

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

April 28, 2009

7:00 P.M.

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A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE – Ryan Jacobs, a second-grade student at Matoaka Elementary School and Nicholas Stiefel, a fourth-grade student at Norge Elementary School	
D. PUBLIC COMMENT	
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H. BOARD CONSIDERATIONS

1. Ordinance to Amend Chapter 8, Erosion and Sediment Control, by Amending Section 8-5, Permits, Fees, and Bonding, Etc. and Case No. ZO-0002-2009, Zoning Ordinance Amendment – Fee Addition – Home Occupation Application 83
Supports County’s Strategic Pathway 1.a - evaluate service delivery costs & 1.d - develop and promote revenue alternatives to property taxes
2. An ordinance to amend and reordain Chapter 4, Building Regulations, by amending Article I, Virginia Uniform Statewide Building Code, Division 2, Permit and Inspection Fees, Section 4-8, Generally; to increase certain fees related to inspection of amusement devices 85
3. FY 2010 County Budget 89
Supports County’s Strategic Pathway 1) Manage finances wisely and encourage a balanced economy; 2) Improve the lives of citizens and foster a sense of community; 3) Plan responsibly for the needs of a growing, diverse community; 4) Steward the natural environment and historic heritage; and 5) Provide outstanding customer service
4. Endorsement of the FY 2010 Strategic Management Plan..... 95

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of acquisition of a parcel(s) of property for public use, pursuant to Section 2.2-3711(A)(3) of the Code of Virginia
2. 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. Cable Communications Advisory Committee

M. ADJOURNMENT to 7 p.m. on May 12, 2009

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF APRIL 2009, 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

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

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

C. PLEDGE OF ALLEGIANCE – Anna Sherman, a seventh-grade student at Berkeley Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

1. James City County Volunteer Appreciation Week – April 19-25, 2009

Mr. Kennedy read a resolution recognizing James City County Volunteer Appreciation Week – April 19-25, 2009, which recognized the volunteer contributions in James City County. Ms. Carol Schenk, Volunteer Coordinator, accepted the resolution on behalf of all volunteers.

2. 2009 Citizen Leadership Academy Graduation

Ms. Tressell Carter, Neighborhood Connections Director, recognized the graduating members of the 2009 Citizen Leadership Academy. Mr. Kennedy and the Board members awarded certificates to the graduates: Ella Bartlett, Terry Bossieux, Charles Brewster, Tom Derrickson, William Druschel, Karen Killian, Deborah Kratter, Robert Marin, William McCabe, Philip Neubia, Selene Pinkett, Hugo Reyes, Paul Salvione, Andrea Sarina, Brian Shortell, and Angela Whitehead.

E. PUBLIC COMMENT

1. Mr. Craig Metcalfe, 4435 Landfall Drive, requested a public hearing on the “No Wake Zone” ordinance on Powhatan Creek.

2. Ms. Boots Johnson, 210 Red Oak Landing Road, stated that she had previously requested a “No Wake Zone” ordinance, but it was tabled due to opposition. She requested a public hearing and stated her support for the “No Wake Zone.”

3. Mr. Greg Smith, 155 Marston Lane, commented on the proposed closing of the Virginia Department of Transportation (VDOT) Williamsburg Residency and maintenance shop. He stated his opposition to the closing of the VDOT facilities on the Peninsula. He asked the Board to assist with an effort to keep the facilities open.

4. Mr. Richard Bradshaw, James City County Commissioner of the Revenue, 99 Bush Springs Road, gave a reminder about Federal income taxes due on April 15, 2009, and Virginia income taxes due on May 1, 2009. He stated that anyone who needed assistance filing the Virginia income tax return could be assisted by the Commissioner of the Revenue’s office. He stated that he would like to remind businesses about tax due dates and asked that businesses that have erroneous tax levies contact his office. He also highlighted the elderly and disabled tax exemptions.

5. Mr. Ed Oyer, 139 Indian Circle, commented on transparency in government finances; standards in education; opposition to fees and raising taxes; and blighted property in his neighborhood.

Mr. Kennedy recognized Mr. Chris Henderson in attendance on behalf of the Planning Commission.

F. CONSENT CALENDAR

Mr. Goodson asked to pull Item Number 4 as he may have a potential conflict. He made a motion to approve the remaining items with the amendment to the minutes.

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

1. Minutes –
 - a. March 24, 2009, Work Session
 - b. March 24, 2009, Regular Meeting as amended
2. James City County Volunteer Appreciation Week – April 19-25, 2009

RESOLUTION

JAMES CITY COUNTY VOLUNTEER APPRECIATION WEEK – APRIL 19–25, 2009

WHEREAS, April 19–25, 2009, has been designated as National Volunteer Week; and

WHEREAS, volunteers enhance our quality of life, promote community involvement, generate civic pride, preserve our environment, and support our families; and

WHEREAS, volunteers work in partnership with James City County staff and in 2008 contributed 70,786 hours valued at \$1,327,945; and

WHEREAS, the citizens of James City County are deserving of recognition for their commitment and hard work to make a real difference in the lives of their fellow citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the week of April 19–25, 2009, as Volunteer Appreciation Week and calls its significance to all of our citizens.

- 3. Grant Award – Nationwide Insurance – \$1,250

RESOLUTION

GRANT AWARD – NATIONWIDE INSURANCE – \$1,250

WHEREAS, Nationwide Insurance has awarded the James City County Police Department a grant in the amount of \$1,250 to be used towards the Every 30 Minutes program being held at Lafayette High School and Warhill High School this year; and

WHEREAS, the funds will be used for food and supplies for the programs; and

WHEREAS, the grant requires no match.

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:

Nationwide – Every 30 Minutes \$1,250

Expenditure:

Nationwide – Every 30 Minutes \$1,250

- 5. Contract Award – James City/Williamsburg Community Center Pool Pump Replacement – \$135,142

RESOLUTION

CONTRACT AWARD – JAMES CITY/WILLIAMSBURG COMMUNITY CENTER

POOL PUMP REPLACEMENT – \$135,142

WHEREAS, a Request for Proposals (RFP) to replace the pool pump at the James City/Williamsburg Community Center was publicly advertised and staff reviewed proposals from four firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Coastal Services and Technologies was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$135,142 contract to replace the pool pump at the James City/Williamsburg Community Center to Coastal Services and Technologies.

4. Contract Award – James City/Williamsburg Community Center Renovation – \$742,516

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Jones, McGlennon, Icenhour, Kennedy (4). NAY: (0) ABSTAIN: Goodson (1).

RESOLUTION

CONTRACT AWARD – JAMES CITY/WILLIAMSBURG

COMMUNITY CENTER RENOVATION – \$742,516

WHEREAS, a Request for Proposals to renovate the James City/Williamsburg Community Center was publicly advertised and staff reviewed proposals from eight firms interested in performing the work; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$742,516 contract to renovate the James City/Williamsburg Community Center to The Phoenix Corporation.

G. PUBLIC HEARINGS

1. FY 2010 County Budget

- a. An ordinance to amend Chapter 8, Erosion and Sediment Control, by amending Section 8-5, Permits, Fees, Bonding, Etc.
- b. An ordinance to amend and reordain Chapter 4, Building Regulations, by amending Article I, Virginia Uniform Statewide Building Code, Division 2, Permit and Inspection Fees, Section 4-8, Generally; to increase certain fees related to inspection of amusement devices.
- c. Case No. ZO-0002-2009. Zoning Ordinance Amendment – Fee Addition – Home Occupation Application.

Ms. Sue Mellen, Financial and Management Services Assistant Manager, gave an overview of the County Administrator's proposed FY 2010 budget. She stated that the tax rate is constant at \$.77. She stated that the budget proposed a reduction in spending and elimination of 34 positions without layoffs. She reviewed the sources and amounts of General Fund revenues and explained each revenue source was decreasing, including personal property taxes due to a drop in valuation. She noted new proposed fees for home occupation applications and amusement device inspections. She also highlighted new proposed fees for erosion and sediment control applications. She said that there were also increases in the ALS/BLS base and mileage fees and RecConnect fees. She reviewed spending and noted decreases in funding in many of these areas. She noted program eliminations and decreases in spending for FY 2010. She reviewed the Capital Improvements Program (CIP) and stated that the James City Service Authority (JCSA) was self-supporting and had no rate increases. She reviewed the Budget Work Session schedule and requested that the budget public hearings be opened and stated that no action was required at this time.

Mr. Goodson asked that Mr. Scott Thomas, Environmental Director, answer a few questions about the Erosion and Sediment Control fees.

Mr. Goodson asked why the fees were assessed by the lot rather than by the scale like other localities.

Mr. Thomas stated that historically, it was simpler to charge by lot; he stated that the fee was generally lower than it would be to charge by the acre.

Mr. Goodson asked what would generate the need for a site plan amendment fee.

Mr. Thomas stated that there was a one-time fee when the site plan amendment comes to the Planning Division. He stated that it could be a simple adjustment or a total change in the site plan. He stated that other localities and other departments charged a base fee plus an additional amount for an amendment.

Mr. Wanner clarified that the fee was charged for an amendment to an approved site plan.

Mr. Goodson stated that this would apply to an approved site plan and at a later date an amendment would come forward by the applicant's choice, rather than subject to the County's actions.

Mr. Thomas stated that it would have to be assigned a new site plan number under the amendment process.

Mr. Goodson stated that the State statute only requires one inspection per year on amusement rides while the County inspects twice a year.

Mr. Joe Basilone, Chief Building Inspector, stated that was correct. He stated that previously the requirement was that inspections were to be done at the beginning of the season and again at midyear. He stated that the midyear inspection has been eliminated.

Mr. Goodson noted that the fee would only be applied once a year.

Mr. Wanner noted that York County is moving to a single annual inspection for Water Country USA.

Mr. Kennedy opened the Public Hearing.

1. Mr. Robert Duckett, Director of Public Affairs for Peninsula Housing and Builders Association (PHBA), York County, stated opposition of PHBA proposed new fees and increases. He stated that there was a major housing downturn, which created a poor environment for imposing new fees. He stated that the

Environmental Division's workload would not require additional funding during a time of decreased housing production. He stated that other jurisdictions do not charge similar fees.

2. Mr. Robert Miller, Go-Karts Plus, stated his opposition to increased fees for amusement park ride inspections. He stated that amusement park business owners contributed a great deal to the community. He stated that these fees have to be passed on to the public, which was a burden during the current economic situation. He stated that fees should be scaled according to the ride and noted that the rides were already inspected by the insurance company.

3. Mr. Paul Scott, Executive Director of Child Development Resources (CDR), thanked the Board and the County for its continued support of CDR.

4. Mr. Ed Oyer, 139 Indian Circle, commented that the budget was very conservative. He stated that less revenue could be assumed in the coming years due to economic conditions and financial difficulties. He stated that he felt property tax prices were too optimistic and that commercial space is overbuilt, which leads to vacant storefronts. He commented that he expected a potential tax increase. He noted decreases in spending in nearly all areas and he commented on the School budget figures with the notation "held harmless."

5. Mr. Chris Henderson, 101 Keystone, commended staff on the budget and commented on the CIP budget. He stated that he felt it was unclear if the proposal for Police equipment was included in the budget. He requested restoration of curbside leaf removal to discourage having the leaves enter the drainage ditches and waterways.

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

2. Case No. SUP-0015-2008. Franciscan Brethren of St. Philip Adult Day Care

Mr. David German, Planner, stated that Ms. Margaret Walubuka (aka Sister Agnes) has applied for a Special Use Permit (SUP) to allow for the operation of an adult day care center to be located in an existing single-family detached house located at 6422 Centerville Road. This property is zoned R-8, Rural Residential, which requires an SUP for the operation of an adult day care center. Before the house was purchased by Franciscan Brethren of St. Philip, it was used as a private residence. The house is listed as 2,771 square feet in size and includes four bedrooms and two-and a-half bathrooms. The house will be retrofitted and renovated as appropriate to allow it to serve as an adult day care center. This renovation will include the removal of several interior walls to create large meeting and activity spaces, modification of the bathrooms to create the equivalent of two full bathrooms and three half bathrooms, conversion of the bedrooms into office and meeting spaces, alterations to the kitchen, and modifications throughout the house to meet Americans with Disabilities Act (ADA) accessibility and safety requirements.

Staff found the project to be generally in conformance with the Comprehensive Plan and that the proposed adult day care center, when operated in a manner that is consistent with the Building Code, and as otherwise prescribed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS), will provide a supportive and positive environment for the care of physically and/or mentally handicapped adults.

At its meeting on March 4, 2009, the Planning Commission recommended approval of this project by a vote of 6-0 with one member absent.

Staff recommended approval of the resolution.

Mr. Kennedy opened the Public Hearing.

1. Ms. Margaret Walubuka, applicant, asked the Board for its support in providing these services to the community.

2. Mr. Greg Smith, 155 Marston Lane, stated that he had seen construction at this site for over a month and questioned what improvements had already taken place.

Mr. German stated that the applicant is allowed by right to use the property as a group home. He stated that improvements can be applicable to both this application and a group home. He stated that there were current permits from Code Compliance for the improvements.

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

Mr. McGlennon made a motion to adopt the resolution. He stated that it was rare that this type of opportunity comes forward for the community.

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

RESOLUTION

CASE NO. SUP-0015-2008. FRANCISCAN BRETHREN OF ST. PHILIP

ADULT DAY CARE CENTER

WHEREAS, Ms. Margaret Walubuka has applied for a Special Use Permit (SUP) to allow for a 36-person adult day care center to be operated in the existing single-family-detached house located on the subject parcel; and

WHEREAS, the subject parcel may be identified as James City County Real Estate Tax Map Parcel No. 2430200002. The 2.44-acre parcel is zoned R-8, Rural Residential, and is located at 6422 Centerville Road; and

WHEREAS, the proposed development is shown on a Master Plan, entitled "Binding Master Plan for Franciscan Brethren of St. Philip Adult Day Care Special Use Permit No. JCC SUP-0015-2008," prepared by Frederick A. Gibson & Associates, P.C., and dated November 11, 2008; and

WHEREAS, Section 24-349 of the James City County Zoning Ordinance provides that adult day care centers may be operated on property zoned R-8 only with an approved SUP from the Board of Supervisors; and

WHEREAS, the Planning Commission of James City County, following its public hearing on March 4, 2009, recommended approval of this application by a vote of 6-0, with one member absent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit SUP-0015-2008 with the following conditions:

- 1) **Master Plan and Use:** This Special Use Permit (“SUP”) shall be valid for the operation of an adult day care center (the “Project”), as defined by the zoning ordinance, within the existing residence on the subject property, defined herein as 6422 Centerville Road, further identified as James City County Real Estate Tax Map No. 2430200002 (the “Property”). The adult day care center may accommodate an enrollment capacity of no more than 36 adults, attended by up to nine caregivers, for a total of 45 persons in the center. Development of the site shall be generally in accordance with, and as depicted on, the binding Master Plan drawing, entitled “Binding Master Plan for Franciscan Brethren of St. Philip Adult Day Care,” prepared by Frederick A. Gibson & Associates, P.C., and dated November 11, 2008.
- 2) **Lighting:** Any exterior lighting added on the Property shall not cause light spillage on any neighboring property, to be defined as light measured at greater than 0.1 footcandle at any property boundary.
- 3) **Existing Well and Septic Field:** The applicant shall abandon the existing well and septic field facility on the Property in accordance with Virginia Department of Health and James City requirements.
- 4) **Water Conservation:** The applicant shall be responsible for developing water conservation standards for the Property, to be submitted to and approved by the James City Service Authority (JCSA), and, subsequently, for enforcing these standards. These standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources.
- 5) **Compliance with Regulations:** Operation of the adult day care center shall comply with all state and local codes, requirements, and regulations, including the Building Code and Fire Code.
- 6) **Validity of Special Use Permit:** The adult day care center permitted by this Special Use Permit shall be properly permitted through the Commonwealth of Virginia, as evidenced by the submission of a copy of an appropriate state license to the Director of Planning, and put into operation within twenty-four months of issuance of this SUP, or the SUP shall become void.
- 7) **Hours of Operation:** The hours of operation for the adult day care center, including the loading or unloading of vehicles, shall be limited to 6:30 a.m. to 7:00 p.m., seven-days-a-week.
- 8) **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-0026-2008. Diamond Healthcare – Williamsburg Place Expansion

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. Greg Davis of Kaufman and Canoles PC, has applied on behalf of Diamond Healthcare of Williamsburg, Inc. for an SUP to allow a 40-bed psychiatric care facility on the site of Williamsburg Place on a parcel zoned M-1, Limited Business/Industrial. Twenty-five of these beds are proposed for acute psychiatric treatment services to “impaired professionals.” The remaining 15 beds would be reserved for an adult and older adult psychiatric inpatient program geared toward meeting the needs of the local population. The site is located at 5477 and 5485 Mooretown Road and can further be identified as James City County Real Estate Tax Map Nos. 3330100011B and 3330100011C. The site is shown by the Comprehensive Plan as Limited Industry. Recommended uses include warehousing, office, service industries, and public facilities with moderate impacts on surrounding areas.

Staff found the proposal, with the conditions, to be generally consistent with the Comprehensive Plan and surrounding land uses.

At its meeting on March 4, 2009, the Planning Commission recommended approval of the SUP application and the off-street parking requirement waiver request by a vote of 6-0 with one member absent.

Staff recommended approval of the resolution.

Mr. McGlennon stated that the waiver for off-street parking was part of an earlier waiver and asked, since there has been experience with the operation of the facility, the waiver would not pose any ill effects on the parking in that area.

Ms. Reidenbach stated that was correct.

Mr. Kennedy opened the Public Hearing.

1. Mr. Greg Davis, Kaufman and Canoles PC, on behalf of the applicant, gave an overview of the proposed expansion of Williamsburg Place. He gave a brief history of the project and an overview of the project and environmental and fiscal benefits proposed by the applicant.

Mr. Icenhour noted that the 12-bed psychiatric facility approved in 1992 was never built.

Mr. Davis stated that was correct.

Mr. Icenhour stated that the 12-bed facility was still included and asked if that was part of the future plan.

Mr. Davis stated that the 12-bed facility remains a possibility, but that it was not anticipated in the near future.

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

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0026-2008. DIAMOND HEALTHCARE - WILLIAMSBURG PLACE EXPANSION

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. Greg Davis of Kaufman & Canoles has applied on behalf of property owner Diamond Healthcare of Williamsburg, Inc. for an SUP to allow an expansion to Williamsburg Place, a hospital located on a parcel of land zoned M-1, Limited Business/Industrial; and

WHEREAS, the property is located at 5477 and 5485 Mooretown Road and can be further identified as James City County Real Estate Tax Map Nos. 3330100011B and 3330100011C; and

WHEREAS, following its public hearing on March 4, 2009, the Planning Commission voted 6-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 0026-2008 as described herein with the following conditions:

1. Use: This SUP shall allow the establishment and/or continued operation of a 25-bed acute psychiatric treatment services facility; a 15-bed adult and older adult psychiatric inpatient facility; a 30-bed intermediate care substance abuse treatment facility and transitional domiciliary facility; a 12-bed psychiatric unit; a 48-bed outpatient unit, and a 4-bed residential unit for visitors. The facility shall maintain at all times a current Certificate of Public Need from the Commission of Health of the Commonwealth of Virginia.
2. Commencement of Construction: Construction on this project shall commence within 24 months from the date of approval of this SUP or this permit shall be void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection.
3. Master Plan: As determined by the Director of Planning, the plan of development shall be in accordance with the “Master Plan (Amended) Williamsburg Place” (“Master Plan”) prepared by AES Consulting Engineers, dated November 26, 2008, and revised January 21, 2009. Access to the two parcels shall be limited to the two entrances depicted, the shared main entrance, and the service entrance.
4. Property Line Adjustments: Prior to final site plan approval, the common property line between the parcels identified as James City County Real Estate Tax Map Nos. 3330100011B and 3330100011C shall be adjusted as shown on the Master Plan.
5. Architectural Review: Prior to final site plan approval, the Director of Planning shall review and approve the final architectural design of the building. Such building shall be generally consistent, as determined by the Director of Planning, with the architectural elevations titled “Front Perspective” and “Rear Perspective” for Diamond Healthcare Williamsburg Place Expansion dated February 4, 2009, and drawn by Guernsey Tingle Architects.
6. Lighting: All exterior lighting on the property shall be recessed fixtures with no bulb,

lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Modifications to this requirement may be approved by the Director of Planning if it is determined that the modifications do not have any negative impact on the property or surrounding properties.

7. Runoff to CSX Property: There shall be no net increase in runoff to the CSX railroad right-of-way. No new impervious area shall drain to the CSX property without water quality treatment in a 10-point BMP per the County BMP Guidelines. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final plan of development approval.
8. Bioretention Facility: The proposed bioretention facility shall be sized to comply with the existing stormwater management master plan. Under no circumstances will the proposed bioretention facility be sized for less than one inch per impervious acre for the net increase in impervious area developed in the currently proposed expansion as compared to the impervious area approved on County site plan SP-0097-2007. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final plan of development approval.
9. Landscaping: A landscaping plan shall be approved by the Director of Planning prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping 10 feet in width along the first 200 feet along both sides of the new proposed main entrance and enhanced landscaping 10 feet in width along the first 100 feet on both sides of the service entrance to help screen service activities from Mooretown Road. Enhanced landscaping shall be defined so that the required number of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the trees within the landscape buffers shall be evergreen.
10. Water Conservation: The applicant shall be responsible for amending the existing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
11. Signage: Signage for the site shall be limited to one main entrance sign and "Service Only" entrance signage. The number, size, and design of the "Service Only" signs will be approved by the Director of Planning prior to final site plan approval. The Director of Planning shall approve the location of all signage prior to final site plan approval that shall be in accordance with the County Zoning Ordinance.
12. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

4. An Ordinance to Designate the Public Roads in the Kristiansand Neighborhood for Golf Cart Use

Chief Emmett Harmon, Chief of Police, stated that the Kristiansand Homeowners Association submitted an application pursuant to Section 13-60 et seq. of the County Code, requesting that the Board designate the streets in Kristiansand for golf cart use.

Mr. Goodson asked why the entrances were not recommended for golf cart use.

Chief Harmon stated that this was a new concept in this area and he proposed that the entrances not be used for golf cart use due to heavy traffic and unaware motorists.

Mr. McGlennon asked what other facilities would be located on these roads.

Chief Harmon stated that there was a business park, a day care facility, a restaurant, and a car dealership that would put traffic on these roadways.

Mr. Kennedy asked if this was discussed with the businesses in this area in relation to parking.

Chief Harmon stated that it was not.

Mr. Kennedy asked if the vehicles would be insured due to high speeds in this area.

Chief Harmon stated that there were approximately 500 vehicles within a 24-hour period with about 80 vehicles ten miles or more over the speed limit. He stated that officers could be placed there to enforce the speed limit.

Mr. Kennedy asked if general vehicle laws would apply, including driving while intoxicated.

Chief Harmon stated that there was and that there was a provision in the ordinance addressing insurance for recreational vehicles.

Mr. Kennedy asked if golf carts were required to be inspected.

Chief Harmon stated that golf carts were not required to be inspected, but safety features such as headlights and mirrors were required.

Mr. Kennedy stated that there were concerns if Nina Lane and Kristiansand Drive were included in these permitted roads and that there were questions about how businesses would handle these vehicles.

Chief Harmon stated that this was an issue.

Mr. Icenhour stated that there were no comparable businesses in Chickahominy Haven, but asked if there were any problems or issues with the other communities that permitted golf carts.

Chief Harmon stated that Chickahominy Haven has had a decrease in police calls related to golf carts.

Mr. Kennedy stated that there was a restaurant in Chickahominy Haven that may be addressed on the business issue.

Mr. Kennedy opened the Public Hearing.

1. Mr. Scott Coursen, 115 Nina Lane, commented that insurance needed to be carried on vehicles. Mr. Coursen displayed the entrance of 7-Eleven on Kristiansand Drive. He stated that there was one other entrance off the road into the day care center. He stated that the day care center is closed after 6 p.m. and on weekends, which reduces traffic. He stated that there was parking in the rear of 7-Eleven and noted that there were residents who walked and rode bicycles to 7-Eleven. He stated that the entrance of the store is roughly 150 feet from Route 60 and that he felt there was little danger of traffic from Route 60. He requested approval of the ordinance with the use of the 7-Eleven entrance off Kristiansand Drive.

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

Mr. Goodson stated that he appreciated the concern of Chief Harmon and that a benefit of golf cart use was to go to markets and restaurants while decreasing vehicle traffic. He stated that he would be accepting the use of Kristiansand Drive and requested Board input.

Mr. Kennedy stated that he appreciated the request to use golf carts in the community, particularly due to parking issues in the community. He stated that he would not want to grant access of businesses' parking lots without permission. He stated that the car dealership and other factors increased the risks to citizens and also the parking issue. He stated that the 7-Eleven was very busy and may create a problem.

Mr. Goodson stated that golf carts may be parked along the road if the access was not granted.

Mr. Kennedy stated that he would oppose the increased access without more information.

Mr. Icenhour stated that the current ordinance could be adopted and could be amended after discussing the proposal to the businesses.

Mr. Kennedy asked if there was access to the restaurant.

Chief Harmon stated there was not.

Mr. Kennedy stated that he was concerned about granting access to private property.

Ms. Jones stated her support of approving the currently proposed ordinance and allowing for an amendment at a later time if it was acceptable to the business owners in the area.

Mr. McGlennon stated that he applauded the use of golf carts in the community, but stated his concern for the variety of traffic that entered that area and also the unfamiliarity of some who drive in the community. He stated his opposition to granting access to private property.

Mr. Goodson made a motion to adopt the ordinance.

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

H. PUBLIC COMMENT

1. Mr. Greg Smith, 155 Marston Lane, commented that he was not in opposition to the adult day care facility but wanted to inform the Board about the work already being performed. He stated that the proposed VDOT goal could be met by proposing other consolidations. He asked that the Board contact the County's representation in the General Assembly, Hampton Roads Planning District Commission (HRPDC), and Hampton Roads Metropolitan Planning Organization (HRMPO) as well as the Commonwealth Transportation Board. He asked that the Board continue to solicit support from other Peninsula jurisdictions.

2. Mr. Ed Oyer, 139 Indian Circle, commented that the County's General Assembly representation was not supportive of closing the local VDOT Residency.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that he had spoken with the Commonwealth Transportation Board (CTB) representatives and also with Senator Thomas K. Norment, Jr., Delegates Phillip A. Hamilton, William K. Barlow, and Brenda L. Pogge and that he was assured continued support of maintaining the VDOT Williamsburg Residency.

Mr. Wanner stated that there was a closed session for the 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, specifically the Cable Communications Advisory Committee, Peninsula Disabilities Services Board, and Social Services Advisory Board as well as consideration of the acquisition of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

He stated that there was a potential cancellation of the Budget Work Session on April 16, 2009, and that the decision would determine the adjournment for the evening.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy requested that the Board cancel the work session on Thursday, April 16, 2009, resume on Monday, April 20, 2009, 7 p.m. and schedule a third work session if necessary.

Ms. Jones made a motion to cancel the work session on April 16, 2009, 7 p.m.

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

Mr. Wanner stated that the Board should adjourn to 7 p.m. on April 20, 2009.

Mr. Kennedy stated that Dominion Virginia Power has proposed to increase the utility base rate. He stated that the County Administrator has drafted a letter in opposition to the request and said that he would like to request Board support for this letter. Mr. Kennedy read the letter.

There was a consensus that this was acceptable.

Ms. Jones gave a brief update on the Comprehensive Plan Steering Committee schedule.

Mr. Kennedy stated that he attended the grand opening of the Sesame Place section of Busch Gardens

on April 3, 2009. He stated that it was a good addition to the park and to the County. He noted that the James City County Green Building Committee held its second meeting on April 13, 2009.

K. CLOSED SESSION

Mr. Goodson 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 and for consideration of the acquisition of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

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

At 8:44 p.m. Mr. Kennedy recessed the Board into Closed Session.

At 9:55 p.m. Mr. Kennedy reconvened the Board.

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

On a roll call vote, the vote was: AYE: Goodson, Jones, McGlennon, Icenhour, Kennedy (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), of the Code of Virginia, to consider a personnel matter, the appointment of individuals to County boards and/or commissions and Section 2.2-3711(A)(3) of the Code of Virginia, to consider the acquisition of parcel(s) of property for public use.

Mr. McGlennon made a motion to reappoint Mr. Richard Locke, Mr. Lee Laska, and Mr. Gerald White to four-year terms on the Cable Communications Advisory Committee, terms to expire on April 30, 2013; Ms. Irma Hawkins to a term on the Peninsula Disabilities Services Board, term to expire on April 11, 2011; and Ms. Diane Joyner to a term on the Social Services Advisory Board, term to expire on July 1, 2012.

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

L. ADJOURNMENT to 7 p.m. on April 20, 2009

Mr. McGlennon made a motion to adjourn.

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

At 9:56 p.m. Mr. Kennedy adjourned the Board to 7 p.m. on April 20, 2009.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: April 28, 2009
TO: The Board of Supervisors
FROM: Carol M. Luckam, Human Resource Manager
SUBJECT: Award of Contract – Employee Group Medical and Dental Insurance

A Request for Proposals was solicited from qualified firms in December 2008 to establish contracts for firms to provide Employee Group Medical and Dental Insurance for James City County (solely) or for James City County and Williamsburg-James City County (WJCC) Schools. Solicitations were received from four firms offering to provide group medical and dental insurance coverage under various plan designs, networks, and funding arrangements.

An Evaluation Committee of staff members representing the Employee Benefits Committee, Human Resources, and Purchasing evaluated the proposals, conducted interviews and selected Anthem Blue Cross Blue Shield, Optima Health Plan, and Delta Dental of Virginia as the most qualified firms to provide coverage to County participants. No vendor was selected to provide combined services to both the County and WJCC Public Schools; the school system will continue with its current vendor. The County's full Employee Benefits Committee has reviewed the process and recommends approval of the firms selected by the Evaluation Committee.

The recommendations for contract award are based on plan costs, plan design, provider networks, cost containment features, budget constraints, and customer service. The Anthem Plan and Optima Plan are fully insured and the Delta Dental Plan has both a fully insured and a self-insured portion. Terms were negotiated with the selected firms. The resulting contracts will have an initial term of one year with options to renew for four additional years, one year at a time.

Staff recommends adoption of the attached resolution.


Carol M. Luckam

CML/nb
AOCInsur_mem

Attachment

RESOLUTION

AWARD OF CONTRACT – EMPLOYEE GROUP MEDICAL AND DENTAL INSURANCE

WHEREAS, a Request for Proposals has been advertised and evaluated for the County’s Employee Group Medical and Dental Insurance; and

WHEREAS, the firms listed in this resolution were determined to be the best qualified to provide the Employee Group Medical and Dental Insurance; and

WHEREAS, the County’s Employee Benefits Committee consisting of representatives from all County Departments has recommended that the listed firms be approved by the Board of Supervisors to provide the Employee Group Medical and Dental Insurance; and

WHEREAS, the Board of Supervisors desires to offer County employees Group Medical and Dental Insurance coverage.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute an initial 12-month contract for the period July 1, 2009 to June 30, 2010 with options to renew for four additional years, one year at a time, with Anthem Blue Cross and Blue Shield, Optima Health Plan, and Delta Dental of Virginia to provide Group Medical and Dental Insurance to County and other qualified employees, as approved from time to time, or required by law.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

AOCInsur_res

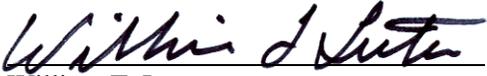
MEMORANDUM

DATE: April 28, 2009
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Grant Award - Hampton Roads Planning District Commission - \$44,544

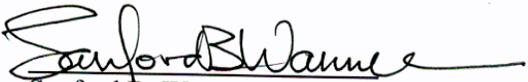
The Hampton Roads Planning District Commission has awarded the James City County Fire Department Division of Emergency Management a grant of \$44,544 to be used to provide optical internet service to the Emergency Operations Center in support of the Regional WebEOC system.

This grant is a sub award of the FY 08 Urban Area Security Initiative (UASI) Grant through the Regional Emergency Management Technical Advisory Committee.

Staff recommends adoption of the attached resolution.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
HRPDC_mem

Attachment

RESOLUTION

GRANT AWARD – HAMPTON ROADS PLANNING DISTRICT COMMISSION – \$44,544

WHEREAS, the James City County Fire Department Division of Emergency Management has been awarded an appropriation from the Hampton Roads Planning District Commission (HRPDC) in the amount of \$44,544; and

WHEREAS, the grant requires no match; and

WHEREAS, the funds are to be used to provide Emergency Operations Center (EOC) optical internet service in support of the Regional WebEOC system.

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:

HRPDC/EOC Optical Internet (024-306-2100)	<u>\$44,544</u>
----------------------------------------------	-----------------

Expenditure:

HRPDC/EOC Optical Internet (024-073-2100)	<u>\$44,544</u>
----------------------------------------------	-----------------

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

HRPDC_res

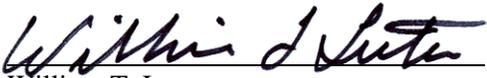
MEMORANDUM

DATE: April 28, 2009
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Grant Award - Hampton Roads Metropolitan Medical Response System - \$12,000

The Hampton Roads Metropolitan Medical Response System (HRMMRS) has awarded the James City County Fire Department Division of Emergency Management a grant of \$12,000 to be used to maintain the County's WebEOC software used in support of medical special needs planning and disaster response.

This grant is a sub award of the FY 08 HRMMRS Grant, a component of the FY 08 Homeland Security Grant Program.

Staff recommends adoption of the attached resolution.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
GAwdHRMMRS_mem

Attachment

RESOLUTION

GRANT AWARD – HAMPTON ROADS METROPOLITAN

MEDICAL RESPONSE SYSTEM – \$12,000

WHEREAS, the Hampton Roads Metropolitan Medical Response System (HRMMRS) has awarded the James City County Fire Department Division of Emergency Management a grant of \$12,000; and

WHEREAS, the grant funds are to used to maintain the County’s WebEOC software program; and

WHEREAS, the grant does not require local matching funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes acceptance of this grant and the following budget appropriation to the Special Projects Grant fund.

Revenue:

HRMMRS – WebEOC Software Support 024-306-2929	<u>\$12,000</u>
--------------------------------------------------	-----------------

Expenditure:

HRMMRS – WebEOC Software Support 024-073-2929	<u>\$12,000</u>
--------------------------------------------------	-----------------

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

GAwdHRMMRS_res

MEMORANDUM

DATE: April 28, 2009

TO: The Board of Supervisors

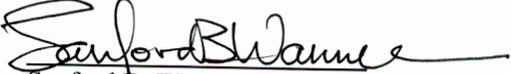
FROM: Sanford B. Wanner, County Administrator

SUBJECT: Resolution Encouraging the United States Congress to Adopt Legislation and to Appropriate Funds for the Removal of the Environmentally-Hazardous James River Reserve Fleet and to Encourage other Affected Virginia Localities to take a Similar Action

The James River Reserve Fleet, also known as the Ghost Fleet, is moored on the James River near Fort Eustis. The fleet of ships consists largely of obsolete and environmentally hazardous vessels and several have been removed since 2002. The ships hold approximately 7.7 million gallons of oils and fuels that pose an immediate threat to contaminating the James River and its coastal areas and wetlands.

The attached resolution requests that the United States Congress adopt legislation and appropriate funds for the removal of the environmentally hazardous James River Reserve Fleet. The resolution also encourages other affected Virginia localities to take action to protect the waters of the James River. Newport News has adopted a similar resolution.

I recommend adoption of the attached resolution.


Sanford B. Wanner

SBW/nb
GhostFleet_mem

Attachment

RESOLUTION

RESOLUTION ENCOURAGING THE UNITED STATES CONGRESS TO ADOPT

LEGISLATION AND TO APPROPRIATE FUNDS FOR THE REMOVAL OF THE

ENVIRONMENTALLY-HAZARDOUS JAMES RIVER RESERVE FLEET AND TO

ENCOURAGE OTHER AFFECTED VIRGINIA LOCALITIES TO TAKE A SIMILAR ACTION

WHEREAS, the James River Reserve Fleet, commonly known as the Ghost Fleet, is moored on the James River near Fort Eustis; and

WHEREAS, in 2002 the Reserve Fleet consisted of 97 ships, 71 of which the United States Maritime Administration considered obsolete and scheduled to be removed from the Fleet and scrapped. Since 2002, several vessels have been removed from the Fleet; and

WHEREAS, the Reserve Fleet holds 7.7 million gallons of oils and fuels according to the latest government estimates; and

WHEREAS, the Reserve Fleet still poses a serious and increasing environmental threat to the Hampton Roads region according to a 2002 report created for the United States Maritime Administration, and a serious oil and/or gas spill from the decaying ships is no longer a mere possibility but a probability; and

WHEREAS, a large oil or gas leak would heavily pollute the waters, shores, beaches, and wetlands of James City County and other jurisdictions approximate to the James River, causing hundreds of thousands to millions of dollars in environmental damage; and

WHEREAS, the environmental risk is heightened by the threat of storm or hurricane related damage that could cause the release of toxic and hazardous materials into the water and on to the shores of James City County, Newport News, Hampton, Isle of Wight County, Suffolk, and other coastal communities in Hampton Roads and along the banks of the James River.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby urges Congress to adopt legislation and to appropriate the necessary funds for the removal of obsolete, and environmentally-hazardous vessels from the James River Reserve Fleet, in order to protect the waters, shores, beaches, and wetlands of James City County and the other jurisdictions approximate to the James River from ecological disaster.

BE IT FURTHER RESOLVED that the Board of Supervisors encourages those jurisdictions approximate to the James River or who are members of the Hampton Roads Planning District Commission to adopt a resolution urging Congress to take the above stated action.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of
April, 2009.

GhostFleet_res

REZONING CASE NO. Z-0003-2008/MASTER PLAN CASE NO. MP-0003-2008-The Candle Factory Staff Report for the April 28, 2009, 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

Building F Board Room; County Government Complex

Planning Commission: November 05, 2008, 7:00 p.m. (deferred by the applicant)
Planning Commission: December 03, 2008, 7:00 p.m. (deferred by the applicant)
Planning Commission: January 07, 2009, 7:00 p.m. (recommended approval by 4-2)
Planning Commission: April 1, 2009, 7:00 p.m. (recommended approval by 4-3)

Board of Supervisors February 10, 2009, 7:00 p.m. (deferred by the applicant)
Board of Supervisors March 10, 2009, 7:00 p.m. (remanded to Planning Commission)
Board of Supervisors April 28, 2009, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III, of Geddy, Harris, Franck & Hickman, L.L.P on behalf of Candle Development, LLC

Land Owner: Candle Development, LLC

Proposed Use: To rezone approximately 64.45 acres of land from A-1, General Agricultural District, M-1, Limited Business/Industrial District, and MU, Mixed Use District to MU, Mixed Use District, with proffers. The development proposed with this rezoning application will allow the construction of a maximum of 175 residential units; approximately 30,000 square feet of commercial/office space, and 90,000 square-foot assisted living facility with capacity for 96 units.

Location: 7551, 7559, and 7567 Richmond Road

Tax Map and Parcel No.: 2321100001A, 2321100001D and 2321100001E

Parcel Size: Approximately 64.45 acres

Existing Zoning: A-1, General Agricultural District, M-1, Limited Business/Industrial Districts, and MU, Mixed Use District

Comprehensive Plan: Low Density Residential, Mixed Use, and Limited Industry

Primary Service Area: Inside

STAFF RECOMMENDATION:

On January 07, 2009 the Planning Commission voted 4-2, with one vacancy, to recommend approval of this application. Prior to this case moving forward to the Board of Supervisors meeting on March 10, staff was notified by the County Attorney's Office that the applicant had notified them of a procedural error that occurred when they turned in the rezoning application for this project. The signature of one of the original

owners of the property, Mr. Jack Barnett, was missing from the application. Mr. Barnett is the owner of a 25-foot-wide access strip which runs north-south through the property. To ensure that there would not be a procedural problem with this rezoning application, staff was advised by the County Attorney's office that this case needed to be returned to the Planning Commission for consideration and a hearing. On April 1, 2009, the Planning Commission reconsidered the rezoning of Candle Factory project and recommended approval of this application by a vote of 4 to 3.

Staff finds this development, as currently proposed, to be generally inconsistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation for the following reasons:

- Inconsistency with the 2003 Comprehensive Plan Mixed-Use designation for Mixed-Use areas at or near major thoroughfares;
- Inconsistency with the 2003 Comprehensive Plan Limited Industrial land use recommendations; and
- School proffers not consistent with current policy.

Staff notes that two previous proffers related to road improvements (please see below) have been addressed by the applicant during the Planning Commission meeting on January 07, 2009 and are no longer grouped as reasons for staff's recommendation of denial for this application:

- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road has been addressed; and
- Completion of proffered traffic improvements has been addressed.

Staff recommends denial of this application for the reasons noted above. Should the Board of Supervisors approve this application, the enclosed proffers have been attached to this report for the approval of Board Members. A positive Board Action should include approval of the private streets proposed as part of this development.

Proposed Changes Made since the January 07, 2009 Planning Commission Meeting:

Amendment to Existing Proffers

Proffer No. 06-Entrances; Traffic Improvements (a): The number of lanes proposed for the private driveway at the Route 60/Croaker Road intersection was upgraded from three to four lanes (i.e. addition of a dedicated right turn lane) as recommended by VDOT staff. As amended this entire proffer now reads:

“The existing private driveway at the Route 60/Croaker Road intersection shall be reconstructed to a public road with a four lane road section at the Route 60 intersection and tapering to a two lane section. The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall include a left turn lane with 200 feet of storage, a through lane, and a right turn lane. ”

Staff supports the above amendment to Proffer No. 06(a) as this new configuration potentially reduced delays experienced by vehicles turning right, thereby improving intersection safety and capacity.

Proffer No. 06-Entrances; Traffic Improvements (d): The applicant has modified the trigger for completion of proffered road improvements from “*issuance of any certificate of occupancy for buildings*” to “*final subdivision plat or site plan approval.*” As amended this entire proffer now reads:

“The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation (“VDOT”) standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (c) shall be completed or their completion bonded in forma satisfactory to the County

Attorney prior to final subdivision plat or site plan approval for the development on the Property. ”

Staff supports the above amendment to Proffer No. 06(d) as it secures that proffered road improvements will be finalized by the developer and not by future property owners.

Proposed Changes Made since the April 1, 2009 Planning Commission Meeting:

New Proffers:

Proffer No. 21-Right of Way Reservation: Per the request of the Planning Commission, the applicant has provided a new proffer addressing vehicular/pedestrian connectivity with the adjacent parcel located at 341 Farmville Lane. The new proffer reads:

“Owner shall reserve the area shown on the Master Plan as Corridor to Adjacent Property Reserved for Possible Future Road/Pedestrian Connection for the possible future public road/sidewalk connection to the adjacent property. Owner shall have no responsibility to construct a connecting road/sidewalk in this area and shall not be obligated to permit the owners of the adjacent parcel to construct a road/sidewalk in such area unless and until Owner and the owner of the adjacent parcel have entered into an agreement addressing compensation for the Owner and/or the Association for the right of way, permitting, construction easements and obligations, such as appropriate replanting of disturbed areas, and addressing responsibility for the costs of any require road or traffic signal improvements on Owner’s property warranted by additional traffic from the adjacent parcel.”

Part of the Planning Commission motion to approve this case included the understanding that the applicant was willing to provide for connectivity with the adjacent property to the south and located at 341 Farmville Lane. The proffered connectivity, as currently written, makes the actual future connection difficult to materialize and therefore may be too restrictive. Staff has recommended that the applicant consider sharing the costs of road/traffic improvements as one of the elements of the proposed agreement.

Proffer No. 23-Phased Clearing:

“The Property shall be developed in phases in accordance with the approved site plan or plans for the development. Owner shall only clear the area necessary for the construction and operation of the phase then under development. Such necessary clearing includes, without limitation, clearing for roads, sidewalks, trails, building sites, recreational facilities and areas, utility connections, earthwork and grading, soil stockpiles and stormwater management. The limits of clearing for each phase shall be subject to the approval of the Environmental Director.”

Staff supports the above Proffer as it allows clearing to occur in conjunction with each phase of the development of the property and not prior to the development of the entire property.

Project Description

Mr. Vernon Geddy has submitted an application on behalf of Candle Development, LLC to rezone approximately 64.45 acres from A-1, General Agricultural District (60.82 acres), M-1, Limited Business/Industrial District (3.0 acres) and MU, Mixed Use District (0.63 acres) to MU, Mixed Use District with proffers.

Located on the south side of Richmond Road (Route 60), opposite the intersection of Richmond Road and Croaker Road (Route 607), the Candle Factory is a proposed development combining residential and non-residential components to include: 175 residential units (i.e. 142 single-family attached and 33 single-family detached unit.), up to 30,000 square-foot of commercial and office uses, and a 90,000 square-foot assisted living facility complex with capacity for 96 individual units.

The area subject to the rezoning application is bounded on the south, east and west by low-density residential developments zoned A-1, General Agricultural, (i.e. Toano Woods and Oakland Estates) and R-2, General Residential (i.e. Norvalia). Adjacent properties to the north of the site and along Route 60 are zoned MU, Mixed Use (i.e. Cross Walk Community Church, formerly known as the Williamsburg Music Theater) and M-1, Limited Industrial (i.e. The Candle Factory commercial complex and the Poplar Creek office park). The Candle Factory development is located within the Norge Community Character Area and therefore subject to the recommendations set forth by the 2003 Comprehensive Plan. A private driveway at the Route 60/Croaker Intersection will provide vehicular access from Route 60, a Community Character Corridor, to the proposed development.

At its July 11, 2007 Planning Commission meeting, the applicant indefinitely deferred the rezoning/master plan/SUP application for the Candle Factory in order to address outstanding issues and to further incorporate suggestions from the Planning Commission into the plan. In September, 2008, the applicant submitted a revised application for the Candle Factory project. Table No. 1.0 below highlights the major differences between both applications:

Table No. 1.0-Comparison between the 2006 and 2008 Applications for the Candle Factory Property

	The Candle Factory 2006 Application	The Candle Factory 2008 Application
Scope of Project	Two combined applications (Rezoning and SUP) under single master plan. Rezoning application: To rezone 64.45 acres from A-1 to MU, with proffers. SUP application: To allow the construction of two non-residential mixed-use buildings.	Rezoning application: To rezone 64.45 acres from A-1 to MU, with proffers. SUP application: N/A
Number of Residential Units	180 units (i.e. 77 single-family attached, 54 single-family detached, and 49 multi-family units).	175 units (i.e. 142 single-family attached and 33 single-family detached).
Total Gross Residential Density	2.79 dwelling units per acre	2.71 dwelling units per acre (excludes the 97 assisted living facility units)
Number of Affordable Units	18 dwelling units for sale at or below \$160,000.00; and 9 dwelling units for sale at or below \$250,000.00	19 dwelling units for sale at or below \$160,000.00; 19 dwelling units for sale at or below \$190,000.00; and 20 dwelling units for sale at or below \$230,000.00
Non-residential square footage	Rezoning application: Maximum of 18,900 square-feet of commercial and/or office, and additional 80,000 square-feet of non-residential uses located in the Limited Industrial Area. SUP application: Two non-residential mixed-use buildings of approximately 45,000.00 square-feet.	Rezoning application: Maximum of 30,000 square-feet of commercial/office space and approximately 90,000 square-foot of assisted living facility with 96 units located in the Limited Industrial Area.

Source: Rezoning Application Materials Associated with-Z-0003-2008/MP-0003-2008

The assisted living facility is a new feature proposed as part of the latest rezoning application for the Candle Factory project. This facility with approximately 90,000 square-feet is planned with six smaller living clusters, a community room, and a central facility. Each of the living clusters is a stand-alone building that is connected to the central facility and to each other by means of an enclosed walk. Each cluster will consist of a residential kitchen, a nursing station, a common living area, dinning area and lounge. Inside each cluster the nursing stations will have one to two nurses and will provide 24 hour nursing assistance. Each cluster will accommodate 16 sleeping rooms. These rooms are designed to accommodate one to two people and will have a small sitting area and private bathroom. The central facility will have the main commercial kitchen and the

primary dining hall. According to information provided by the applicant, Cross Walk Community Church will manage and operate the proposed facility.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy. Table 2.0 below identifies all cash contribution (except for \$30,000 proffered for sidewalks later discussed in this report) offered by the applicant as a means to mitigate the physical impact of the proposed development.

Table 2.0-Cash Contributions for Community Impacts

Housing Category	Housing Type	Total Quantity	Pricing Type	Total Quantity	CIP: Schools	CIP: Others:	Water	Sewer	Stream Restoration	Totals:
SFD ¹	Single Family Detached	33 units	Market Price	33 units	\$ 4,011	\$1,000	\$1,217.00	\$631.00	\$ 500.00	\$242,847
SFA ²	Townhouse	142 units	At or below \$160,000	19 units	N/A	N/A	N/A	N/A	\$ 500.00	\$9,500
			At or below \$ 190,000	19 units	N/A	\$1,000	\$913.00	\$631.00	\$ 500.00	\$57,836
			At or below \$225,000	20 units	N/A	\$1,000	\$913,00	\$631.00	\$500.00	\$60,880
			Market Price	84 units	N/A	\$1,000	\$ 913.00	\$631.00	\$ 500.00	\$255,696
N/A	Assisted Living Units	96 units	N/A	N/A	N/A	\$250.00	\$ 456.00	\$558.00	N/A	\$121,344
Total Contributions										\$748,103.00

Source: Rezoning Application Materials Associated with-Z-0003-2008/Master Plan-0003-2008

¹SFD = Single Family Detached; ²SFA = Single Family Attached.

PUBLIC IMPACTS

Archaeology

Proffers:

- The County archaeological policy is proffered (Proffer No. 10).

Staff Comments: A Phase IA Cultural Resources Assessment developed for the property by the James River Institute for Archaeology was submitted for County review (attached to this report). The assessment suggests that “one or more sites associated with an eighteenth-or early nineteenth-century occupation may be present on the site” and that “the situation of the property at the confluence of two tributary streams suggest that there is high potential for the presence of temporary Native American campsites dating from the Archaic and Woodland periods, as well.” Given the above recommendations, staff finds that a Phase I Archaeological Study for the entire property is warranted and that Proffer No. 10 is therefore appropriate and acceptable.

Environmental

Watershed: Subwatershed 103 of the Yarmouth Creek Watershed

Proffers:

- A contribution of \$500.00 for each residential unit shall be made to the County toward stream restoration or other environmental improvements in the Yarmouth Creek watershed [Proffer No.5 (e)];

- Sustainable building practices as recommended in the NAHB Model Green Building Guidelines are proffered (Proffer No. 11);
- Development of a Master Stormwater Management Plan is proffered with the use of Low Impact Development (LID) techniques to treat 30% of the impervious areas on the property [Proffer No.14 (a)]; and
- A Nutrient Management Plan program has been proffered to be implemented in the proposed development. (Proffer No. 15).

Environmental Staff Comments: This proposal will meet the County’s 10-point Stormwater Management requirements through a combination of structural BMP facilities and Natural Open Space credit. Further, in order to comply with the Special Stormwater Criteria (SSC) for the Yarmouth Creek watershed, two forebays will be provided at the major stormwater outfalls into the largest of the BMP's (Marston’s Pond) in order to address water quality. Low Impact Development (LID) facilities, such as bioretention basins, dry swales, porous pavement systems, underground infiltration BMPs, rain barrels and downspouts are included in the Master Stormwater Conceptual Plan. The Environmental Division has recommended approval of the rezoning and associated proffers for this development.

According to information provided by the applicant, 12.33 acres of the entire site are non-developable areas (e.g. wetlands, streams, steep slopes and areas subject to flooding). The remaining 52.17 acres are developable land. The Candle Factory Master Plan shows approximately 24.45 acres or 47% of the net developable area of the site as natural open space. The proposed natural open space for Candle Factory is above the 10% requirement set forth by Section 24-524 of the ordinance and will include, in addition to required RPA buffers, 3.65 acres of parkland areas and over 12 acres of additional open space outside the 100 feet RPA buffer at the perimeter of the development.

Fiscal Impact:

Proffers:

- Cash contributions of \$1,000 per dwelling unit other than affordable units on the property (total of \$156,000, 00) and \$ 250.00 for each assisted living unit on the property (total of \$ 24, 000.00) shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the property. The County may use these funds for any project in the County’s capital improvements plan which may include emergency services, off-site road improvements, future water needs, library uses, and public use sites.

A Fiscal Impact Study prepared for this development by the Wessex Group (attachment to this report) was provided along with the rezoning application for County review. Below are the major assumptions and results of the net fiscal impact analysis for the Candle Factory Development identified by the study:

- At completion in 2014, the proposed development is expected to add proximately \$59 million in real property value to James City County;
- An average of 87 full-time employees per year is expected during the five-year construction phase of the Candle Factory Development. At build-out in 2014, 148 employees are expected to work in the office spaces and in the assisted living facility combined;
- At build-out, the Candle Factory Development is expected to generate annually \$770,000 in revenues for James City County and create annual expenditures in the amount of \$816,000. The net fiscal impact is estimated to be negative \$46,200 at build out in 2014; and
- In future years, the net fiscal impact is expected to improve such that in 2021, the net fiscal impact is

at breakeven and increases in the years following.

Staff Comments: According to comments provided by the James City County Financial and Management Services (FMS), the Fiscal Impact Study for the Candle Factory is heavily weighted up front by construction spending. Permit fee revenue is the largest source of local revenue until the fourth year of a five year construction schedule. Permit fee revenue usually doesn't cover the costs of the on-going oversight by Code Compliance and the Environmental Division during construction, but Code Compliance and Environmental spending is not accurately reflected in the presentation of offsetting spending thus overstating the fiscal benefits. At build-out, the projections turn negative.

Residential

There is an expectation that houses and/or townhouses marketed with prices at the lower end of the residential sales market in James City County to be a positive feature with a fiscal impact that is skewed negative. However, property taxes will not pay for school spending with housing units in the proposed price range.

Office

The Class B office space generates none of the taxes that could be expected from retail, lodging property, manufacturing or an assembly plant. From a local fiscal perspective, Class B commercial does not provide many of the taxes benefits desired for the County. This may become more evident if the office vacancy rates begin to climb and rents and assessments start to fall.

Assisted Living Facility:

Fiscally, the assisted living facility provides the greatest economic potential, but it is projected to be built in the last year of the construction schedule. It is the most tentative of the proposed improvements and if it should be discarded or rejected, the development's fiscal profile becomes significantly worse than what has been currently presented in this report.

Public Utilities

The site is inside the PSA and served by public water and sewer.

Proffers:

- For cash contribution information please refer to Table No. 03 on this report and/or Proffer No. 5 attached to this report.

Staff Comments: The James City Service Authority has reviewed the rezoning application and finds that proffers being offered will mitigate impacts to the County's public water and sewer system. The James City Service Authority has recommended approval of the rezoning and associated proffers for this project.

Public Facilities:

Proffers:

- A cash contribution of \$ 4,011.00 per each single-family detached dwelling unit, other than affordable units has been proffered to the County to mitigate the impacts from physical development and operation of the property [Proffer No. 4(a)]. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

Staff Comments: According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through rezoning, special use permit or other development processes (1) evaluation of the

adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services.

This project is located within the Norge Elementary, Toano Middle, and Warhill High Schools districts. Under the proposed Master Plan, 175 residential units are proposed. With respect to the student generation and the current school capacities and enrollments for 2007-2008, the following information is provided:

Student Projections:

- Single-Family Detached: 0.41 (generator) x 33 (residential type) generates **14 new students**
- Town homes: 0.16 (generator) x 142 (residential type) generates **23 new students**

A total of thirty-seven new students are projected to be generated under the assumed residential unit mix. These numbers are generated by the Department of Financial and Management Services in consultation with WJCC Public Schools based on historical attendance data gathered from other households in James City County. Table 3.0 below illustrates the expected number of students being generated by Candle Factory and overall student capacity for Norge Elementary School, Toano Middle School and Warhill High School.

Table 3.0-Student Enrollment and School Capacity for JCC-Williamsburg Schools 2008

School	Design Capacity	Effective Capacity ¹	Current 2008 Enrollment	Projected Students Generated	Enrollment + Projected Students
Norge Elementary School	760	715	601	16	617
Toano Middle School	775	822	839	9	848
Warhill High School	N/A*	1,441	1,037	12	1049
Total	1535	2,978	2259	37	2514

Source: 2007-2008 5 Year Enrollment Projection Report

¹Effective Capacity represents the “realistic and practical number of students that the school facility can accommodate. Effective capacities were revised in November of 2008.

* There is no Design Capacity developed for Warhill High School

Based on this analysis, the twenty-eight students projected to be produced from the new development would not cause the enrollment levels for Norge Elementary and Warhill High Schools to exceed their effective capacities. However, the proposed development does not meet the Adequate Public Facilities (APF) Policy at the Middle School Level, both on Design and Effective capacity. As it is noted that a new Middle School is funded and is scheduled to open in 2010, staff believes that this proposal would still meet the APF Policy Guidelines.

Staff notes that the \$ 4,011 proffered by the applicant to mitigate the impact of students on schools was based on the Cash Proffer Policy for Schools adopted by the Board of Supervisors on September 13, 2005. On July 24, 2007, the Board of Supervisors adopted a new Cash Proffer Policy for Schools with revised figures for contributions. Table 4.0 below shows the difference in the amount of cash proffers for schools per the different residential dwelling types in the 2005 and 2007 revised policy.

Table 4.0-Cash Proffer Policy for Schools in 2005 and 2007

Dwelling Unit Type	Cash Proffer Policy adopted in September 13, 2005	Cash Proffer Policy adopted in July 24, 2007*
Single-Family Detached	\$ 4,011 per unit	\$ 17,115 per unit
Single-Family Attached	\$ 0 per unit	\$ 4,870 per unit
Multi-Family	\$ 4,275 per unit	\$ 15,166 per unit

Source: James City County Planning Division

The 2007 Cash Proffer Policy for Schools states that staff will use the procedures and calculations described in the resolution beginning with rezoning applications received after June 12, 2007. The original rezoning application was received prior to that date, on December 27, 2006. However, it is staff’s opinion that the applicant should adhere to the most recently approved Cash Proffer Policy for Schools based on the following: 1) the original rezoning application was indefinitely deferred by the applicant and therefore no legislative approval was granted to the project prior to adoption of the 2007 Cash Proffer Policy for Schools, and 2) the rezoning application submitted and reviewed by staff in 2008 is substantially different from the 2007 plans (i.e. exclusion of the SUP request for the project and inclusion of an assisted living facility complex). Based on the above information, staff has requested that the applicant revise the proffered contributions for schools to reflect the recently approved 2007 Cash Proffer Policy for Schools. However, staff notes that the proffer document submitted along with this rezoning application does not reflect the amounts specified by the 2007 policy.

Parks and Recreation

Proffers:

- Approximately 3.65 acres of parkland, including one centrally located, shared playground of at least 2,500 square feet with at least five activities;
- A minimum eight-foot wide concrete or asphalt path along one side of the entrance road approximately 0.36 miles in length;
- Approximately .094 miles of soft surface walking trail;
- One paved multi-purpose court approximately 50’ x 90’ in size; and
- Two multi-purpose fields, one which will be at least 200’ x 200’ in size.

Staff Comments: All of the above recreational features have been proffered (Proffer No.9). Staff finds the proffered recreational amenities to be in accordance with County Parks and Recreational Master Plan (CPRM) and to be acceptable.

Transportation

A Traffic Impact Analysis (TIA) to address the requirements set forth by VDOT’s Traffic Impact Analysis regulations commonly known as Chapter 527 was prepared for the proposed Candle Factory development and submitted as part of this rezoning application. VDOT has evaluated this TIA and found that the report conforms to the requirements of Chapter 527 with regard to the accuracy of methodologies, assumptions, and conclusions presented in the analysis. The scope of this study encompassed (1) a corridor analysis inclusive of Route 60 traffic signals at Croaker Road, Norge Lane, and Norge Elementary School; and

(2) a traffic analysis which extends fifteen years in the future to the year 2021. The intersections for the traffic counts and traffic analysis used for this report are shown below:

- Richmond Road/Croaker Road-Signalized intersection;
- Richmond Road/Norge Lane-Signalized intersection;
- Richmond Road/Norge Elementary School-Signalized intersection; and
- Croaker Road/Rochambeau Drive.

Proffers:

- Reconstruction of the existing private driveway at the Route 60/Croaker Road intersection to a public road with four lane road section at the Rt. 60 intersection [Proffer No.6(a)];
- At the intersection of Route 60 and Croaker Road, a right turn lane with 200 feet of storage and a 200 foot taper and with shoulder bike lane from east bound Route 60 into the property shall be constructed [Proffer No. 6(b)];
- At the intersection of Route 60 and Croaker Road, the eastbound left turn lane shall be extended to have 200 feet of storage and a 200 foot taper [Proffer No. 6(c)];
- Related adjustments to the Route 60 traffic signal at Croaker Road were proffered [(Proffer No. 6(d)];
- Right-of-way reservation to connect the proposed development with adjacent property located at 341 Farmville Lane (Proffer No.21).
- Payment to VDOT, not to exceed \$ 10,000.00 of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of the signal at the Croaker Road/ Route 60 intersection [Proffer No. 6(e)];
- Provision of pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001C); and
- Installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection of Route 60/Croaker Road as warranted (Proffer No. 20).

Staff notes that the traffic forecast for Stonehouse development and proffered road improvements were incorporated into the analysis of the TIA for Candle Factory. Following are the transportation improvements (currently non-existing) assumed in the submitted TIA based on proffered conditions for Stonehouse development:

- *Widen the segment of State Route 30 from two lanes to four lanes west of Croaker Road;*
- *Add dual left turn lanes and a channelized right turn lane to the eastbound approach of Rochambeau Drive at Croaker Road;*
- *Install left turn, shared left/through lane and right turn lane on southbound Croaker Road at Route 60;*
- *Install a second left turn and a separate right turn lane On northbound Croaker Road at Rochambeau Drive; and*
- *Add a left turn lane, a right turn lane and a second through lane on westbound Rochambeau Drive at Croaker Road.*

Trip Generation:

According to the TIA (attached to this report), the proposed development, with a single entrance onto Route 60 via proposed Croaker Road Extended, has the potential to generate 3580 daily trips: 210 a.m. peak hour (110 entering and 100 exiting the site) and 401 p.m. peak hour (183 entering and 218 exiting the site). The residential part of the development alone is expected to generate a total of 1,148 vehicular trips per day (vpd), while commercial and office areas are expected to generate 1,906 vpd and the assisted living facility is expected to generate the lowest vehicular trips per day at 526 vpd.

Intersection Level of Services:

The overall Level of Service (LOS) for the Croaker Road intersection with Route 60 is currently at level C. At the same intersection, the level of service is projected to remain at Level C in 2015 with and/or without the Candle Factory Development. Assuming all traffic improvements proffered by Stonehouse and the Candle Factory development, overall LOS C is maintained for all conditions.

Traffic Counts:

- **2007 Traffic Counts:** From Croaker Road (Route 607) to Lightfoot Road (Route 646), 21,892 average daily trips.

- **2026 Volume Projected:** From Croaker Road (Route 607) to Centerville Road – 33,500 average daily trips is projected. This segment of Richmond Road is listed on the “watch” category in the Comprehensive Plan.

VDOT Comments: VDOT concurs with the trip generation as presented by the Traffic Analysis. A supplemental material to the TIA (attached to this report) was further provided by the applicant per the request of the Virginia Department of Transportation in order to forecast future traffic conditions and road improvements without the Stonehouse development. The supplemental analysis demonstrated that without improvements in place at the Route 60/Croaker Road intersections previously proffered by Stonehouse, several movements exhibit LOS “D” or lower in the background conditions without the Candle Factory, and these deficiencies are carried into the “with Candle Factory” scenario. While not directly attributable to the proposed Candle Factory development, there will be several operational deficiencies prior to Stonehouse improvements being implemented.

VDOT concurs with the proffer improvements proposed within the traffic impact study but offers the following recommendation as an additional proffer: *“The submitted traffic impact study proposes the northbound approach to the intersection (i.e. Route 60/Croaker Road) as an exclusive left-turn lane and a shared through/right lane. Due to the anticipated site traffic distribution northbound, we recommend the installation of a dedicated right-turn lane resulting in providing separate left, through, and right turning lanes. This configuration would reduce delays experienced by right turning vehicles, thereby improving intersection safety and capacity.”*

Staff Comments: Staff concurs with VDOT’s findings and notes that according to the supplemental material, Overall LOS at Route 60/Croaker Road and Route 60/Norge Lane will remain at Level C, although several turning movements exhibit LOS D. Level of Service at Croaker Road/Rochambeau Drive will decline over time. Staff further notes that primary access to the development will be from the existing shared and signalized entrance at the Richmond/Croaker Road intersection. Access to the office/commercial component of the development will also be provided by extension of the existing drive from Poplar Creek Office Park. Staff notes that during the last Planning Commission meeting, the applicant agreed to proffer a dedicated right-turn lane to the north bound approach to the intersection of Route 60 and Croaker Road.

COMPREHENSIVE PLAN

Land Use Map

The 2003 Comprehensive Plan Land Use Map designates the site for the proposed Candle Factory project as Low Density Residential, Mixed Use, and Limited Industry. Table 5.0 below shows all the three different land use designations on the site broken down by respective acreage, proposed use, and correspondent densities.

Table No.5.0-2003 Comprehensive Plan Land Use Designation for the Candle Factory Property

	Candle Factory Site (Total Acreage)	Mixed Use Designated Area	Low Density Residential Designated Area	Limited Industry Designated Area
Area	±64.45 Acres	±23 acres	±26 acres	±16 acres
Uses Proposed	Residential, non-residential, and recreational uses	Residential: Single-Family Attached Units Recreational: ±1.90 acre of park land Non-residential: Thirty-thousand square feet of commercial/office space	Residential: Single-Family Detached Units Recreational: ±0.75 acre of park land	Non-Residential: Ninety-thousand square-foot Assisted Living Facility with capacity for 96 units
Density	2.71 dwelling units per acre	4.2 dwelling units per acre	2.0 dwelling units per acre	N/A

Source: Rezoning Application Materials Associated with-Z-0003-2008/MP-0003-2008

According to the master plan for The Candle Factory, the majority of the 142 single-family attached units, park areas, and all commercial and office spaces are planned for the 23-acre Mixed-Use area. The 33 single-family detached units are planned for the 26-acre Low Density Residential designated area, and the proposed assisted living facility is located on the 15-acre Limited Industry Designated area.

The residential density proposed for the Candle Factory is well below the maximum of 18 dwelling units per acre allowed in Mixed Use Zoning Districts. Staff notes that the master plan shows two residential density numbers for this project; the lowest gross density number, 2.71 dwelling units per acre, is achieved by using the total acreage of the site (175 residential units/64.45 acres). The highest density number, 3.61 dwelling units per acre is achieved by not considering the 16-acre area designated Limited Industry on the site (175 residential units/48.47 acres). Staff finds that the use of the lowest density number for this project to be acceptable and consistent with other residential project as it considers the entire acreage of the parcel to calculate density.

Designation	<p>Low Density Residential (Page 120): Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre. . . . In order to encourage higher quality design, a residential development with gross density greater than one unit per acre and up to four units per acre may be considered only if it offers particular public benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.</p>
	<p>Staff Comment: This development proposes approximately thirty-three single-family detached units in this area, creating a density of 2.0 units per acre. Residential developments with gross densities greater than one unit per acre and up to four units per acre may be considered if they offer particular public benefits to the community. Staff notes the provision of affordable and workforce housing, unusual environmental protection, and open space design as public benefits offered by this proposal.</p>
	<p>Mixed Use (Page 124): Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes. . . . Moderate to high density residential uses with a maximum gross density of 18 dwelling units per acre could be encouraged in mixed-use areas where such development would complement and be harmonious with existing and potential development and offer particular public benefits to the community.</p>
	<p>Staff Comment: The majority of the 142 single-family attached units are planned to be located within the existing Mixed-Use area, along with 30,000 square feet of non-residential uses. The Comprehensive Plan designation for Mixed Use areas located at or near interstate interchanges of major thoroughfares (Candle Factory is accessed by the signalized intersection of Route 60 and Croaker Road) recommends “more intensive commercial, office, and limited industrial purposes.” As the majority of the uses proposed for this existing Mixed-Use area are residential, staff finds it to be inconsistent with the Mixed-Use Land Use designation.</p>

	<p>Limited Industry (Page 123): Limited Industry sites within the PSA are intended for warehousing, office, service industries, light manufacturing plants, and public facilities that have moderate impacts on the surrounding area...Secondary uses in Limited Industry areas may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p>
	<p>Staff Comment: Approximately 16-acre of land is depicted Limited Industry by the Comprehensive Plan. Of these, approximately 13-acre of industrially designated land immediately behind the parcel occupied by the Cross Walk Community Church, formerly known as the Music Theater, is part of the rezoning application. This project proposes 90,000 square-foot assisted living facility with 96 units. Staff finds that the proposed use for the area designated Limited Industry to be inconsistent with the primary uses (i.e. warehousing, office, service industries, light manufacturing plants, etc) and secondary uses (i.e. limited amount of commercial development) set forth by the 2003 Comprehensive Plan.</p>

Parks and Recreation

<p>Goals, Strategies and actions</p>	<p>Strategy # 9-Page 39: Encourage new developments to proffer neighborhood and community park facilities and trails as outlined in the Parks and Recreation Master Plan.</p> <p>Action # 4-Page 39: Encourage new developments to dedicate right-of-way and construct sidewalks, bikeways, and greenway trails for transportation and recreation purposes, and construct such facilities concurrent with road improvements and other public projects in accordance with the Sidewalk Plan, the Regional Bicycle Facilities Plan, and the Greenway Master Plan</p> <p>Staff Comment: All recreational facilities proposed for this development are in accordance with the Parks and Recreation Master Plan as described above. Sidewalks are proffered for one side of each of the public streets on the property (Proffer No. 12).</p>
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Environmental

<p>Goals, Strategies. and actions</p>	<p>Strategy #2-Page 65: Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p>Action #5-Page 66: Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p> <p>Action#22-Page 67: Promote the use of LEED (Leadership in Energy and Environmental Design) “green building” techniques as a means of developing energy and water efficient buildings and landscapes.</p> <p>Action #23-Page 67: Encourage residential and commercial water conservation, including the use of grey water where appropriate.</p>
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	<p>Staff Comment: The required 100 foot RPA buffer and the additional twelve acres of open space located at the perimeter of the property will separate and protect environmentally sensitive areas such as the perennial streams feeding Yarmouth Creek. Low Impact Development (LID) features to treat stormwater from 30% of the impervious areas on the property have been proffered. Further, sustainable building practices as recommended in the NAHB Model Green Building Guidelines have been proffered as part of Design Guidelines and Review. Water conservation standards, which limit the installation and use of irrigation systems and irrigation wells on the property, have also been proffered.</p>
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Housing

Goals, strategies, and actions	Goal # 1-Page 106: Achieve a range of choice in housing types, density, and price range.
	Goal# 3- Page 106: Increase the availability of affordable housing.
	<p>Staff Comment: This development will offer a variety of housing types and housing prices. Up to 175 residential units are proposed. According to the master plan, the residential mix for this proposal will be 33 single-family detached units and 142 single-family attached units. The developer has proffered (Proffer No. 4) affordable and mixed cost housing as part of this proposal; a minimum of 19 of the dwelling units shall be offered for sale at or below \$ 160,000 (“affordable units”), a minimum of 19 of the dwelling units shall be offered for sale at a price at or below \$190,000 (“workforce” units), and a minimum of 20 units shall be offered for sale at or below \$225,000. According to the submitted proffers, none of the single-family detached units will be sold below the market price. According to the master plan all affordable and workforce residential units will not be constructed all in the same location. Staff finds that the provision of affordable housing is a significant public benefit offered by this development and find that the applicant’s effort to provide affordable housing is acceptable.</p>

Transportation

General	<p>Richmond Road- Page 77: Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such development would have on the surrounding road network.</p>
	<p>Croaker Road-Page79: The section of Croaker Road extending from Route 60 West to Rose Lane has been placed in the “watch” category since traffic volumes are projected to increase from 8,356 vehicle trips per day to 13,000 vehicle trips per day. Development pressure in this area could push the need for future improvements. It is recommended therefore that road widening be avoided by careful land use and traffic coordination, and intersection and turn lane improvements be implemented if the traffic volumes warrant them.</p>
	<p>Staff Comment: The proposed development is planned as a master planned community with internal private and public roads and shared access between residential and commercial uses. Staff finds that the revised traffic road improvements will mitigate the negative impacts of increase in traffic flow, particularly at the intersection between Route 60 and Croaker Road.</p>

Goals, Strategies, and actions	<p>Strategy #5-Page 80: Support the provision of sidewalks and bikeways in appropriate areas, increased use of public transportation services, and investigation of other modes of transportation.</p> <p>Strategy #7(a)-Page 81: Encourage efficient use of existing and future roads, improve public safety, and minimize the impact of development proposals on the roadway system and encourage their preservation by limiting driveway access points and providing joint entrances, side street access, and frontage roads.</p> <p>Strategy #7(f)-Page 81: Develop and implement mixed-use land strategies that encourage shorter automobile trips and promote walking, bicycling, and transit use.</p>
	<p>Staff Comment: As part of the pedestrian circulation plan proposed for this development, sidewalks will be installed on at least one side of each of the public streets on the property. Staff notes that Proffer No. 12 states that “<i>Sidewalks shall be installed prior to issuance of any certificated of occupancy for adjacent dwelling units.</i>” Staff has indicated to the applicant a preference for sidewalks to be installed concurrently with the construction of internal roads. At the time this report was written no change was made to this proffer to reflect staff’s suggestions. Also, the applicant has proffered a “<i>one time contribution of \$30,000 to be made to the County for off-site sidewalks.</i>” According to the County Engineer, the amount proffered after the design, installation, and traffic control costs are considered, may yield 400 to 500 linear feet of sidewalks (5-foot wide). Staff notes that 800 of linear feet were proffered to be installed by the applicant at the previous rezoning for Candle Factory. Staff finds that the above modifications to the said proffers would enhance the overall proffers for the Candle Factory development.</p>

Community Character Area

Goals, strategies, and actions	<p>Action #24(b)-Page 97: Maintain the small town, rural, and natural character of the County by encouraging new developments to employ site and building design techniques that reduces their visual presence and scale. Design techniques include berms, buffers, landscaping, building designs that appear as collections of smaller buildings rather than a single large building, building colors and siting that cause large structures to blend in with the natural landscape, and low visibility parking locations.</p>
	<p>Staff Comment: The applicant has proffered to install streetscape improvements in accordance with the County’s Streetscape Guidelines along Croaker Road extended (please refer to Proffer No. 8). Further, the applicant has proffered landscaping in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet (please refer to Proffer No.19). According to this proffer “<i>The landscaping shall consist of 20 street trees and least 125% of Ordnance caliber size requirements.</i>” Staff finds said proffers to be acceptable in its current form.</p>

COMPREHENSIVE PLAN

Staff Comments:

Since the last Planning Commission meeting on July 11, 2007, this rezoning application has been revised to address suggestions made by the Planning Commission and by Planning Staff. These revisions are reflected in changes to the Master Plan and proffers (e.g. reduction of residential units, provision of additional open space areas and affordable housing, etc). Staff recognizes and commends all the positive changes made to this project since its last reiteration; good design lay-out of the site, architectural treatment of structures, etc, but

unfortunately, staff finds the project to be inconsistent with the 2003 Comprehensive Plan Land Use Designation. Below are the two major areas of inconsistency in accordance with the Comprehensive Plan Policies:

Mixed-Use Area

The majority of the 142 single-family attached units and a maximum of 30,000 square-feet of commercial/office space is planned to be located within the 23-acre area designated Mixed Use by the Comprehensive Plan. Staff finds that the majority of the land uses for this Mixed Use area of the Candle Factory development to be skewed toward residential uses and therefore inconsistent with the primary and secondary land uses recommendations for Mixed Use areas near major thoroughfares:

“Mixed Use areas located at or near interstate interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office, and limited industrial purposes.”

Limited Industry Area

A 90,000 square foot assisted living facility is proposed for the 16-acre area designated Limited Industry by the 2003 Comprehensive Plan. From a land use perspective, this proposal appears to have minimum impacts on the environment, local traffic and has the potential to be a positive fiscal impact to the County. However, an assisted living facility is a use which is neither a primary or secondary use suggested by the 2003 Comprehensive Plan for an industrial area. Staff acknowledges that an application to change the Limited Industrial land use designation for this area has been submitted for consideration as part of the 2008 Comprehensive Plan Updated. However, staff’s analysis and land use recommendations are based on current use and designation.

SETBACK REDUCTION REQUEST:

As part of the Planning Commission consideration of this case, the applicant proposed a request for modifications to the setback requirements in Zoning Ordinance Section 24-527 (b) subject to the criteria outlined in Section 24-527 (c) (1). According to the applicant (attached to this report), the setback modification, from a required 50-foot landscape buffer to 0-feet, was being requested for the portion of the site abutting the Cross Walk Community Church Parcel to provide future connectivity between both parcels.

Further, the applicant requested reduction of the vegetative buffer to a minimum of 20 feet between the commercial/office area as shown on the master plan, and the Candle Factory Commercial Complex. This was also requested for the purpose of providing connectivity between both parcels.

Section 24-527 (c) of the ordinance states that “a reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive plan upon finding that the proposed setback meets both criteria (1) and (2) listed below and at least one additional criteria (i.e. criterion No. 3, 4, or 5)

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;
- (2) The proposed setback reduction has been evaluated by appropriate county, state, or federal agencies and has been found to not adversely impact the public health, safety or welfare;
- (3) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;
- (4) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography;
- (5) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

Staff supported this request for a buffer modification based on the following criteria (with staff responses in

italics):

- (1) Properties adjacent to the properties being considered for a reduction in setback must be compatible

The Cross Walk Community Church Parcel is zoned Mixed Use, the same zoning designation sought for the rezoning for Candle Factory. Further, Cross Walk Community Church will run and operate the proposed Assisted Living Facility at the Candle Factory site.

- (2) The proposed setback reduction has been evaluated by appropriate county, state, or federal agencies and has been found to not adversely impact the public health, safety or welfare.

The proposed setback reduction has been evaluated as part of this rezoning application and found not to adversely impact the public health, safety or welfare of citizens.

- (3) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;

The reduction of the vegetative buffer along the areas mentioned above has the potential to allow for pedestrian/vehicular connectivity between the Candle Factory development and Cross Walk Community Church and Candle Factory Commercial Complex Parcels.

This setback reduction request was approved by the Planning Commission concurrently with their recommendation of approval for this project.

PRIVATE STREETS:

Section 24-258 (b) of the Zoning Ordinance states that: *'Private streets may be permitted upon approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation.'* The applicant has indicated the possibility of private streets in the some areas of the development, as shown in the master plan, and has proffered (Proffer No. 16) maintenance of the private streets through the Home Owners Association.

RECOMMENDATION:

Staff finds this development, as currently proposed, to be generally inconsistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation for the following reasons:

- Inconsistency with the 2003 Comprehensive Plan Mixed-Use designation for Mixed-Use areas at or near major thoroughfares;
- Inconsistency with the 2003 Comprehensive Plan Limited Industrial land use recommendations; and
- School proffers not consistent with current policy.

Staff notes that two previous proffers related to road improvements (please see below) have been addressed by the applicant during the last Planning Commission meeting and are no longer grouped as reasons for staff's recommendation of denial for this application:

- Traffic Improvement Proffer addressing reconfiguration of the proposed driveway at the Route 60/Croaker Road has been addressed;
- Completion of proffered traffic improvements has been addressed.

Staff recommends denial of this application for the reasons noted above. Should the Board of Supervisors approve this application, the enclosed proffers have been attached to this report for the approval of Board

Members. A positive Board Action should include approval of the private streets proposed as part of this development.

Jose Ribeiro

CONCUR:



JR/gb

Z-003-2008MP-0003-2008_3.doc

Attachments:

1. Revised Master Plan
2. Revised Proffers
3. Unapproved Minutes from April 1, 2009, Planning Commission meeting
4. Resolution
5. The following documents have already been submitted to the Board members prior to the March 10, 2009 meeting and have not been modified:
 - a. Community Impact Statement
 - b. Supplemental Material
 - c. Supplement to Traffic Impact Study (December 11, 2008)
 - d. Location Maps
 - e. Fiscal Impact Study
 - f. Letter Requesting Modifications for Setbacks
 - g. Phase IA Cultural Resources Assessment

RESOLUTION

CASE NO. Z-0003-2008/MP-0003-3008, The Candle Factory

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0003-2008/MP-0003-2008; and

WHEREAS, Mr. Vernon Geddy has applied to rezone properties located at 7551 and 7567 Richmond Road, and further identified as JCC Tax Map Nos. 2321100001D and 232110000E, and a portion of property at 7559 Richmond Road and further identified as James City County Tax Map No. 2321100001A (together the "Properties") from A-1, General Agricultural District, M-1, Limited Business/Industrial District, and MU, Mixed Use District to MU, Mixed Used with proffers to allow the construction of a maximum of 175 residential units; approximately 30,000 square feet of commercial and office space and a 90,000-square-foot assisted living facility; and

WHEREAS, the Properties are designated Low Density Residential, Mixed Use, and Limited Industry on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on April 01, 2009, the Planning Commission recommended approval of the application by a vote of 4-3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-003-2008/MP-0003-2008 described herein, and accept the voluntary proffers.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the request to allow private streets as shown in the Master Plan for Case No. Z-0003-2008/MP-0003-2008.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

Z-03-08_mp03-08_res3

THE CANDLE FACTORY

PROFFERS

THESE PROFFERS are made this 17th day of April, 2009 by CANDLE DEVELOPMENT, LLC (together with its successors in title and assigns, the "Owner") and JOHN B. BARNETT, JR. and JUDITH BARNETT (the "Barnetts").

RECITALS

A. Owner is the owner of two tracts or parcels of land located in James City County, Virginia, with addresses of 7551 and 7567 Richmond Road, and being Tax Parcels 2321100001D and 2321100001E, containing approximately 64.356 acres (the "Candle Property"), and has contractual rights to acquire from the Barnetts a 1.764 acre portion of Tax Parcel 2321100001A (the "Barnett Property"), with the Candle Property and the Barnett Property being more particularly described on Exhibit A hereto (together, the "Property").

B. The Property is now zoned A-1, M-1 and MU. The Property is designated Mixed Use, Light Industrial and Low Density Residential on the County's Comprehensive Plan Land Use Map.

C. The Owner has applied to rezone the Property from A-1, M-1 and MU to MU, with proffers.

D. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC" prepared by AES Consulting Engineers dated September 24, 2008, last revised December 15, 2008 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended (the “Virginia Code”), and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Density.** (a) There shall be no more than 175 dwelling units (“dwelling units”) in Areas 1B and 1C as shown on the Master Plan. There shall be no more than 96 assisted living units (“assisted living units”) in Area 1A as shown on the Master Plan. The term “assisted living unit” shall mean a non-medical residential room in the assisted living facility in Area 1A licensed in accordance with Sections 63.2-1800 et seq. of the Virginia Code and Sections 22 VAC 40-72 et seq. of the Virginia Administrative Code where adults who are aged, infirm or disabled are provided personal and health care services and 24-hour supervision and assistance. Rooms must meet the standards set forth in 22 VAC 40-72-730 and 880. Typically rooms are occupied by one person. No more than two persons may occupy a room and only persons directly related by blood or marriage may occupy the same room.

(b) All assisted living units developed on the Property shall be occupied by persons eighteen (18) years of age or older in accordance with applicable federal and state laws and regulations, including but not limited to: the Fair Housing Act, 42 U.S.C. 3601 et seq. and the exemption therefrom provided by 42 U.S.C. 3607(b)(2)(C) regarding discrimination based on

familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. 3601 et seq.; the Virginia Fair Housing Law Va. Code 36-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a recorded document which shall be subject to the review and approval of the County Attorney prior to issuance of the first building permit for construction in Area 1A.

2. **Owners Association.** There shall be organized a master owner's association for the Candle Factory development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual neighborhoods and for commercial uses within the Property in which all owners in the neighborhood or commercial area, by virtue of their property ownership, also 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, private roads and parking areas, if any, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association 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. The Governing Documents shall authorize the Association to develop, implement and enforce a water conservation plan and nutrient management plan as provided herein.

3. Water Conservation. (a) The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (“JCSA”) 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 drought resistant native and other adopted low water use landscaping materials and warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

(b) In the design phase, Owner shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. If the Owner desires to have outdoor watering of common areas on the Property it shall provide water for irrigation utilizing surface water collection from the surface water ponds or other rainwater collection devices and shall not use JCSA water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

4. **Affordable and Mixed Costs Housing.** A minimum of 19 of the dwelling units shall be reserved and offered for sale at a sales price to buyer at or below \$160,000 subject to adjustment as set forth herein ("Affordable Units"). A minimum of an additional 19 of the dwelling units shall be reserved and offered for sale at a price at or below \$190,000 subject to adjustment as set forth herein. A minimum of an additional 20 of the dwelling units shall be reserved and offered for sale at a price at or below \$225,000 subject to adjustment as set forth herein. The maximum prices set forth herein shall include any adjustments as included in the Marshall and Swift Building Costs Index (the "Index") annually beginning January 1, 2010 until January 1 of the year in question. The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index of the adjusting year. Owner shall consult with and accept referrals of, and sell to, potential buyers qualified for the Affordable Housing Incentive Program ("AHIP") from the James City County Office of Housing and Community Development on a non-commission basis. At the request of the Office of Housing and Community Development, Owner shall provide downpayment assistance second deed of trust notes and second deeds of trust for the Affordable Units for the difference between the appraised value of the Affordable Unit and its net sale price to the purchaser in accordance with AHIP using the approved AHIP form of note and deed of trust. The Director of Planning shall be provided with a copy of the settlement statement for each sale of an Affordable Unit and a spreadsheet prepared by Owner showing the prices of all of the Affordable Unit that have been sold for use by the County in tracking compliance with the price restrictions applicable to the Affordable Units. Affordable Units shall not be constructed all in the same location.

5. **Cash Contributions for Community Impacts.** (a) A contribution of \$4,011.00 for each single family detached 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 shall use these funds for school use.

(b) A contribution of \$1,000.00 for each dwelling unit other than an Affordable Unit and of \$250.00 for each assisted living unit on the Property shall be made to the County for emergency services, off-site road improvements, future water needs, library uses, and public use sites.

(c) A contribution of \$1,217.00 for each single family detached dwelling unit, of \$913.00 for each single family attached dwelling unit and of \$456.00 for each assisted living unit, in each case other than an Affordable Unit, on the Property shall be made to the JCSA for water system improvements.

(d) A contribution of (i) \$631.00 for each single family detached dwelling unit each single family attached dwelling unit other than an Affordable Unit and (ii) \$558.00 for each assisted living unit and (iii) an amount equal to \$2.04 per gallon per day of average daily sanitary sewage flow as determined by JCSA for each non-residential building based on the use of the building(s) shall be made to the JCSA to defray the costs of the Colonial Heritage Pump Station and Sewer System Improvements or any project related to improvements to the JCSA sewer system.

(e) A contribution of \$500 for each dwelling unit shall be made to the County for off-site stream restoration or other environmental improvements in the Yarmouth Creek watershed.

(f) A one-time contribution of \$30,000.00 shall be made to the County for off-site sidewalks. The County shall not be obligated to issue certificates of occupancy for more than 87 residential dwelling units on the Property until this contribution has been paid.

(g) The contributions described in paragraphs (a) through (e) above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or final site plan approval for such unit unless the County adopts a written policy or ordinance calling for payment of cash proffers at a later date in the development process. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above in paragraphs (a) through (e) shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(h) The contribution(s) paid in each year pursuant to this Section and Section 6(e) shall be adjusted annually beginning January 1, 2010 to reflect any increase or decrease for the preceding year in the Index. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (e) of this Section and Section 6(c). The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

6. **Entrances; Traffic Improvements.** (a) The existing private driveway at the Route 60/Croaker Road intersection shall be reconstructed to a public road with a four lane road

section at the Route 60 intersection and tapering to a two lane section. The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall include a left turn lane with 200 feet of storage, a through lane and a right turn lane.

(b) At the intersection of Route 60 and Croaker Road, a right turn lane with 200 feet of storage and a 200 foot taper and with shoulder bike lane from east bound Route 60 into the Property shall be constructed.

(c) At the intersection of Route 60 and Croaker Road, the eastbound left turn lane shall be extended to have 200 feet of storage and a 200 foot taper.

(d) The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation (“VDOT”) standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (c) shall be completed or their completion bonded in form satisfactory to the County Attorney prior to final subdivision plat or site plan approval for development on the Property.

(e) Within 180 days after the County issuing building permits for more than 135 of the residential units on the Property, Owner shall pay to VDOT the costs, not to exceed \$10,000.00, of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of that signal and the signal at the Croaker Road/Route 60 intersection.

(f) Subject to the prior approval of VDOT and when sidewalk has been constructed on the north side of Route 60 at the Croaker Road/Route 60 intersection to receive pedestrians, Owner shall install or pay the costs of installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection (“Pedestrian

Improvements”). The County shall not be obligated to issue building permits for more than 100 residential units on the Property until either (i) the Pedestrian Improvements have been installed, or (ii) Owner shall have paid the costs of such improvements to the County or posted a bond in form satisfactory to the County Attorney for the installation of such Pedestrian Improvements.

7. Connections to Adjacent Properties. Owner shall provide pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001C) generally as shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Property. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of final site plan approval for the phase of the development in which such connection is located.

8. Streetscape Guidelines. The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County’s Streetscape Guidelines policy or, with the permission of VDOT, the plantings (meeting County standards for plant size and spacing) may be installed in the adjacent VDOT right-of-way. 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 subdivision or site plan approval process. Street trees shall be located no farther than 10 feet from the edge of pavement, subject to VDOT approval. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential or non-residential units adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential or non-residential units in adjacent structures.

9. Recreation. (a) The following recreational facilities shall be provided: approximately 3.65 acres of parkland; one centrally located, shared playground at least 2,500 square feet in area with at least five activities either in composite structures or separate apparatus; one picnic shelter of at least 625 square feet; a minimum eight foot wide, concrete or asphalt shared use path along one side of the entrance road approximately .36 miles in length and an additional approximately .94 miles of soft surface walking trails generally as shown on the Master Plan; one paved multi-purpose court approximately 50' x 90' in size; and two multi-purpose fields, one of which will be at least 200' x 200' in size. The exact locations and design of the facilities proffered hereby and the equipment to be provided at such facilities shall be shown on development plans for the Property and approved by the Director of Planning. Recreational facilities shall be constructed at the time of the construction of the phase of the development in which they are located or immediately adjacent to as shown on the development plans for 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 Parks and Recreation Master Plan as determined by the Director of Planning

10. Archaeology. If required by the Director of Planning, 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.

11. Design Guidelines and Review; Sustainable Building. Owner shall prepare and submit design review guidelines to the Director of Planning for his review and approval setting forth design and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on file with the Planning Department and the general intent of the design standards outlined in Comprehensive Plan for the Norge Community Character Area and incorporating appropriate and suitable sustainable building practices listed in the NAHB Model Green Building Guidelines, 2006 edition, including, without limitation, energy efficiency features such as use of

air sealing packages, energy star rated windows, heat pump efficiency, water efficiency features such as low flow fixtures, and use of recommended lot design, preparation and development practices, such as use of native plant species, water conservation features, nutrient management and limiting development on steep slopes, for the approval of the Director of Planning prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). Once approved, the Guidelines may not be amended without the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans.

12. Sidewalks. There shall be sidewalks installed on at least one side of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design.

13. Curb and Gutter. Streets (but not the private alleys) within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified by the Director of Planning along those segments of street, including entrance roads, where structures are not planned.

14. Master Stormwater Management Plan. (a) Owner shall submit to the County a master stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated September 24, 2008 ("Stormwater Plan") and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County's 10 point stormwater management system requirements and the special stormwater criteria applicable in the Yarmouth

Creek watershed (“SSC”) and, in addition, including additional LID measures to treat stormwater from 30% of the impervious areas on the Property, which additional LID measures are over and above those necessary to meet the 10 point and SSC requirements. Prior to the County granting final approval of any subdivision or site plan, Owner shall submit to the Environmental Division a geotechnical report from a duly licensed engineer confirming the embankment of Marston’s Pond is structurally sound or indentifying any repairs needed to make the embankment structurally sound. Any necessary repairs shall be incorporated into the development plans for the Property. The master stormwater plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The master stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior approval of the Environmental Division. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

15. Nutrient Management Plan. The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office (“VCEO”) or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the “Plans”) for all common areas within the Property and each individual single family lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County’s Environmental Director for his review and approval prior to the issuance of the building permits for more than 25% of the units shown on the subdivision plat. Upon approval, the Owner so long as it controls

the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants. The County shall be provided evidence of the seminars taking place by submitting to the Planning Director a seminar agenda and or minutes no later than 10 days after each seminar.

16. **Private Streets.** All private streets, if any, and alleys on the Property shall be maintained by the Association. The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee prior to final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

17. **Development Phasing.** The County shall not be obligated to grant final subdivision plat or site plan approval for more than the number of lots/dwelling units on a cumulative basis set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Lots/Units</u>
1	55
2	115
3 and thereafter	175

18. Water and Sanitary Sewer Master Plan. Owner shall submit to the JCSA for its review and approval a master water and sanitary sewer plan for the Property prior to the submission of any development or subdivision plans for the Property.

19. Route 60 Median Landscaping. Subject to VDOT approval, Owner shall install landscaping as provided herein in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet. The landscaping shall consist of 20 street trees at least 125% of Ordinance caliper size requirements. A landscape plan for the median shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer and the County's Streetscape policy. The median shall be planted or the planting bonded in a form satisfactory to the County Attorney prior to the County being obligated to issue building permits for buildings located on the Property.

20. Crosswalks. Subject to VDOT approval, Owner shall provide a crosswalk across Croaker Road from Tax Parcel 2321100001B to Tax Parcel 2321100001C and crosswalks providing access to the two internal parks on the Property both in the locations generally as shown on the Master Plan at the time the final layer of pavement is placed on the segment of Croaker Road where the crosswalks are located.

21. Right of Way Reservation. Owner shall reserve the area shown on the Master Plan as "Corridor to Adjacent Property Reserved for Possible Future Road/Pedestrian

Connection” for the possible future public road/sidewalk connection to the adjacent property. Owner shall have no responsibility to construct a connecting road/sidewalk in this area and shall not be obligated to permit the owners of the adjacent parcel to construct a road/sidewalk in such area unless and until Owner and the owner of the adjacent parcel have entered into an agreement addressing compensation for the Owner and/or the Association for the right of way, permitting, construction easements and obligations, such as appropriate replanting of disturbed areas, and addressing responsibility for the costs of any required road or traffic signal improvements on Owner’s property warranted by the additional traffic from the adjacent parcel.

22. **Master Plan**. The Property shall be developed generally as shown on the Master Plan. Development plans may deviate from the Master Plan as provided in Section 24-518 of the Zoning Ordinance.

23. **Phased Clearing**. The Property shall be developed in phases in accordance with the approved site plan or plans for the development. Owner shall only clear the area necessary for the construction and operation of the phase then under development. Such necessary clearing includes, without limitation, clearing for roads, sidewalks, trails, building sites, recreational facilities and areas, utility connections, earthwork and grading, soil stockpiles and stormwater management. The limits of clearing for each phase shall be subject to the approval of the Environmental Director or his designee.

WITNESS the following signatures.

CANDLE DEVELOPMENT, LLC

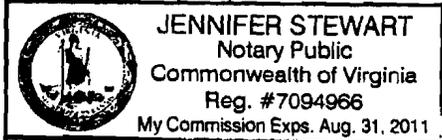
By: [Signature]

John B. Barnett, Jr.

Judith Barnett

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged this 20th day of
April, 2009, by Peter Henderson, as Owner of Candle Development, LLC
on behalf of the company.



Jennifer Stewart
NOTARY PUBLIC

My commission expires: August 31, 2011.
Registration No.: 7094966.

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____ day of
_____, 2009, John B. Barnett, Jr. and Judith Barnett, husband and wife.

NOTARY PUBLIC

My commission expires: _____.
Registration No.: _____.

Exhibit A
Property Description

Parcel D1

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel D1 as shown on a certain plat entitled "PLAT OF SUBDIVISION ON THE PROPERTY OWNED BY JOHN B. BARNETT JR., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 6, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No.

and

Parcel E

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel E as shown on a certain plat entitled "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY JOHN B. BARNETT JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 4, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 060013607.

And

Portion of Parcel A

PROPERTY DESCRIPTION
A PORTION OF PARCEL "A"
TAX MAP PARCEL #(23-2)(11-1A)
CONTAINING A TOTAL OF 1.764 ACRES±

ALL THAT CERTAIN PORTION OF PARCEL "A", TAX MAP PARCEL #(23-2)(11-1A), SITUATE, LYING AND BEING IN THE POWHATAN DISTRICT OF THE COUNTY OF JAMES CITY, VIRGINIA, CONTAINING A TOTAL OF 76,820 SQUARE FEET± OR 1.764± ACRES MORE OR LESS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60; A CORNER OF PARCEL "B", NOW OR FORMERLY OWNED BY CROSSWALK COMMUNITY CHURCH, INC., TAX MAP PARCEL #(23-2)(11-1B); THENCE IN A EASTERLY DIRECTION AND ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60,

S70°01'07"E, 573.20' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 2824.79' AND AN ARC LENGTH OF 14.83' TO A POINT; THIS BEING THE TRUE POINT OF BEGINNING (P.O.B.) AND THE NORTHWESTERN CORNER OF PARCEL "A" OF THE PROPERTY DESCRIBED HEREON.

THENCE FROM SAID TRUE POINT OF BEGINNING, SAID POINT BEING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, A CORNER TO PARCEL "A" OF THE PROPERTY DESCRIBED HEREON AND PARCEL "E" OF THE LANDS NOW OR FORMERLY OWNED BY CANDLE DEVELOPMENT, LLC; THENCE CONTINUING ALONG THE RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 2824.79' AND AN ARC LENGTH OF 25.14' TO A POINT; A CORNER TO PARCEL "A" OF THE PROPERTY DESCRIBED HEREON AND PARCEL "D" OF THE LANDS NOW OR FORMERLY OWNED BY CANDLE DEVELOPMENT, LLC; THENCE LEAVING SAID CORNER AND RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, S26° 33'06"W, 399.43' TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 583.96' AND AN ARC LENGTH OF 71.64' TO A POINT; THENCE S19° 31'22"W, 247.60' TO A POINT, THENCE S36° 52'20"W, 2358.01' TO A POINT; THENCE N51° 43'03"E, 25.01' TO A POINT; THENCE N36° 52'20"E, 2353.58' TO A POINT; THENCE N19° 31'22"E, 243.78' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 608.96' AND AN ARC LENGTH OF 74.71' TO A POINT; THENCE N26° 33'06"E, 396.79' TO THE AFORESAID TRUE POINT OF BEGINNING;

THAT PORTION OF PARCEL "A" AND THE PROPERTY DESCRIBED HEREON IS MORE PARTICULARLY SHOWN ON THAT CERTAIN PLAT ENTITLED, "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OF JOHN B. BARNETT, JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC.", DATED APRIL 4, 2006, REVISED MAY 5, 2006 AND DULY RECORDED AT THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF JAMES CITY, VIRGINIA AS INSTRUMENT #060013607.

UNAPPROVED MINUTES OF THE APRIL 1, 2009 PLANNING COMMISSION
MEETING

Z-0003-2008 / MP-0003-2008 The Candle Factory

Mr. Ribeiro stated that on January 7, 2009 the Planning Commission voted 4-2, with one vacancy, to recommend approval of this application. However, staff was notified by the County Attorney's Office that the applicant had notified them of a procedural error that occurred when the applicant turned in the rezoning application for this project. The signature of one of the original owners of the property, Mr. Jack Barnett, was missing from the application. Mr. Barnett is the owner of a 25-foot-wide access strip which runs north-south through the property. Mr. Ribeiro stated that to ensure that there would be no further procedural issues, staff was advised by the County's Attorney's Office that the case needed to return to the Planning Commission prior to moving forward. At the March 10th meeting, the Board of Supervisors opened and closed the public hearing on the Candle Factory case and referred the case back to the Planning Commission for consideration.

Mr. Ribeiro stated this proposal has not changed much since its recommendation by the Planning Commission on January 07, 2009. The pertinent modification pertains to a new proffer, Proffer No. 21-Right of Way Reservation. This proffer was designed by the applicant to address comments made by the commission regarding connectivity with adjacent parcels. As highlighted in the staff report, staff finds that the proffer as written makes such connectivity difficult. As presented during January 09, 2009, staff finds this proposal not acceptable, and recommends that the Planning Commission recommend denial.

Ms. Kratter noted the overall negative impact on the economy if the proposed assisted living facility is not built. She also noted the report done by the Wessex Group, which proposed that there would be certain benefits to the County during the construction phase. Staff remarked that this may have been overstated. The Code Compliance and Environmental spending were not included with the figures. Ms. Kratter asked if staff knew what the diminution of the positive would be during that time period.

Mr. Ribeiro answered that he did not know. He stated he believed that building permits would be consistent with some of the positive aspects of this application. He did not know the exact numbers.

Mr. Henderson asked about the alignment of the twenty five foot access strip, does it provide for its relocation based upon an approved master plan. He stated that the road alignment shown as the proffered master plan differs from the 25 foot access strip that is reserved. He stated that without the property owner's compliance and agreement on the relocation, the proffered master plan would in essence be invalid.

Mr. Ribeiro deferred the question to the applicant.

Mr. Krapf opened the public hearing.

Mr. Vernon Geddy spoke on behalf of the applicant. He stated that the application presented is basically the same presented a few months ago. Mr. Geddy stated there is a contractual arrangement with Mr. Barnett, the owner of the twenty five foot road access strip. He stated that as the public road is constructed, Mr. Barnett will release the easement. Mr. Geddy stated that the first phase for development, if approved, would be the townhouse section. It would be located on the left from the entrance road. Mr. Geddy stated that the applicant intends to begin construction immediately. He stated that it would also be the applicant's intentions to clear what is necessary to begin construction. He stated that the entire site would not be cleared but just the area necessary for construction. This would include the footprints of the buildings, roads, and utility connections that would be necessary.

Ms. Kratter asked what this developer could do, that other developers have not been able to do in the County. She was referring to the fact that land has been cleared in the County, but no construction has taken place.

Mr. Geddy answered that many developers have halted building due to financing and a number of other factors. He does not necessarily feel it is because a product would not sell in this market. He stated that the applicant has done research as to what will sell in this area, and they are willing to commit their capital in order to begin the project.

Ms. Kratter asked for clarification as to what phases would be cleared and when.

Mr. Geddy stated that the site plan would illustrate the exact limits of clearing for a particular phase, but it has not been prepared for this project yet. He did show the vegetation currently on site and the limits of clearing that are proposed. He pointed out the area where work would begin, clearing associated with that, and then construction.

Ms. Kratter asked how many units are in the initial area.

Mr. Geddy answered he was not sure if exact numbers have been determined yet.

Ms. Kratter stated that it is the assisted living portion of the project that makes this a positive benefit to the County from a monetary standpoint. She stated that it was her interpretation of the plan that the assisted living would be developed later, and her suggestion would be to have the assisted living portion developed first.

Mr. Geddy stated he could not commit to that section being one of the first to be developed. Currently, the plan is to have the assisted living section be part of the Crosswalk Community Church. He stated that it was in the plan to have the Church build this section, own and operate it.

Ms. Kratter stated that it could potentially be an economic deficit for the County if that section is not built. She was inquiring as to what the applicant can do to mitigate this. Ms. Kratter made the point that the assisted living portion is a significant part of the application. If it changes, many aspects of the development would be affected, such as density. Ms. Kratter

expressed concern should this section never be built. She understands that the applicant takes a risk, but she would like to do something to mitigate the risk for the County.

Mr. Geddy was not aware of anything that the applicant could do in this regard.

Ms. Kratter asked if there was any consideration given to increasing the school proffers since it was calculated using old standards, especially given the current economic conditions.

Mr. Geddy stated that the applicant has complied with the Board of Supervisor's adopted policies with regards to cash proffers. He envisions discussions taking place during the Board of Supervisor's meeting.

Ms. Kratter asked about the Homeowner's Association's (HOA) responsibility for the recreational areas and trails. She asked if there was a cost estimate associated with this.

Mr. Geddy stated that the numbers have been calculated, he was just unsure what they were.

Ms. Kratter expressed her concern given that this would be a small HOA it may be difficult for them to maintain the recreational areas and trails. She wanted to protect the County in that they would not be responsible for items that the HOA may not be able to maintain.

Mr. Geddy stated that the applicant was aware of the importance of balance. He stated the applicant has done extensive research on these types of projects, and has one similar in progress at West Point.

Ms. Kratter stated that the Commission is being asked to approve this application without knowing this study has been verified and deemed accurate.

Mr. Geddy stated the Homeowner's Association Act requires that a capital reserves study is done every five years in order to ensure sufficient funds area maintained to be able to provide maintenance for their facilities.

Ms. Kratter pointed out that yes it is a Homeowner's Association issue, but it becomes a community issue if it turns out the maintenance cannot be performed. She asked about responsibility of maintenance, whereas if other sections are not built on a continual basis, will the maintenance of infrastructure that is already in place, fall on those in sections already built.

Mr. Geddy stated that all the main streets are public and would fall under VDOT's responsibility. He stated homeowners would be responsible for their property and their parking areas, etc.

Ms. Kratter expressed her concerns that in other areas of the County, the developer has turned areas over to the HOA's and even lent money to the HOA to handle maintenance until buildout, and then there is not buildout. She is concerned with a small HOA being responsible for a very large expense.

Mr. Fraley asked if the applicant was willing to proffer the phased clearing and the purposes that the clearing would be done.

Mr. Geddy stated yes they would be willing to proffer this.

Mr. Henderson expressed his concern about the language concerning the right of way reservation. He stated the practicality of getting a permit to construct the road, would involve a court issue with the Resource Protected Area (RPA). He asked if the applicant would be securing a permit as a part of its development activities.

Mr. Geddy answered no, he did not believe so.

Mr. Rich Costello, of AES Consulting Engineers, stated that some permits would be required for the utilities. Permits from the Army Corp of Engineers may not be necessary. He sees a potential problem in obtaining these permits in that they have time limits.

Mr. Henderson stated that unless there was an agreement with the adjoining property owner to pursue it simultaneously, and to construct the access as part of the development of the site. He asked if that is how the applicant would approach this.

Mr. Costello stated that only a certain number of units will be allowed per year.

Mr. Geddy stated that at this point the adjacent property is zoned A-1, and the applicant has attempted to design the connection at the narrowest point of the ravine. He was unsure of proposed anything further without knowing what would be developed on the adjacent property.

Mr. Henderson expressed his concern about this situation creating a right of way that may be relocated by an issue with the Army Corp of Engineers.

Mr. Geddy felt that this was the best the applicant could do at this time without the knowledge of the adjacent property.

Mr. Henderson asked if the easement language provide some flexibility, and the ability to cross the property owner's property would be noted.

Mr. Geddy stated yes.

Mr. Henderson did not want to create a circumstance where something is dedicated, but ultimately cannot be built.

Mr. Billups asked if the applicant was willing to abide by the conditions in the staff report, even though staff recommended denial.

Mr. Geddy stated that the basis of the denial was due to interpretation of the Comprehensive Plan, and not specific items that may have been suggested, that the applicant was

not willing to do.

Mr. Billups asked about the interconnectivity standards, the road construction and VDOT's involvement.

Mr. Geddy stated this plan will meet VDOT and the County's approval.

Mr. Billups asked about the timeline for the affordable housing units and the assisted living units. He asked if there was any flexibility in the timeline that these sections were due to be constructed.

Mr. Geddy answered that it is possible.

Ms. Kratter expressed her concerns that this plan was being viewed in isolation without knowing the cumulative impact of what is planned for the future, and the nature of those plans. She is concerned of the number of affordable homes and workforce housing that are approved and yet to be built, given that the market has slowed and prices are decreasing. She stated it was difficult to determine the real public benefit without an ability to accurately assess the need, especially since it appears that the project will not provide favorable benefits to the County during difficult economic times.

Mr. Geddy stated that the initial construction phase of the project is all favorable.

Ms. Kratter asked about the construction dollars generated in the initial phases, although it will dependent on how much of the materials and labor will utilize County resources.

Mr. Geddy answered that the owner, the site contractor, and the builder are based in the County.

Ms. Barbara Pfeiffer, of 103 Links of Leith, questioned the number of units that are built in the different phases. She expressed her concerns of clearing the land, either in phases, or clear all in anticipation of building. She stated staff recommended denial of the application due to nonconformance with the Comprehensive Plan. Ms. Pfeiffer then questioned the need for a Comprehensive Plan if it were not followed.

Mr. Krapf closed the public hearing.

Mr. Murphy wanted to clarify the comment of funding for private streets. He stated there is a proffer provision that provides for seed money for all private streets, provided by the applicant.

Mr. Henderson mentioned that there is a land use application before the Steering Committee to change the land use designation. This change, if approved, would make the proposed development in compliance with the Comprehensive Plan. He stated that this change was brought forward by staff.

Mr. Poole mentioned that the revision to the Comprehensive Plan is not yet in place, and expressed his concerns about making a decision based on the fact that it may change in the future. He expressed his appreciation for the architectural designs and the applicant's interest in phased clearing. He did not, however, like the idea of leapfrogging, of what he considered high density residential from Williamsburg, to Lightfoot, to Norge, to Toano, etc. Mr. Poole felt that this proposal continues this type of transformation of A-1 property into multi-family. He felt that the County should not continue to incrementally add residential units in addition to what has already been approved.

Ms. Kratter added her concern about the character of the County. She wanted to compliment the applicant on a very thoughtful plan that has some great environmental sensitivity. She stated overall, she did not feel that this was something that the County can risk from a financial standpoint.

Mr. Fraley mentioned that staff has allowed for work to be done in assessing cumulative impacts in the work management program. He stated some work has been done concerning this already. He stated the traffic study did and has included cumulative impacts over the last few years. Mr. Fraley stated that on principle he stands opposed to new residential development in the County. He feels that there is a large inventory of homes currently existing. He feels that in this case there are other considerations. Mr. Fraley stated that according to citizen input during the Comprehensive Plan update, citizens rated the availability of affordable housing was rated excellent or good by 23% of the respondents. It also showed the variety of housing options was rated excellent or good by 35% of respondents. Mr. Fraley stated these responses represent two of the three least positive ratings provided by the citizens. He stated the Va Tech survey showed the same questions decreasing in percentages as to being excellent or good from the last survey conducted for the last Comprehensive Plan. He stated that the Citizen Participation Team determined housing as a topic of concern among the citizens that participated. Mr. Fraley stated the respondents wanted to see more mixed cost housing, and more workforce and affordable housing, and have these types of housing integrated throughout the community. He stated he felt the benefits of the project were mixed cost housing, inclusion of affordable and workforce housing, unusual environmental protections, and adherence to the principles of open space design. These are all mentioned as public benefits in the current Comprehensive Plan. Mr. Fraley stated that these benefits will cost the County money. He felt the commercial component of the project has potential to make the project a positive benefit.

Mr. Krapf agreed many of the comments from his fellow Commissioners. He stated the Comprehensive Plan is a guideline to go by. He is very much against residential development until it is determined what is already planned, but felt in this case the positive benefits outweigh those concerns, such as the environmental protections, the quality of design, the low density, and the affordable and workforce housing proposed.

Mr. Billups expressed his concerns of approving an application that staff has recommended denial. He would like to see the completion of the Comprehensive Plan update done before more residential developments are approved. He does not believe this application provides a public benefit to the County.

Mr. Poole moved to deny the application.

Ms. Kratter seconded the motion.

In a roll call vote the motion failed. (3-4) AYE: Poole, Kratter, Billups; NAY: Fraley, Henderson, Peck, Krapf.

Mr. Henderson moved to approve the application.

Mr. Fraley seconded the motion.

In a roll call vote the motion was approved. (4-3) AYE: Fraley, Henderson, Peck, Krapf; NAY: Poole, Kratter, Billups.

MEMORANDUM

DATE: April 28, 2009
 TO: The Board of Supervisors
 FROM: Larry M. Foster, General Manager, James City Service Authority
 SUBJECT: Property Sales – 155 and 237 Louise Lane

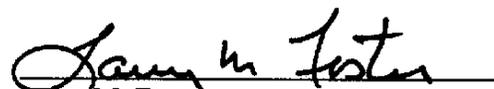
In the mid-1980s the James City Service Authority (JCSA) purchased several parcels as a property reserved for what was intended to be the Ware Creek Reservoir basin. While the JCSA paid for the property, the parcels were deeded to James City County.

As the Board is aware, the Ware Creek Reservoir was abandoned by the County in the early 1990s after an extended legal battle with the United States Environmental Protection Agency who vetoed the project. There is no hope of reviving the Ware Creek project. Therefore, the property is surplus.

A map showing the location and assessed value of the parcels is attached.

<u>Address</u>	<u>Acres</u>	<u>Assessment</u>
155 Louise Lane	2.1	\$29,500
237 Louise Lane	1.7	\$ 7,500

This meeting has been advertised as a public hearing on the sale of the parcels. After receiving public comment it is recommended that the Board approve the attached resolution authorizing the sale for no less than 90 percent of the assessed value of the property and that the proceeds be returned to the JCSA.


 Larry M. Foster

LMF/gb
 PropertySale_mem

Attachments

RESOLUTION

PROPERTY SALES – 155 AND 237 LOUISE LANE

WHEREAS, the two parcels of property listed below were purchased by the James City Service Authority (JCSA) for the Ware Creek Reservoir project and deeded to James City County have been determined to be surplus; and

WHEREAS, a public hearing was conducted on April 28, 2009, by the Board of Supervisors to receive public comment on the sale of the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the sale of parcels below for no less than 90 percent of the assessed value.

155 Louise Lane, James City County Real Estate Tax Map No. 1310200020
237 Louise Lane, James City County Real Estate Tax Map No. 1310200033

BE IT FURTHER RESOLVED that the proceeds from the sale of the property be returned to the JCSA.

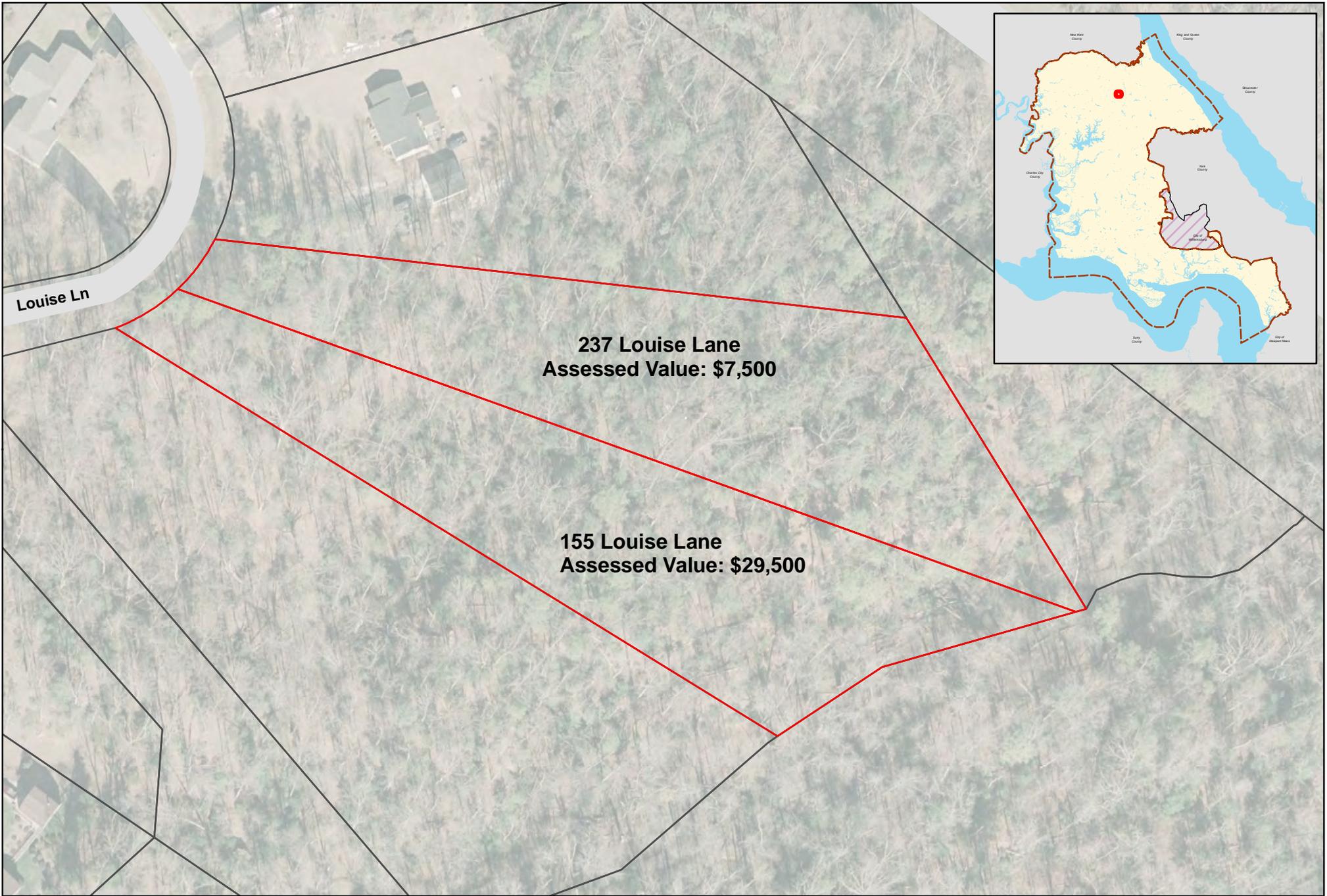
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

PropertySale_res



Surplus property on Louise Lane



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such.

MEMORANDUM

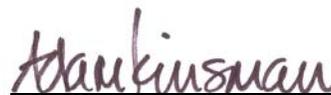
DATE: April 28, 2009
TO: The Board of Supervisors
FROM: Adam R. Kinsman, Deputy County Attorney
SUBJECT: Ordinance to Amend Chapter 4, Building Regulations, Division 2, Permit and Inspection Fees, Adding Article VII, Unsafe Buildings and Structures, Section 4-76, Unsafe Buildings and Structures

Over the past few years, a number of buildings that may be considered unsafe have been discovered in the County. For example, two such buildings are located at 9032 Barnes Road and 2809 Durfey's Mill Road. Each of these two buildings was gutted by fire and has remained in this state of disrepair for more than a year. While staff has historically been successful in getting owners of unsafe structures to voluntarily remove the structure, recently owners have become more reluctant to do so. Consequently, staff has been forced to explore other options to abate these threats to public health and safety. One such way is to adopt an ordinance addressing unsafe buildings and structures.

The proposed ordinance establishes a process for addressing unsafe building, walls, and structures in the County (for simplicity, the term "building" will be used throughout, but the process is the same for an unsafe wall or structure). When a building is determined to be unsafe by the building official or fire official, a notice is served to the owner and lienholder of the building. This notice will require that the building be made safe within 30 days of receiving notice from the building or fire official. If the owner fails to take the required remedial action, the County may then remove, repair, or secure the building.

If the County or its agents removes, repairs, or secures the building, the costs of such an action are chargeable to the property owner and such costs constitute a lien on the property and may be collected as taxes are collected. Though the County may not get an immediate return of its expenses, a property lien is good security for its future return. Finally, property owners who fail to take the action required in the notice are subject to a civil penalty of \$1,000.00. Not only will this help the County recoup some of its expenses, but it will serve as an impetus for owners to voluntarily remove unsafe buildings.

Staff recommends adoption of the attached ordinance.



Adam R. Kinsman

CONCUR:



Leo P. Rogers

ARK/gb
Chp4Art7_mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING DIVISION 2, PERMIT AND INSPECTION FEES, BY ADDING ARTICLE VII, UNSAFE BUILDINGS AND STRUCTURES, SECTION 4-76, UNSAFE BUILDINGS AND STRUCTURES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, is hereby amended and reordained by adding Article VII, Unsafe Buildings and Structures, Section 4-76, Unsafe buildings and structures.

Chapter 4. Building Regulations

Division 2. Permit and Inspection Fees

Article VII. Unsafe Buildings and Structures

Sec. 4-76. Unsafe buildings and structures.

(a) The building official or fire official may require property owners to remove, repair, or secure any building, wall, or other structure which is located on their property and which the building official or fire official has determined poses a danger to public health or safety of other residents of the county.

(b) If the building official or fire official determines that a building, wall, or structure poses a danger to public health or safety he shall cause a notice to be served on the owner and any recorded lien holder of the building, wall, or other structure, requiring the owner to remove,

repair, or secure the building, wall, or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the county. No action shall be taken by the county to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the county may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

(c) The property owner shall remove, repair, or secure the building, wall, or structure, as required by the notice, within 30 days after notice has been given to the owner and any recorded lien holder of such property as provided in subsection (b), whichever is later. If the owner fails to take the action required in the notice within the 30-day period, the building official or fire official may remove, repair, or secure the building, wall, or structure, as required by the notice.

(d) In the event the county, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes are collected.

(e) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, title 58.1, chapter 39, article 3 (sections 58.1-3940 et. seq.) and article 4 (sections 58.1-3965 et. seq.), as amended. The county may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(f) In addition to the remedies set forth above, any owner of such property who fails to take the action required in the notice within the 30-day period shall be subject to a civil penalty of \$1,000.00.

** State law reference - Authority to require removal, repair, etc., of buildings and other structures, see Code of Va., § 15.2-906.*

James G. Kennedy, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 28th day of April,
2009.

Ch4Sec4-76_ord

MEMORANDUM

DATE: April 28, 2009

TO: The Board of Supervisors

FROM: Sanford B. Wanner, County Administrator

SUBJECT: Ordinance to Amend Chapter 8, Erosion and Sediment Control, by Amending Section 8-5, Permits, Fees, and Bonding, Etc. and Case No. ZO-0002-2009, Zoning Ordinance Amendment – Fee Addition – Home Occupation Application

At the April 14, 2009, Board of Supervisors meeting, public hearings were held on a proposed new fee and two fee changes to the Erosion and Sediment Control Ordinance and on a proposed new fee for a Home Occupation Application. Staff recommends that the Board defer consideration of these items pending further staff review until the October 27, 2009, meeting.



Sanford B. Wanner

SBW/nb
AmendCh8_mem

Attachment

M E M O R A N D U M

DATE: April 28, 2009

TO: The Board of Supervisors

FROM: Douglas H. Murrow, Director of Code Compliance

SUBJECT: Ordinance to Amend Chapter 4, Building Regulations, Division 2. Permit and Inspection Fees, Section 4-8, Generally.

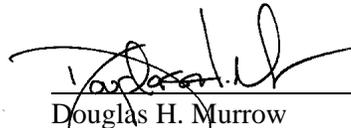
Part II A of the Virginia Amusement Device Regulations (VADR) includes guidelines for the Enforcement Permits and Certificates of Inspection for amusement devices. The local building department shall be responsible for the enforcement of this chapter and may charge fees for such enforcement activity. The total amount charged for any one permit to operate an amusement device or devices or the renewal of such permit shall not exceed the amounts noted in this chapter, except that when a private inspector is used, the fees shall be reduced by 50 percent. The fees listed below are as suggested by the VADR. They are also closely comparable with the fees charged by York and Hanover Counties.

The ordinance amendment to Code Section 4-8 adds the following items:

(11) *Amusement Device Fees.*

- a. The fee for the inspection of amusement devices shall be:
1. \$25.00 for each kiddie ride covered by the permit;
 2. \$35.00 for each circular ride or flat-ride less than 20 feet in height covered by the permit;
 3. \$55.00 for each spectacular ride covered by the permit which cannot be inspected as a circular ride or flat-ride in Subdivision 2 of this subsection due to complexity or height; and
 4. \$150.00 for each coaster covered by the permit which exceeds 30 feet in height.

Staff recommends adoption of the attached ordinance.



Douglas H. Murrow

CONCUR:



Steven W. Hicks

DHM/gb
Chap4Sec4-8_mem2

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, VIRGINIA UNIFORM STATEWIDE BUILDING CODE; DIVISION 2, PERMIT AND INSPECTION FEES, SECTION 4-8, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, is hereby amended and reordained by amending Section 4-8, Generally.

Chapter 4. Building Regulations

Article I. Virginia Uniform Statewide Building Code

Division 2. Permit and Inspection Fees

Sec. 4-8. Generally.

Permit and inspection fees are hereby established in accordance with the provisions of the Virginia Uniform Statewide Building Code, as follows:

(11) Amusement Device Fees.

a. The fee for the inspection of amusement devices shall be:

1. \$25.00 for each kiddie ride covered by the permit;

2. \$35.00 for each circular ride or flat-ride less than 20 feet in height covered by the permit;

3. \$55.00 for each spectacular ride covered by the permit which permit which cannot be inspected as a circular ride or flat-ride in subdivision 2 of this subsection due to complexity or height; and

4. \$150.00 for each coaster covered by the permit which exceeds 30 feet in height.

This ordinance shall become effective July 1, 2009.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

Chap4Sec4-8_ord

MEMORANDUM

DATE: April 28, 2009
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services
SUBJECT: Appropriation Resolution - FY 2010 Budget

Attached is the Appropriation Resolution for the FY 2010 Budget. The resolution reflects the County Administrator's Proposed Budget and the following changes:

License, Permits, and Fees	(\$24,000)
Nondepartmental	(\$24,000)

Suzanne R. Mellen

SRM/nb
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Attachment

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010, and a five-year Capital Improvements Program, the last four years for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2009, and ending June 30, 2010, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the FY 2010 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2010</u>
General Property Taxes	\$106,781,577
Other Local Taxes	18,480,000
Licenses, Permits and Fees	7,365,750
Fines and Forfeitures	350,000
Revenue from Use of Money and Property	780,000
Revenue from the Commonwealth	25,453,787
Revenue from the Federal Government	5,868
Charges for Current Services	4,733,175
Miscellaneous Revenues	<u>160,500</u>
TOTAL REVENUES	<u>\$164,110,657</u>

GENERAL FUND EXPENDITURES

	<u>FY 2010</u>
Administrative	\$ 1,414,928
Citizen Services	911,001
Elections	295,146
Human Resource	749,886
Financial Administration	3,927,138
General Services	7,156,573
Information Resource Management	2,026,495
Development Management	3,707,308
Judicial	2,263,290
Public Safety	21,427,760

Community Services	6,044,987
Contributions - Outside Agencies	2,933,282
Library and Arts Center	4,492,457
Health Services	1,552,118
Other Regional Entities	3,117,864
Nondepartmental	4,541,674
WJCC Schools	94,832,696
Contribution - Capital Projects Fund	600,000
Contributions - Other Funds	<u>2,116,054</u>
TOTAL EXPENDITURES	<u>\$164,110,657</u>

The appropriation for education includes \$74,394,700 as a local contribution to the Williamsburg-James City County Schools operations.

2. That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.77
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated:

CAPITAL PROJECTS BUDGET - FY 2010

Revenues and Other Fund Sources:

Contribution - General Fund	600,000
Proffers	489,698
Debt Financing	20,700,000
Excess Bond Proceeds (Fund Balance)	5,830,000
Reallocated Capital Balances (Fund Balance)	1,300,000
Other	<u>300,000</u>
	<u>\$29,219,698</u>

Expenditures:

Schools:

New Facilities	\$3,418,568
Capital Maintenance	4,911,630

Other County:

New Public Facilities	20,111,000
Capital Maintenance	<u>778,500</u>
	<u>\$29,219,698</u>

DEBT SERVICE BUDGET – FY 2010

From General Fund - Schools	\$20,000,000
From General Fund - Other	4,167,170
VPSA Refinancing Credit	201,000
Excess Bond Proceeds	2,500,000
Interest Earned on Construction	<u>150,000</u>
Total Debt Service Fund Revenues	<u>\$27,018,170</u>
Current Year Expenditures	\$26,824,235
To Fund Balance/Capital Reserve	<u>193,935</u>
Debt Service Fund Disbursements	<u>\$27,018,170</u>

VIRGINIA PUBLIC ASSISTANCE FUND - FY 2010

Revenues:

From the Federal Government/Commonwealth	\$4,366,987
From the General Fund	1,466,288
Fund Balance	384,500
Grant	<u>34,136</u>
Total Virginia Public Assistance Fund Revenues	<u>\$6,251,911</u>

Expenditures:

Administration and Assistance	<u>\$6,251,911</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$6,251,911</u>

COMMUNITY DEVELOPMENT FUND - FY 2010

Revenues:

General Fund	\$ 532,340
Grants	1,642,496
Generated Program Income	70,000
Fund Balance	<u>50,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,294,836</u>

Expenditures:

Administration and Programs \$2,294,836

Total Community Development Fund
Expenditures \$2,294,836

SPECIAL PROJECTS/GRANTS FUND - FY 2010

Revenues:

Revenues from the Commonwealth \$275,850
Transfer from General Fund 217,426
From the School Division 112,000
\$605,276

Expenditure:

Comprehensive Services Act \$605,276

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings.
7. All outstanding encumbrances in all County funds at June 30, 2009, shall be an amendment to the FY 2010 budget, and appropriated to the FY 2010 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of
April, 2009.

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MEMORANDUM

DATE: April 28, 2009
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Endorsement of the County's FY 2010 Strategic Management Plan

The County's Strategic Management Plan is an important document that guides our actions over the next few years. As part of the adoption of the Budget, I recommend that the Board endorse the County's FY 2010 Strategic Management Plan by adopting the attached resolution.



Sanford B. Wanner

SBW/gb
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Attachment

RESOLUTION

ENDORSEMENT OF THE COUNTY'S FY 2010 STRATEGIC MANAGEMENT PLAN

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the FY 2010 Strategic Management Plan.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of April, 2009.

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