

CONTINGENCY TRANSFER – ORGANIZATIONAL EFFECTIVENESS AND

EFFICIENCY STUDY – \$71,780

WHEREAS a Request for Proposals (RFPs) to provide consultant services to conduct an Organizational Effectiveness and Efficiency Study was publicly advertised and 13 proposals were submitted; and

WHEREAS, upon evaluating the proposals, staff determined that Municipal and Financial Services Group was the most fully qualified firm and its proposal best suited the County's needs as defined in the Request for Proposals and a fair and reasonable price was negotiated; and

WHEREAS, the need for this project was identified after the FY 2009 budget was approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$71,780 contract to provide consultant services to conduct an Organizational Effectiveness and Efficiency Study to Municipal and Financial Services Group and amends the previously adopted budget for FY 2009 as follows:

Expenditures:

Board of Supervisors Professional Services (001-011-0203)	<u>\$71,780</u>
Operating Contingency (001-193-0705)	<u>(\$71,780)</u>

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2008.

StudyAward_res