

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

May 11, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – “WJCC Battle of the Books” Championship Team – Rawls Byrd Elementary School

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes –
 - a. April 22, 2010, Continued Meeting
 - b. April 27, 2010, Regular Meeting
 - c. April 28, 2010, Budget Work Session
2. Resolution of Recognition – Emergency Medical Services Week, May 16-22, 2010
Supports County’s Strategic Pathway 5.b – maintain a well-trained and high performing workforce for normal and emergency operations

G. BOARD CONSIDERATIONS

1. FY 2011-2012 County Budget
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
 - a. Ordinance Amendments to Chapter 2, Administration, Section 2-15.1, Authority to Obtain Criminal History Record Information for Employees, Etc.
2. Endorsement of the County’s FY 2011 Strategic Management Plan
3. Zoning and Subdivision Ordinance Update Methodology
4. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory

H. PUBLIC HEARINGS

1. Case No. SUP-0002-2010. CVS and Food Market at Soap and Candle Factory Site
2. Case No. Z-0003-2009/SUP-0017-2009. Freedom Market
3. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communication Facility
4. Case No. HW-0001-2010/SUP-0008-2010. Busch Gardens Griffon Theatrical Lighting
5. Case No. SUP-0005-2010. Hogge Family Subdivision

-CONTINUED-

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Williamsburg Regional Library Board of Trustees

M. RECESS to 1: 30 p.m. on May 23, 2010

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AT A CONTINUED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF APRIL 2010, AT 5:00 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. CLOSED SESSION

Mr. McGlennon 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 involving Executive Search Services.

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

At 5:02 p.m., Mr. Kennedy recessed the Board into Closed Session.

At 7:08 p.m., Mr. Kennedy reconvened the Board.

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

On a roll call vote, the vote was: AYE: McGlennon, Goodson, Icenhour, Jones, 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, Executive Search Services.

D. ADJOURNMENT to 7 p.m. on April 27, 2010.

Mr. Icenhour made a motion to adjourn.

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

At 7:09 p.m., Mr. Kennedy adjourned the Board to 7 p.m. on April 27, 2010.

Sanford B. Wanner
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF APRIL 2010, 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. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Christopher Madeira, a sixth-grade student at James Blair Middle School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on Veteran Affairs (VA) and customer service; comments by Mr. Stam at a previous meeting; quick resolution of tax issues at the Commissioner of the Revenue office; and compensation for government employees.

2. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the Project Development Agreement with Newport News Waterworks. He requested to revisit the contract due to changes in circumstances since 2008. He commented that the County should investigate desal-2 systems and make its own water. He commented on the cost of paying Newport News Waterworks and possible difficulties with the contract.

F. CONSENT CALENDAR

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

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

1. Minutes –
 - a. April 13, 2010, Continued Meeting
 - b. April 13, 2010, Regular Meeting
2. Colonial Community Criminal Justice Board Appointments

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD APPOINTMENT

WHEREAS, the terms of Doug Powell and the Honorable G. C. Fairbanks, IV, on the Colonial Community Criminal Justice Board have expired; and

WHEREAS, Mr. Powell has agreed to reappointment and Judge Fairbanks’ appointment to the Board is required

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby reappoints Doug Powell and Judge G. C. Fairbanks, IV, to a full three-year term on the Colonial Community Criminal Justice Board, set to expire on February 28, 2013.

3. Appropriation of Insurance Proceeds – \$12,226

RESOLUTION

APPROPRIATION OF INSURANCE PROCEEDS POLICE DEPARTMENT - \$12,226

WHEREAS, James City County is committed to protecting County assets and replacing destroyed assets in an efficient manner; and

WHEREAS, James City County Vehicle No. 062607 was destroyed in an accident on January 8, 2008; and

WHEREAS, the actual cash value of Vehicle No. 062607 has been recovered from Erie Insurance Group; and

WHEREAS, the insurance proceeds recovered will be used for a replacement Police vehicle.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation of recovered funds.

Revenue

Insurance Recovery	<u>\$12,226</u>
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Expenditure

Police	<u>\$12,226</u>
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G. PUBLIC HEARING

1. FY 2011-2012 County Budget

a. Ordinance Amendments to Chapter 2, Administration, Section 2-15.1, Authority to Obtain Criminal History Record Information for Employees, Etc.

Ms. Sue Mellen, Financial and Management Services Assistant Manager, gave an overview of the County Administrator's proposed FY 2011-12 County budget. She stated that the tax rate is constant at \$.77. She stated that the budget proposed a reduction in spending of roughly \$3.5 million and elimination of 41 positions. She reviewed the sources and amounts of General Fund revenues and explained each revenue source was decreasing, including real estate revenues and State revenues. She noted new proposed fees for criminal history checks and recreation fee changes. She reviewed spending and noted decreases in funding in many of these areas. She noted program eliminations and decreases in spending for FY 2011-12. She reviewed the Capital Improvements Program (CIP) and stated that the James City Service Authority (JCSA) was self-supporting and had no proposed rate increases. She reviewed the FY 2012 plan, which projected less than a one-percent increase in revenues. 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. McGlennon asked if there would be an additional public hearing opportunity on May 11, 2010.

Mr. Wanner stated that the public hearing would be closed and the budget would be considered on May 11, 2010, as a Board Consideration.

Mr. McGlennon stated that he felt there should be consideration for a full public hearing on May 11, 2010.

Mr. Kennedy and Mr. Goodson opened the joint Public Hearing of the Board of Supervisors and the James City Service Authority Board of Directors.

1. Dr. David Trump, Director of Peninsula Health District, 416 J. Clyde Morris Blvd., Newport News, highlighted the activities of the Peninsula Health District. Dr. Trump stated the operations of the Peninsula Health District are funded through the State and the localities it serves. He stated that James City County's share of the funding was about 12 percent of the budget. He noted the percentage of the Peninsula Health District services that were rendered to James City County residents. He commented on the Peninsula Health District responses to public health and public safety, such as the recent H1N1 flu vaccinations.

2. Mr. Bill Williams, 154 Lakewood Drive, Chairman of the Board of Directors of Williamsburg Land Conservancy, stated the organization was celebrating its 20th anniversary of fulfilling its mission to preserve land in the region. He commented that the Conservancy works with property owners and conducts inspections of its conservation easements. He commented on reductions in greenspace and Purchase of Development Rights (PDR) funds in the County budget, and said that would increase demands on the Williamsburg Land Conservancy. He requested additional funding for the Williamsburg Land Conservancy.

3. Mr. Jim Easton, 105 Harvest Circle, Chairman of the Board of Directors of Hospice House and Support Care, commented that Hospice House is facing a financial struggle due to reductions from grants, Williamsburg Community Health Foundation, United Way, and localities. He commented that more than half of the residents were from James City County. He requested funding for Hospice House in the FY 2011-12 County budget.

4. Ms. Judy Ewart, 117 Kingspoint Drive, Council of Hospice Guild of Volunteers, requested funding for Hospice House in the FY 2011-12 County budget. She commented that three outside agencies, including Hospice House, had been completely removed from the budget. She stated concern that the organization would not be put back into the budget in the future. She commented on funding reductions for Hospice House and the reliance of the organization on volunteers and that as services continue to be reduced, quality will be reduced.

5. Mr. Paul Reier, President of the James City Volunteer Rescue Squad, commented that the rescue squad funding from the County had been reduced by one-third. He stated the Rescue Squad is funded by the United Way and the County. He stated the United Way funding was reduced in the last year because the County charged Advanced Life Support (ALS)/Basic Life Support (BLS) fees. He stated that the fees collected for ambulance services go to the General Fund rather than to the Rescue Squad. He stated the County recently purchased an ambulance, but all equipment and maintenance are supplied by the Rescue Squad. He stated there is a budget deficit of over \$1,600 per year as a result which is made up by savings and that additional cuts would be detrimental. He commented that the funding for James City/Bruton Volunteer Fire Department has maintained a level funding, though it does not provide revenue for the County as the Rescue Squad does.

6. Mr. Tim Lee, on behalf of Tidewater Fiber Corporation (TFC) Recycling, stated that his company was a contractor for recycling for the County. He thanked the Board for continuing to support the curbside recycling program, helping to protect the natural environment. He requested approval of the current level of funding for the curbside recycling program.

7. Ms. Debra Siebers, 3504 Quail Hollow, requested additional funds for greenspace and PDR acquisitions and protection of stormwater. She requested finding alternate funding sources for stormwater management.

8. Mr. John Haldeman, 1597 Founder's Hill North, stated objection to a funds transfer from greenspace and PDR funds to finance stormwater management. He commented that the bond referendum denoted the funds for the acquisition of land rather than capital projects. He commented on reduced buffers, elimination of the stormwater management fee, and a backlog of necessary stream improvements. He requested the Board to find an alternate funding source for stormwater management.

9. Ms. Linda Baker, 107 Formby, stated objection to a funds transfer from greenspace and PDR funds to finance stormwater management projects. She commented that a user fee or other revenue source should be used for stormwater management projects.

10. Mr. Ed Oyer, 139 Indian Circle, commented on an absence of Williamsburg Area Transit Authority (WATA) in the budget; New Horizons listed as a Capital Project; additional debt in FY 2011 due to CIPs; superfluous funding for sports; new debt; contribution to schools larger than annual contribution; totals for Full-Time Equivalents (FTEs) for employees; increasing debt service; 50 percent of principal taxpayers are in the Roberts District; using bonded funding for greenspace and PDR properties going towards stormwater projects; and excess school bond money being used for capital projects.

11. Mr. Robert Richardson, 2786 Lake Powell Road, commented that he also opposed using funding for greenspace and PDR properties for stormwater projects. He asked for discussion and clarification on that point. He commented that Rural Lands should be considered in this matter also. He commented on the budget cuts and service reductions which could be restored with roughly a \$0.035 tax increase.

12. Mr. Richard Wrobel, 116 Waters Edge Drive, commented on Virginia Retirement System (VRS) contributions for County employees. He asked for clarification on deferred payment of VRS contributions.

13. Mr. Shomer Zwelling, 121 Oak Road, stated he was a volunteer at Hospice House and requested County financial support for the organization.

Mr. Kennedy commented that there was a request to keep the public hearing open, which did not follow the usual protocol. He asked for input from the Board on whether this should be changed or not.

Mr. McGlennon stated he would like to keep the public hearing open until May 11, 2010.

Mr. Goodson stated he would like to follow standard protocol.

Mr. Icenhour stated he would like to keep the public hearing open until May 11, 2010.

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

Mr. Goodson asked for more information about the comments referring to referendum bond funds being reallocated in the budget for stormwater management projects.

Mr. McDonald stated that the proposal in the budget was to move current cash balances from accounts for PDRs and greenspace to finance stormwater improvements. He stated that the referendum proceeds that exist as General Obligation bonds would continue to exist and funds exist in debt service if the Board wished to use the debt for greenspace and PDR purposes. He stated that no bond proceeds were being diverted for stormwater management projects.

Mr. Goodson stated that he believed the PDR and Greenspace funds were at the discretion of the Board each year and the funds could be diverted, but the bond funding was allocated specifically for greenspace.

Mr. Wanner stated this matter could be discussed at the budget work sessions.

Mr. McGlennon stated he believed the money that was in the accounts was money placed there in budgets over the years specifically for greenspace, and that was the expectation of the taxpayers for those funds. He commented that he would like to have discussion during the work sessions on the capacity to repay the \$14 million in remaining bonding as well as the ability to support a stormwater management program without identifying a continuous revenue source for those improvements.

Mr. Goodson noted that he wanted to clarify that referendum funding was not being used for the stormwater projects.

Mr McGlennon stated that he believed Mr. Goodson proposed during the referendum to dedicate the \$0.02 that was then being contributed to the capital fund in order to repay the debt.

Mr. Goodson stated that was correct and that if the County took on the additional debt, the money would have to go into the greenspace account in the future.

Mr. McGlennon stated that he did not believe that was the case.

H. PUBLIC COMMENT

1. Mr. Robert Richardson, 2786 Lake Powell Road, continued his comments on the Project Development Agreement with Newport News Waterworks. He stated that he believed the County residents and businesses were paying for water twice and getting nothing in return.

2. Mr. Bill Wallace, Fieldcrest, commented that the greenspace bond referendum led the citizens to believe that the funds would be used only for the purpose of greenspace and PDRs. He commented that the new Board repealed the stormwater management fee, leading to the proposal to transfer greenspace funds for stormwater projects.

3. Mr. Ed Oyer, 139 Indian Circle, commented on his interaction with the Veteran's Administration (VA) and customer service.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Board should adjourn to 7 p.m. on April 28, 2010, for its first Budget Work Session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson asked if the Board could consider a resolution on Regional Day.

Mr. Wanner stated it could be considered on April 28, 2010.

Mr. McGlennon clarified that there was a Regional Day being sponsored by Hampton Roads Partnership on May 6, 2010, and each locality has been asked to adopt a resolution endorsing regional interdependence.

Mr. McGlennon responded to Mr. Oyer's comments on WATA, which was now a regional authority so it was handled differently in the budget.

Mr. Wanner responded to Mr. Oyer's question and noted that the FTEs were listed in the proposed budget on page G-3.

Ms. Jones stated that she recently attended the James City County Economic Development Authority's forum on agribusiness in rural lands. She also noted that she attended the Regional Issues Committee (RIC) meeting and discussed the synchronized Comprehensive Plan updates. She commented that the RIC has added an opportunity for public comment during its meetings.

Mr. Kennedy noted that the County Administrator's proposed budget was open to discussion and modification. He commented on Newport News Waterworks and that he would like to have a work session to discuss the future of that agreement.

Mr. McGlennon commented that he attended the memorial for James City County Firefighter Chris Karban who recently passed away. He recognized all public safety workers and the contributions they make to the community.

Ms. Jones asked if the budget work sessions would be broadcast.

K. ADJOURNMENT to 7 p.m. on April 28, 2010.

Mr. McGlennon made a motion to adjourn.

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

At 8:14 p.m., Mr. Kennedy adjourned the Board until 7 p.m. on April 28, 2010.

Sanford B. Wanner
Clerk to the Board

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AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF APRIL 2010, 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

C. BOARD DISCUSSION

1. FY 2011-2012 County Budget

Ms. Sue Mellen, Assistant Manager of Financial Management Services, introduced Ms. Heather McClure, Senior Budget Analyst, who would be assisting with the presentation. Ms. Mellen reviewed County Revenues, including general property taxes. She responded to questions about trends related to revenue increases from property taxes. She reviewed other local taxes and noted that they were forecast to be slightly lower than the FY 2010 budget. Discussion was held on tax appeals by businesses and low sales tax revenues during January and February 2010. She noted that there were no proposals for increased taxes or fees. Discussion was held about conservative increases in revenue for FY 2012.

Ms. Mellen reviewed other revenues including forfeitures and explained that these revenues were decreasing since people were opting to perform community service rather than paying fines. She reviewed revenues from use of property. She noted a \$750,000 transfer from the Operating Budget to the Capital Improvements Program revenues. She reviewed reductions of various funding from the Commonwealth. Discussion was held on contributions to schools based on enrollment and estimates for sales tax revenue for education. Ms. Mellen discussed revenues from State Constitutional Offices and drastic cuts from the Commonwealth. Discussion was held about how the State Compensation Board sets the salary for Constitutional Officers and the amount of the State's contribution. Discussion was held about possible future reductions in revenues from the Commonwealth.

Ms. Mellen reviewed revenues from the Federal Government, excise fees for services and proposed increases in recreation fees. Discussion was held about funding direct and indirect costs through the fee increases, and projected participation in parks and recreation with increased fees. Discussion was held about costs for upkeep and improvements for recreation facilities and competition from private facilities. Mr. Wanner clarified that based on Board guidance from the Budget Retreat, staff has ceased investigation on privatizing the community center. Discussion was held about parks and recreation usage fees and the Before and After School program.

The Board and Fire Chief Tal Luton discussed funding reductions to the James City Volunteer Rescue Squad in relation to Advanced Life Support (ALS)/Basic Life Support (BLS) fees. Mr. Wanner indicated that the recommendation for funding was based on call responses and hours. Chief Luton indicated that he had input in relation to contributions to these organizations, and noted the levels of response of the James City/Bruton Volunteer Fire Department and the James City Volunteer Rescue Squad. Discussion was held about the impact of the ALS/BLS fees on the volunteer organizations and donations.

Ms. Mellen reviewed Miscellaneous Revenues and reductions in funds from the public copy machines. Discussion was held about recouping costs of Freedom of Information Act requests and fair rates associated with those requests.

Ms. Carol Luckam, Human Resource Manager, reviewed expenditures related to personnel, including compensation and benefits. She noted that the largest cost reduction for personnel was a 10 percent staff decrease in the General Fund. She noted that no salary increases would be given for FY 2011-12 and minimizing any decrease in take-home pay and core benefits were priorities based on input from employees. She reviewed strategies to preserve benefits such as retirement and health insurance plans. Discussion was held about insurance costs and self-funding by the County and the differences between self-funding and self-insuring. Discussion was held about funding the employee homeownership assistance program and the deferred compensation matching program. Discussion was held on the impacts of reduction in contributions to the Working Toward Wellness program and insurance costs. Discussion was held on elimination of free physicals for public safety employees. The Board discussed applications and a potential loan option for the Employee Homeownership program in order to recover funds for that program.

The Board took a break at 8:59 p.m.

Mr. Kennedy reconvened the Board at 9:05 p.m.

Ms. Mellen reviewed departmental budgets. Discussion was held on changes in fringe benefits due to changes in coverage or turnover. Discussion was held on the workload and performance indicators of the Satellite Office and DMV Select. The Board and staff discussed the transfer of a position from the Neighborhood Connections division to the Communications division and civic engagement grant options. Ms. Mellen explained savings realized through shared services with the schools and reductions in the offices of Constitutional Officers. Discussion was held about the transfer of the Mosquito Control program to the Stormwater Division and increases in utilities due to costs for streetlights. The Board and staff reviewed increased expenses related to the construction of the new Police building and costs associated with contractual services and utilities. Ms. Mellen explained that cost savings from relocating the Stormwater Division and other offices into County-owned buildings would be seen in FY 2012. Discussion was held about expenses for Fleet Maintenance. Discussion was held on the possibility to reinstate curbside leaf collection and flexibility to reinstate positions if the need arose during the fiscal year. Discussion was held about contributions to the courts and performance measures and grant funding for public safety positions. Mr. Kennedy and Police Chief Emmett Harmon discussed call responses in New Town, including the need for security resources in the complex. Discussion was held on a potential deficit of public safety positions. The discussion ended at Page C-45 of the budget document.

Mr. Goodson made a motion to adopt the resolution endorsing the Declaration of Interdependence for the Hampton Roads Partnership's Regional Day.

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

RESOLUTION

ENDORSEMENT OF DECLARATION OF INTERDEPENDENCE

WHEREAS, the Hampton Roads Partnership seeks endorsement from its member localities of the attached Declaration of Interdependence; and

WHEREAS, the Declaration of Interdependence is a regional compact for municipalities addressing issues such as legislative unity, education, transportation public safety and public communication; and

WHEREAS, the Hampton Roads Partnership will seek a roll call vote from each of its member localities to support the Declaration of Interdependence at Regional Day to be held on May 6, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the attached Declaration of Interdependence.

D. ADJOURNMENT to May 5, 2010, at 3 p.m.

Mr. Goodson made a motion to adjourn.

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

At 10:05 p.m., Mr. Kennedy adjourned the Board until 3 p.m. on May 4, 2010.

Sanford B. Wanner
Clerk to the Board

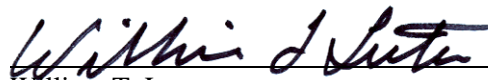
MEMORANDUM

DATE: May 11, 2010
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Resolution of Recognition - Emergency Medical Services Week, May 16-22, 2010


Every year, the third week of May is set aside as National Emergency Medical Services (EMS) Week. The President of the United States and Virginia's Governor issue proclamations recognizing EMS Week and the efforts of our local emergency medical responders within the community.

During EMS Week, the James City County Fire Department will be coordinating media activities and sponsoring events in recognition of the daily services provided by EMS personnel.

Staff recommends approval of the attached resolution proclaiming the week of May 16-22, 2010, as Emergency Medical Services Week.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
EMSWeek_mem

Attachment

RESOLUTION

RESOLUTION OF RECOGNITION - EMERGENCY MEDICAL SERVICES WEEK,

MAY 16-22, 2010

WHEREAS, Emergency Medical Services (EMS) is a vital public service; and

WHEREAS, the members of EMS teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the EMS system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others; and

WHEREAS, the members of the EMS teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of EMS providers by designating Emergency Medical Services Week.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, in recognition of this event does hereby proclaim the week of May 16-22, 2010, as Emergency Medical Services Week with the theme, "EMS: Anytime. Anywhere. We'll be There." and encourages the community to observe this week with appropriate programs, ceremonies, and activities.

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 11th day of May,
2010.

EMSWeek2010_res

MEMORANDUM

DATE: May 11, 2010
TO: The Board of Supervisors
FROM: Suzanne R. Mellen, Assistant Manager of Financial and Management Services
SUBJECT: Appropriation Resolution FY 2011 Budget

Attached is the appropriation resolution for the FY 2011 Budget. The resolution reflects the County Administrator's Proposed Budget and the changes made by the Board at its last Budget Work Session, as shown in the attached errata sheets for the General Fund, Capital Improvement Program, and the Community Development Fund.

Suzanne R. Mellen

SRM/tlc
FY11Budget_mem

Attachment

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a two-year Proposed Budget for the fiscal years beginning July 1, 2010, and ending June 30, 2011, along with the fiscal year beginning July 1, 2011, and ending June 30, 2012, and a five-year Capital Improvements Program, four years of which are 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, 2010, and ending June 30, 2011, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations; and

WHEREAS, the Board wishes to adopt the second year of the operating and capital budgets for planning purposes, beginning July 1, 2011, and ending June 30, 2012.

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 2011 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2011</u>
General Property Taxes	\$ 106,205,434
Other Local Taxes	18,215,000
Licenses, Permits and Fees	6,241,250
Fines and Forfeitures	300,000
Revenue from Use of Money and Property	280,000
Revenue from the Commonwealth	23,390,237
Revenue from the Federal Government	7,000
Charges for Current Services	5,006,721
Miscellaneous Revenues	<u>153,700</u>
TOTAL REVENUES	<u>\$159,799,342</u>

GENERAL FUND EXPENDITURES

	<u>FY 2011</u>
Administrative	\$1,411,282
Citizen Services	774,762
Elections	295,655
Human Resources	621,635
Financial Administration	3,781,391
General Services	7,160,013
Information Resource Management	2,013,650
Development Management	3,387,034

Judicial	2,260,664
Public Safety	21,420,664
Community Services	5,300,486
Contribution - Outside Agencies	2,575,978
Library and Arts Center	4,102,823
Health Services	1,552,118
Other Regional Entities	3,102,404
Nondepartmental	4,750,556
WJCC Schools	73,830,815
Contribution - School Debt Service	18,390,000
Contribution - Capital Projects Fund	750,000
Contributions - Other Funds	<u>2,317,412</u>
TOTAL EXPENDITURES	<u>\$159,799,342</u>

The appropriation for education includes \$73,800,000 as a local contribution to the Williamsburg-James City County Schools operations.

2. That the 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 in other budgets in FY 2011 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues and Other Funding Sources:

Recurring Revenues – General Fund	\$ 750,000
Investment Income	250,000
Borrowing – Schools	<u>4,629,577</u>
	<u>\$5,629,577</u>

Expenditures:

Schools	4,895,737
Other County	<u>733,840</u>
	<u>\$5,629,577</u>

DEBT SERVICE BUDGET

From General Fund	\$22,150,000
“Buy American Bonds” Subsidy	230,788
Investment Income	75,000
Fund Balance	<u>3,708,717</u>

Total Debt Service Fund Revenues	<u>\$26,164,505</u>
Current Year Expenditures	\$26,164,505
Debt Service Fund Disbursements	<u>\$26,164,505</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,427,806
From the General Fund	1,561,991
Other	384,500
Grant	<u>34,203</u>

Total Virginia Public Assistance Fund Revenues & Fund Balance	<u>\$6,408,500</u>
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Expenditures:

Administration and Assistance	<u>\$6,408,500</u>
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Total Virginia Public Assistance Fund Expenditures	<u>\$6,408,500</u>
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COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 637,995
Grants	1,502,236
Generated Program Income	50,000
Other	<u>200,000</u>

Total Community Development Fund Revenues & Fund Balance	<u>\$2,390,231</u>
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Expenditures:

Administration and Programs	<u>\$2,390,231</u>
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Total Community Development Fund Expenditures	<u>\$2,390,231</u>
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COLONIAL COMMUNITY CORRECTIONS FUND

Revenues:

From the Federal Government/Commonwealth	\$ 747,157
General Fund	34,470
Supervision Fees	35,000
Grants	99,153
Other	<u>70,234</u>

Total Colonial Community Corrections Fund Revenues	<u>\$986,014</u>
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Expenditures:

Administration and Programs	<u>\$986,014</u>
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Total Colonial Community Corrections Fund Expenditures	<u>\$986,014</u>
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SPECIAL PROJECTS/GRANTS FUND

Revenues:

Comprehensive Services Act (CSA)	\$ 275,850
CSA Local Match - General Fund	317,426
CSA School Share	<u>112,000</u>

Total Special Projects/Grants Fund Revenues	<u>\$ 705,276</u>
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Expenditures:

Comprehensive Services Act	\$ 705,276
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Total Special Projects/Grants Fund Expenditures	<u>\$ 705,276</u>
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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 at a divisional level.

7. All outstanding encumbrances in all County funds at June 30, 2010, shall be an amendment to the FY 2011 budget, and appropriated to the FY 2011 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.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning:

FY 2012

General Fund	\$160,934,219
Capital Budget	7,450,060
Debt Service	26,122,916
Public Assistance	6,432,909
Community Development	2,206,634
Colonial Community Corrections	993,911
Special Projects/Grants	705,276

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 11th day of May, 2010.

Bdgtapp11.res

General Fund FY 2011 Proposed Budget Adjustments				General Fund FY 2012 Proposed Budget Adjustments			
Balances		Difference		Balances		Difference	
\$	159,799,342	\$159,799,342	\$ -	\$	160,934,219	\$160,934,219	\$ -

<u>Description</u>	<u>Revenues</u>	<u>Expenditures</u>	<u>Description</u>	<u>Revenues</u>	<u>Expenditures</u>
Beginning Balance	\$ 159,799,342	\$ 159,799,342	Beginning Balance	\$ 160,934,219	\$ 160,934,219
Hospice funding		\$ 9,000	Hospice funding		\$ 9,000
Stormwater lease savings		\$ (33,000)	Decrease contingency		\$ (9,000)
Increase contingency		\$ 24,000			

**Capital Improvement Program
FY 2011 Proposed Budget Adjustments**

	Balances	Difference
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\$	5,629,577	\$ 5,629,577
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<u>Description</u>	<u>Revenues</u>	<u>Expenditures</u>
Beginning Balance	\$ 7,629,577	\$ 7,629,577
Eliminate transfer from Greenspace/PDR cash balances	\$(2,000,000)	\$(2,000,000)

**Capital Improvement Program
FY 2012 Proposed Budget Adjustments**

	Balances	Difference
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\$	7,450,060	\$ 7,450,060	\$ -
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<u>Description</u>	<u>Revenues</u>	<u>Expenditures</u>	
Beginning Balance	\$ 9,450,060	\$ 9,450,060	
Eliminate transfer from Greenspace/PDR cash balances	\$(2,000,000)	\$(2,000,000)	

MEMORANDUM

DATE: May 11, 2010

TO: The Board of Supervisors

FROM: James Pete Peterson, II, Assistant Director, Human Resource Department
Angela M. King, Assistant County Attorney

SUBJECT: Ordinance to Amend and Reordain Chapter 2, Administration, Section 2-15.1, Authority to Obtain Criminal History Record Information for Employees, Etc.

Attached for your consideration is an ordinance which amends Section 2-15.1 of the County Code that will require applicants selected for employment to pay the cost of fingerprinting or a criminal records check or both. Virginia State Code Sections 15.2-1503.1 and 15.2-1505.1 permit localities to charge these costs to applicants.

The cost will include processing and administrative charges for court fees and postage, thereby saving County budgetary funds. The cost is currently \$15 and will be set by the County budget document each year. The County will continue to pay for records checks for volunteers and current County employees.

For County employment purposes, staff researched and selected a new vendor to process criminal history records checks ("records checks"). The County is currently using the new vendor and paying the required costs to obtain the records check. The records check includes information on the applicant's past criminal record, as well as any sex offender convictions. Records checks were previously completed only for the State of Virginia but will now be done nationwide. Selected applicants will be able to complete records checks online using a major credit card, debit card, bank transfer, or by paying at the Treasurer's Office making the process more convenient to potential new hires. It should also be noted that these records checks are not conducted on each applicant, but only conducted after an applicant has been offered a job contingent on the results of the records checks.

Staff recommends adoption of the attached ordinance.

James Pete Peterson, II

Angela M. King

JPP/AMK/gb
CrimeRecInfo_mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, SECTION 2-15.1, AUTHORITY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION FOR EMPLOYEES, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-15.1, Authority to obtain criminal history record information for employees, etc.

Chapter 2. Administration
Article IV. Officers and Employees
Division 1. Generally

Sec. 2-15.1. Authority to obtain criminal history record information for employees, etc.

The county administrator or his designees, is authorized to obtain criminal history record information from the Virginia Central Criminal Records Exchange of the Department of State Police on county employees and any applicant for employment, applicant for volunteer position, a permit or a license with the county to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, volunteer position, permit, or license. *Applicants for employment shall be required to pay the cost of fingerprinting and criminal history records check or both. The cost shall be set by the county budget document each year.*

State law references – Background checks required for certain employees and licensees, Code of Va. § 15.2-1503.1; Applicant preemployment information – Code of Va. § 15.2-1505.1.

This ordinance shall become effective on July 1, 2010.

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 11th day of May, 2010.

CrimeRecInfo_ord

MEMORANDUM

DATE: May 11, 2010
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Endorsement of the County's FY 2011 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 2011 Strategic Management Plan by adopting the attached resolution.


Sanford B. Wanner

SBW/gb
SMP11_mem

Attachments

RESOLUTION

ENDORSEMENT OF THE COUNTY'S FY 2011 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 2011 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 11th day of May, 2010.

SMP11_res



As of 4/12/2010

Manage finances wisely and encourage a balanced economy	Improve the lives of citizens and foster a sense of community	Plan responsibly for the needs of a growing, diverse community	Steward the natural environment and historic heritage	Provide outstanding customer service
Complete capital projects on time and within budget	Assist elderly and disabled persons maintain safe and sanitary housing	Improve affordable housing energy performance	Comply with Department of Environmental Quality regional consent order	Foster principles of civic engagement through productive collaboration between citizens and government
Continue to seek shared services with W-JCC school division	Expand workforce housing options	Revise County's Hazard Mitigation Plan	Develop Freedom Park in accordance with approved master plan	Improve performance of regional 800 MHz radio system
Reduce operating expenses	Support Virginia Peninsula Mayors and Chairs plan to end homelessness	Update zoning ordinances as prioritized by Board	Partner with others to educate and engage Historic Triangle residents and visitors about the story of the American Civil War	Promote two-way communication with citizens through electronic mediums
Retain companies that graduate from technology business incubator		Use sustainable practices that consider long-term social, economic and environmental health of the community	Protect and acquire critical land for green space	

Proposed Strategic Management Plan Actions
FY 2011

MEMORANDUM

DATE: May 11, 2010
TO: The Board of Supervisors
FROM: Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager
SUBJECT: Zoning and Subdivision Ordinance Update Methodology

Following adoption of the 2009 Comprehensive Plan, staff has moved into the implementation phase. One significant component of the Comprehensive Plan implementation process is updating the Zoning Ordinance and Subdivision Ordinance and related policies. In January 2010, staff prepared draft scope and process documents that were presented during the Board budget retreat, and received general guidance about the scope of consultant assistance that could be expected. The draft update scope and process information were then provided to the Planning Commission at its March 3, 2010, meeting for feedback prior to developing a detailed draft methodology document and revised scope and process spreadsheets. The Policy Committee considered this feedback and the resulting draft methodology at its meeting on March 17, 2010. The Policy Committee (and other Planning Commission members in attendance) thoroughly discussed the methodology and provided guidance on desired revisions. This guidance and the draft methodology in general, were subsequently the subject of the joint Planning Commission/Board of Supervisors work session on March 23, 2010.

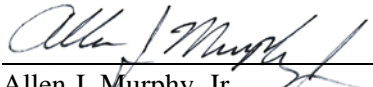
As a result of guidance provided at the meetings listed above, the methodology has been revised in several ways. Ordinance update priority items have been inserted into the methodology in the "Scope of Work" section at the top of Page 3. In addition, this section of text was revised to include a goal of completing/adopting the priority items by the end of 2011. The other significant change to the methodology reflects the desire of the Policy Committee to have two forums at the beginning of the process which would involve the whole Planning Commission, be televised, and focus on collecting the input of groups (similar to the Community Participation Team Forums during the Comprehensive Plan). The text reflecting this is in the "Process Components" section at the top of Page 4.

The Planning Commission unanimously endorsed the methodology at its April 7, 2010 meeting. Staff recommends that the Board of Supervisors endorse the attached methodology.

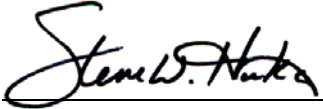
Zoning and Subdivision Ordinance Update Methodology

May 11, 2010

Page 2


Allen J. Murphy, Jr.

CONCUR:


Steven W. Hicks

AJM/nb

Methodology_mem

Attachments:

1. Resolution
2. Zoning and Subdivision Ordinance Update Methodology and Spreadsheets
3. Unapproved minutes from the April 7, 2010, Planning Commission meeting

RESOLUTION

ZONING AND SUBDIVISION ORDINANCE UPDATE METHODOLOGY

WHEREAS, the James City County Board of Supervisors adopted the 2009 Comprehensive Plan, *Historic Past, Sustainable Future*, by a resolution dated November 24, 2009; and

WHEREAS, the 2009 Comprehensive Plan states the County's intention to take actions to revise the Zoning Ordinance, Subdivision Ordinance, and related policies to fulfill the goals of the Comprehensive Plan; and

WHEREAS, the Planning Commission and Board of Supervisors have discussed a draft methodology for the Zoning and Subdivision ordinances update process on several occasions, including a joint work session on March 23, 2010; and

WHEREAS, the Planning Commission unanimously endorsed the methodology at its April 7, 2010 meeting.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the Zoning and Subdivision ordinances update process.

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 11th day of May, 2010.

Methodology_res

Zoning and Subdivision Ordinance Update Methodology

Introduction

Following adoption of the 2009 Comprehensive Plan in late 2009, staff has moved into the implementation phase. One significant component of the Comprehensive Plan implementation process is updating the Zoning Ordinance and Subdivision Ordinance and related policies. Partial or complete updates of the ordinances were undertaken shortly after adoption of two of the last three Comprehensive Plans (1991, 1997). However, the ordinances were not updated in a comprehensive fashion after the most recent previous Comprehensive Plan update in 2003. Please note that this methodology focuses on Zoning and Subdivision ordinance implementation actions to be achieved during approximately the next two fiscal years – work on additional implementation actions would continue beyond the two years. Ordinance update processes also provide an opportunity, as appropriate, to coordinate ordinances with amendments to State code, changes in related County documents, or evolutions in development-related technologies, techniques, or best practices.

Groundwork

This methodology was shaped by a number of factors. In terms of the scope of issues to be looked at during this update, much of the groundwork was laid through the extensive public comment and technical analysis that resulted in the 2009 Comprehensive Plan's implementation actions (see "Scope of Work" below). In terms of process, staff analyzed past James City County ordinance update processes, talked with other Virginia localities about processes they have used, and consulted professional publications. Staff used the information gained through this research to help draft the methodology, which is presented for input and guidance from, and subsequent endorsement by, the Policy Committee, the Planning Commission, and the Board of Supervisors.

Goals

Having an overall set of goals for the updated ordinance can help make sure expectations are met and inform the challenging decisions that will need to be made both about policy directions, and about the language of the ordinance text. Staff offers the following five goals for enhancing the updated ordinances:

- Reflect the Comprehensive Plan and community input (for example, address actions listed in the Plan's goals, strategies, and actions);
- Organize in a logical and understandable manner (for example, consider consolidating all process language in one section, rather than in each district);
- Incorporate clear standards (for example, adding graphics if possible);
- Use best practices (for example, looking at a form based code for Toano); and

- Provide linkages with other relevant codes and ordinances (for example, referencing the building permit process where relevant).

Scope of Work

The scope of work for a project details the range of topics to be investigated and potentially incorporated. The draft scope of work in Attachment 2 for this ordinance update is drawn primarily from the 2009 Comprehensive Plan implementation guide. In particular, effort was made to include items identified as high priority and in the 0 – 5 year timeframe in the implementation guide. The final scope of work is based on projected resources (consultant funds, using existing staff levels, etc.), expectations about timeframe and process, and priority guidance from the Planning Commission and Board of Supervisors. While many of the Comprehensive Plan actions are addressed by this scope, not every relevant action item could be accommodated during this update process. Should the Policy Committee or Planning Commission require additional time to be comfortable with certain amended ordinances, the timeframe might need to expand or items might need to be dropped from the scope of work.

The scope of work includes several elements: major research items to be completed by consultants and/or staff, smaller-scale technical review items compiled by staff (for example, looking at appropriate commercial uses in Rural Lands), and drafting and finalizing of the actual ordinance language. The research items are an essential part of the process, as they will allow analysis of different options and assessments of feasibility before the detailed work of creating ordinance language starts.

The list of major research items in this scope of work includes:

- Review of sustainability and green building best practices for overall ordinance;
- Accommodation of new wireless technologies/section update;
- Affordable housing provisions;
- Cluster overlay update;
- Infill housing provisions;
- Review of rural lands narrative ordinance and update;
- Investigation of transfer of development rights;
- Form-based code analysis for Toano;
- Amendment of mixed use district or creation of new district for Economic Opportunity designation;
- Business Climate Task Force items;
- Sidewalk/trail inventory/ master plan/text update;
- Development of new submittal requirements for traffic impact analyses using VDOT regulations, and for environmental and fiscal impact analyses;
- Initial database work for cumulative impact modeling; and
- Review of subdivision ordinance amendments required for alternative onsite sewage systems.

More information about each of the major research items listed above can be found in Attachment #1, Explanation of Research Items, and these items are also shown in Attachment #2, Scope of Work.

Completing the proposed research items and comprehensive ordinance drafting is an ambitious scope of work for the timeframe. Staff has suggested that the Policy Committee, Planning Commission, and Board of Supervisors identify a smaller number of priority items that would be the focus of the overall effort and could potentially move through the process in advance of other items, or at least continue on track if other items prove to be more difficult to work through in the allotted timeframes. Based on feedback received, those priority items/groups of ordinances would be:

- Cumulative Impact Database Set-up
- Sustainability Audit
- Development Standards - with Sign Ordinance
- Commercial/Business Districts
- Economic Opportunity District

In addition, feedback was received indicating that a goal should be established that these five priorities be completed/adopted prior to the end of 2011.

Process Components

The Zoning Ordinance update process is divided into three stages: (1) identification of issues and evaluation of options, (2) preparation and revision of ordinances, and (3) adoption. These stages are described below, and are also shown in Attachment #3 Process and Timeframe. This process uses a mixture of consultant and staff work and is anticipated to take approximately twenty months. The process is designed to be undertaken primarily by staff and the Policy Committee, with periodic Planning Commission and Board of Supervisors check-in points.

Stage 1: Identification of Issues and Evaluation of Options

The first stage of the process will last approximately eight months. During this time, staff will retain and subsequently work with consultants on a variety of the research items. Staff will also work on non-consultant research items and will conduct a general technical review of the ordinance to catalogue known issues and identify any additional issues. The goal of this work is to come up with a list of possible needed amendments and to develop options for how those amendments could be accomplished. These options would then be brought forward to the Policy Committee, Planning Commission, and Board of Supervisors for decisions and guidance before moving into the next stage, preparation of draft ordinance language.

This first stage will include significant opportunities for early community input and Planning Commission and Board guidance. In terms of community input, this stage will include opportunities at two Planning Commission forums at the very beginning of the process to assist in identifying issues (within the scope of work items). The primary purpose of these two forums would be to collect the input of groups

(similar to the Community Participation Team Forums during the Comprehensive Plan), and these forums are planned to be televised. There would also be subsequent opportunities for the community to learn about and comment on the possible amendment options at additional Policy Committee meetings, a Planning Commission work session, and a Board work session. These same meetings will be opportunities for the Committee, Commission, and Board to evaluate, guide, and make decisions. In order to organize the presentation of options, it is anticipated that options will be grouped in five categories as much as reasonably possible: (a) Commercial/Industrial/Rural Lands-Commercial/Mixed Use, (b) Residential/Subdivision Ordinance, (c) Development Standards, (d) Submittal Requirements/Process Regulations, and (e) Rural Lands.

Stage 2: Preparation and Revision of Ordinances

The second stage of the process will last approximately nine months. During this time, staff and consultants will take forward the guidance from the first stage and use it to develop a set of draft ordinances. These draft ordinances will then be brought forward to the Policy Committee for a series of 8 – 12 meetings. These meetings will allow for Policy Committee review to make sure that the Stage 1 guidance is adequately reflected in the draft ordinances and to consider and make decisions about any specific policy questions that have come to light during the drafting process. Should additional Policy Committee meetings be needed, the timeframe for the process would likely need to be adjusted. After Policy Committee review, the draft ordinances will then be brought forward to the Planning Commission and Board of Supervisors. After this vetting, staff and consultants will work to finalize the ordinance language. During this time, the ordinances will also be carefully reviewed by the Zoning Administrator and County Attorney's Office to ensure that the ordinances are legal and enforceable. In the end, these final draft ordinances will be considered at two Policy Committee meetings to resolve any remaining issues. Opportunities for community input will be available at all of the Committee and Commission meetings listed above.

For both Stage 1 and Stage 2, while the attached Process and Timeframe spreadsheet shows periods of staff and consultant work prior to formal commencement of the sets of Policy Committee meetings, if research items or draft or final ordinances are ready prior to the end of those periods, staff could bring them forward for consideration. This would be particularly the case for any items designated as priorities (see "Scope of Work" above).

Stage 3: Adoption

The final stage of the process is anticipated to take approximately four months. This time will concentrate on conducting any necessary advertising and written notifications and preparing final materials for Planning Commission and Board consideration and adoption. Community input opportunities will be available at each of the public hearings.

Other Community Information Resources

As outlined above, the process includes many opportunities for community involvement and input. Staff anticipates that the Planning Commission and Planning Commission/Board work sessions will be televised, that the Policy Committee meetings will be open for public comment, and that meeting agendas and meeting materials will be posted on the webpage. Staff can undertake notification of potentially interested parties to make them aware of the upcoming ordinance process, and in consultation with the Policy Committee, could invite additional community input at meetings.

In addition, staff is in the process of outlining a communications plan that would include use of the *FYI* Newsletter, press releases, and the video center. Other avenues of publicity may include flyers, articles, editorials, direct mailings, and email subscription lists. In particular, staff anticipates that a significant amount of information will be posted on the Internet, which is a feature that was not present in past ordinance update processes.

Staff's Role in the Process

Staff will participate in this process in several ways. Staff will draft option explanations and ordinances, provide advice on best practices, and make recommendations to the Policy Committee, Planning Commission and Board of Supervisors. Overall, staff will work to assist the Planning Commission in developing a product that the Commission can recommend approval of to the Board of Supervisors.

Access to the Updated Text and Map

Once the Board has approved the amendments, the updated text will be posted on the Internet. Hard copies of the text will also be available for purchase upon request. Any amended Board policies or other associated guidance documents will also be posted on the Internet. The Zoning map will continue be available on the internet through the County's Property Information System or in hard copy through the County's Mapping Division.

Attachments:

1. Explanation of Research Items
2. Scope of Work Spreadsheet
3. Process and Timeframe Spreadsheet

Attachment 1: Explanation of Research Items

Zoning Ordinance Update Category	Potential Large Research Item	Explanation of Research Item
Miscellaneous Items	Sustainability Audit	The product would be a report that identifies provisions of the Zoning Ordinance that may create obstacles to sustainability and an outline of recommended changes to meet specific sustainability goals. The sustainability audit will include specific recommendations on changes that can be made to the Zoning Ordinance, including model language.
	Green Building Standards Investigation	Regulations or policy regarding green building standards, such as LEED or EarthCraft, for new construction.
Wireless Communications Ordinance and Performance Standards Policy	New Technologies Update	Determine options for the ordinance to be adjusted to accommodate new technologies.
Residential Districts (R-1, R-2, R-4, R-5, R-6), Cluster Overlay, and Manufactured Home Parks	Affordable Dwelling Unit Ordinance or Affordable Housing Overlay District Investigation	(Discussed in detail in the Comprehensive Plan Housing Section)
	Cluster Overlay Update	This was a recommendation that emerged from the Better Site Design process and subsequent implementation committee. At a Board work session on September 25, 2007, the Board provided guidance that this should be looked at during the Zoning Ordinance update process.
	Infill Residential Provisions Investigation	(Discussed in detail in the Comprehensive Plan Housing Section)
Rural Lands Districts (R-8, A-1)	Facilitated session with BOS to discuss the 2007 draft ordinance (with preparation of an update memo as well)	The staff would prepare and facilitate a BOS work session and technical assistance (consultant) to get direction on whether to proceed with old narrative or work on something new.
	Transfer of Development Rights Investigation	This would be a detailed review, to include (among many other things) an evaluation of potential challenges and opportunities of a TDR program in James City County, to include a discussion of the current proffer system, existing density incentive programs, and a review of the Zoning Ordinance to determine the relationship of density to development. It would also explore the idea that higher density development is necessary in order to make density increases in potential "receiving areas" marketable, and whether sufficient market demand for higher density development exists. What are basic characteristics of the residential development market in the County relative to a market for transferring of densities?
Multiple Use Districts (Mixed use, R-4, PUD)	Investigate Form Based Code for Toano	This item would involve looking at the 2006 Design Guidelines for the Toano Community Character Area and assessing the feasibility of developing a form based code for this area.
	For Economic Opportunity, investigate possible amended mixed use district or creation of a new district. Also, Urban Development Area (UDA) investigation.	Due to the creation of the new Economic Opportunity designation, this investigation would seek to determine whether the existing Mixed Use district would be appropriate or whether a new or modified district might be advisable.
Commercial Districts (LB, B-1, M-1, M-2)	BCTF items	These items are listed in the Business Climate Task Force recommendations.
Development Standards (Landscaping, Parking, Lighting, Signs, Streets, Sidewalks and Paths, Utilities, Outdoor Operations and Storage, and Timbering) & Overlay Districts	Sidewalk/Trail Inventory, Master Planning, and Text Update	Update the existing and outdated Sidewalk Master Plan which is referenced in the Zoning Ordinance. This item originates from the Transportation and Parks and Recreation sections and would create an up-to-date baseline for where we have sidewalks, multi-use paths, etc in order to make administration of the ordinance more effective.
Procedural Descriptions, Submittal Requirements, and Administrative Items (including definitions, fees, SUP and Rezoning submittal requirements and procedure, site plan requirements and procedure, enforcement, nonconformities, and BZA)	Submittal Requirement Guidelines - for Traffic Studies.	Developing guidelines would involve setting down a specific list of items that should be included in traffic studies so that studies are comprehensive and consistent - this would build on VDOT's new traffic study regulations, but put in place items that are expected in James City County.
	Submittal Requirement Guidelines - for Environmental	Preparation of a guidance document that outlines information needed to evaluate the environmental impact of a development.
	Submittal Requirement Guidelines - Fiscal Impact Statement	Developing guidelines would involve setting down a specific list of items that should be included in fiscal impact studies so that studies are comprehensive and consistent. It would focus fiscal impact studies on the fiscal picture of the development once it is built (rather than on revenues associated with the construction phase).
	Cumulative Impact Modeling - Database Set-up Investigation (to allow tracking of approved units in relation to public facilities, traffic, etc.)	This item would involve investigating software to model the cumulative impacts of development (tracking approved units in relation to public facilities, traffic, etc.)
Subdivision Ordinance	Alternative Onsite Sewage Systems Investigation	New regulations were put in place during the 2009 General Assembly session that should be investigated by staff.

Attachment 2: Scope of Work

Zoning Ordinance Update Category	Potential Large Research Item	Research Item Consultant Cost/ Staff work hours*	Comp Plan Priority/Timeframe	Ordinance Text Drafting Consultant Cost / Staff work hours*	Total Consultant Cost / Staff Work Hours*
Miscellaneous Items	Sustainability Audit	Approx. \$10,000 / 200 hours	High/0-5 (LU 1.7.1)	(Staff work hours incorporated in time estimates below)	Approx. \$10,000 / 400 hours
	Green Building Standards Investigation	na / 200 hours	High/0-5 (ENV 1.4.3, H 1.1.1)		
Wireless Communications Ordinance and Performance Standards Policy	Determine options for the ordinance to be adjusted to accommodate new technologies	Approx. \$10,000 / 600 hours	High/0-5 (CC 1.7.1)	na / 1200 hours	Approx. \$10,000 / 1800 hours
Residential Districts (R-1, R-2, R-4, R-5, R-6), Cluster Overlay, and Manufactured Home Parks	Affordable Dwelling Unit Ordinance or Affordable Housing Overlay District Investigation	na / 450 hours	High/0-5 (H 1.3.7)	na / 1200 hours	na / 2,700 hours
	Cluster Overlay Update	na / 600 hours	n/a specific (Better Site Design)		
	Infill Residential Provisions Investigation	na / 450 hours	High/0-5 (H 1.1.6)		
Rural Lands Districts (R-8, A-1)	Staff/BOS meetings to discuss the 2007 draft ordinance (with preparation of an update memo as well as consultant assistance)	Approx. \$6,000 / 100 hours	High/0-5 (LU 1.6.2)	To take the narrative ordinance to final ordinance = approx. \$14,000 / 1200 hours	Approx. \$60,000 / 1900 hours
	Transfer of Development Rights Investigation	Approx. \$40,000 / 600 hours	Moderate/0-5 (LU 1.6.1.2(d))		
Multiple Use Districts (Mixed use, R-4, PUD)	Investigate Form Based Code for Toano	na / 600 hours	Moderate/0-5 (LU 1.4.5.3)	na / 1200 hours	na / 2520 hours
	For Economic Opportunity, investigate possible amended mixed use district or creation of a new district. Also, investigate Urban Development Area (UDA) requirements.	na / 720 hours	n/a specific		
Commercial Districts (LB, B-1, M-1, M-2)	BCTF items	na / 450 hours	High/0-5(ECON 1.1.6), High/On-going (ECON 1.1.5)	na/ 1000 hours	na / 1450 hours
Development Standards (Landscaping, Parking, Lighting, Signs, Streets, Sidewalks and Paths, Utilities, Outdoor Operations and Storage, and Timbering) & Overlay Districts (Cluster, Floodplain, Airport)	Sidewalk/Trail Inventory, Master Planning, and Text Update	na / 450 hours	Moderate/0-5 (P&R 1.5.5), overall Sidewalk MP update not in Comp Plan	na/ 1200 hours	na / 1650 hours
Procedural Descriptions, Submittal Requirements, and Administrative Items (including definitions, fees, SUP and Rezoning submittal requirements and procedure, site plan requirements and procedure, enforcement, nonconformities, and BZA)	Submittal Requirement Guidelines - for Traffic Studies (LOS criteria not included in the scope of work)	na / 320 hours	Moderate/0-5 (LU 1.5.2.1)	na / 1200 hours	Approx. \$55,000 / 2890 hours
	Submittal Requirement Guidelines - for Environmental	na / 320 hours	Moderate/0-5 (LU 1.5.2.1)		
	Submittal Requirement Guidelines - Fiscal Impact Statement	Development of impact statement data guidelines - approx. \$5,000 / 450 hours	Moderate/0-5 (LU 1.5.2.1)		
	Cumulative Impact Modeling - Database Set-up Investigation (to allow tracking of approved units in relation to public facilities, traffic, etc.)	Approx. \$50,000 / 600 hours (An additional development potential analysis step would be approximately \$31,000.)	High/0-5 (LU 1.5.1.1)		
Subdivision Ordinance	Alternative Onsite Sewage Systems Investigation	na / 200 hours	n/a specific (very recent state code issue)	na / 1000 hours	na / 1200 hours
<p>* Staff work hours is an estimate only. The estimate includes Planning/Zoning staff, front desk staff support and supervisory review. The estimate does not include time spent by other divisions or agencies, such as the County Attorney's office, Environmental Division, etc.. These estimates may not be reflective of the total number of hours if an item proves to be controversial, has heavy public interest, or has a higher amount of time spent on it by the Planning Commission or Board. The staff work hours for the Zoning Ordinance review represent the following percentages of total staff hours: 34% for Option A, 36% for Option B, and 30% for Option C.</p>					Approx. \$135,000 / 16,510 hours

Attachment 3: Process and Timeframe

		Month																			
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Stage 1 : ID of Issues & Eval. of Options	Joint Planning Commission/Board of Supervisors Work Session	█																			
	2 Planning Commission Meetings/Forums	█	█																		
	Staff general review of the ordinance sections and ID of problems	█	█	█																	
	Staff works on non-consultant research items				█	█	█	█													
	Work to get consultants under contract for research items	█	█																		
	Consultant work on research items, preparation of reports and options		█	█	█	█	█	█													
	4 - 8 Policy Committee meetings/Public comment				←*	←	←		█												
	1 Planning Commission Work Session/Public comment				←*	←	←	←		█											
1 Board Check-In Work Session/Public comment									█	█											
Stage 2 : Prep & Revision of Ordinances	Preparation of the draft ordinances								█	█	█	█	█								
	8 - 12 Policy Committee meetings/Public comment										←*	←	█	█	█						
	1 Planning Commission Work Session/Public comment										←*	←	←	←	█						
	1 Board Check-In Work Session/Public comment														█						
	Ordinance finalization & vetting of draft ordinances through zoning administrator and attorney's office														█	█	█	█			
	2 Policy Committee meetings/Public comment																█				
Stage 3 : Adoption	Advertisements & Written Notice - Prep and publication or mailing												←*	←	←	←	←	←	█	█	█
	Planning Commission consideration												←*	←	←	←	←	←	←	█	█
	BOS consideration												←*	←	←	←	←	←	←	█	█

* Priority items or other more straightforward items may be moved through the process more quickly

UNAPPROVED MINUTES FROM THE APRIL 7, 2010 PLANNING COMMISSION
MEETING

Ms. Tammy Rosario stated that staff had prepared a revised methodology for the Zoning Ordinance and Subdivision Ordinance update. The methodology and its related scope and process documents were revised based on guidance provided by the Commissioners at the Policy Committee meeting on March 17, 2010. The changes included three main items. First, the ordinance update priority items identified at the meeting have been inserted into the methodology in the Scope of Work section. Those include cumulative impact database setup, sustainability audit, development standards with the sign ordinance, commercial business districts, and Economic Opportunity District. Second, the same section of text was revised to include a goal of completing or adopting the priority items by the end of 2011. Third, two forums were created at the beginning of the process which would involve the whole Planning Commission and focus on collecting the input of groups, similar to the Community Participation Team forums during the Comprehensive Plan review. The text reflecting this is in the process components section. The methodology and the Planning Commissions changes were discussed again at the joint work session with the BOS on March 23, 2010. Consensus was reached on moving forward with the adoption of the revised methodology. Staff recommended the Planning Commission endorse the revised methodology and forward it to the Board for consideration at its May 11, 2010 meeting.

Mr. Henderson moved to endorse the revised methodology.

In a roll call vote, the Zoning Ordinance methodology was unanimously endorsed and forwarded to the Board of Supervisors (7-0).

**REZONING-Z-0003-2008/MASTER PLAN-0003-2008. The Candle Factory
Staff Report for the May 11, 2010, 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 5, 2008, 7:00 p.m. (deferred by applicant) December 3, 2008, 7:00 p.m. (deferred by applicant) January 7, 2009, 7:00 p.m. (recommended approval by 4-2) April 1, 2009, 7:00 p.m. (recommended approval by 4-3)
Board of Supervisors	February 10, 2009, 7:00 p.m. (deferred by applicant) March 10, 2009, 7:00 p.m. (remanded to Planning Commission) April 28, 2009, 7:00 p.m. (indefinitely deferred by applicant) April 13, 2010, 7:00 p.m. (deferred by the Board of Supervisors) May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant:	Mr. Vernon Geddy, III, of Geddy, Harris, Franck and Hickman, L.L.P on behalf of Candle Development, LLC
Land Owner:	Candle Development, LLC
Proposal:	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 a 90,000-square-foot assisted living facility with capacity for 96 units.
Location:	7551, 7567, and 7559 Richmond Road
Tax Map/Parcel Nos.:	2321100001D, 2321100001E, and 2321100001A
Parcel Size:	Approximately 64.45 acres
Existing Zoning:	A-1, General Agricultural District; M-1, Limited Business/Industrial, District; and MU, Mixed-Use, District
Comprehensive Plan:	Low Density Residential and Mixed-Use
Primary Service Area:	Inside

STAFF RECOMMENDATION

Staff finds that this application is consistent with the tenets of both the Zoning Ordinance and the 2009 Comprehensive Plan and recommends that the Board of Supervisors approve this application with the attached resolution. A positive action includes approval of the private streets proposed as part of this development (refer to the master plan for location of private streets).

Candle Factory Application-Time Line

- July 11, 2007, Planning Commission meeting
 This application was indefinitely deferred by the applicant in order to address outstanding issues and to further incorporate suggestions made by the Planning Commission.
- January 7, 2009, Planning Commission meeting
 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.
- April 1, 2009, Planning Commission meeting
 The Planning Commission reconsidered the rezoning of Candle Factory project and recommended approval of this application by a vote of 4 to 3. Prior to the April 2009 Board meeting, the applicant requested that this case be indefinitely deferred. As a result, the case was not considered by the Board of Supervisors at the scheduled meeting.
- February 2010
 In February 2010, the applicant submitted revised materials and requested that this application be placed for consideration by the Board of Supervisors. There have been no changes to the main elements of this proposal (i.e., 175 residential units, 30,000 square foot of commercial/office, and a 90,000-square-foot assisted living facility) since it received a recommendation of approval by the Planning Commission in April 2009. Four proffered items have been revised by the applicant (refer to pages 3, 4 and 5 of this report for further discussion on revised proffers). Table No. 1.0 below highlights the major revisions made to this application between 2009 and 2010:
- April 13, 2010 – Board of Supervisors Meeting
 The Board of Supervisors deferred consideration of the rezoning of Candle Factory to the May 11, 2009, meeting in order for it to be considered concurrently with the James City County SUP Case No. 0002-2010, CVS and Food Lion. There have been no changes to this proposal since its deferral on April 13, 2010. However, staff has produced an exhibit (Attachment No. 2) to facilitate the discussion regarding the mitigation of traffic impacts triggered by the proposed development of Candle Factory and CVS/Food Lion. The applicant has provided a supplement to the Fiscal Impact Analysis designed to clarify the fiscal impact of the proposed Living Assisted Facility under a variety of assumptions as to when the facility is to open (Attachment No. 3).

Table No. 1.0-Comparison between revised applications for the Candle Factory property

	2009 Application	2010 Application
Scope of Project	<p>Rezoning application: To rezone 64.45 acres from A-1, MU, and M-1, to MU, with proffers.</p> <p>SUP application: Removed from application.</p>	<p>Rezoning application: To rezone 64.45 acres from A-1, MU, and M-1, to MU, with proffers.</p>

Number of Residential Units	175 units (i.e., 142 single-family attached and 33 single-family detached).	Same as in the 2009 application.
Total Gross Residential Density	2.71 dwelling units per acre (excludes the 97 assisted living facility rooms)	Same as in the 2009 application.
Number of Affordable Units	19 dwelling units for sale at or below \$160,000; 19 dwelling units for sale at or below \$190,000; 20 dwelling units for sale at or below \$225,000	5 dwelling units for sale at or below \$160,000; 5 dwelling units for sale at or below \$190,000; 48 dwelling units for sale at or below \$225,000
Non-residential square footage	Rezoning application: Maximum of 30,000 square feet of commercial/office space and an approximately 90,000-square-foot assisted living facility with 96 rooms SUP application: Removed from application	Same as in the 2009 application.

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

Proposed Changes made since April 2009 Board Deferral Request

Amendment to Existing Proffers:

Proffer No. 4-Affordable and Mixed Cost Housing The total number of price restricted residential units remains at 58, out of a total of 175 units, but the mix has changed from what has been previously proffered. Under the previously proposed proffers there were 19 units proffered at a price under \$160,000, 19 units proffered under \$190,000, and 20 units proffered under \$225,000. As revised, this proffer now reads:

“A minimum of 5 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 5 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 48 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 change in the proffered residential mix can be translated into the following numbers:

- From 19 to 5 units proffered at \$160,000 - A reduction from 11% to 3% of units at this price level;
- From 19 to 5 units proffered at \$190,000- A reduction from 11% to 3% of units at this price level;
- From 20 to 48 units proffered at \$225,000 - An increase from 11.5% to 27.5% of units at this price level.

The 2009 Comprehensive Plan defines affordable housing as: *“Housing available at a sales price or rental amount that does not exceed 30% of the total monthly income....For purposes of targeting needed housing in the community, affordable housing is aimed at families earning between 30% and 120% of Area Median Income.”* Table 2.0 below demonstrates the relationship between the Area Median Income (AMI), its corresponding target house prices, and the price restricted units being proffered by Candle Factory.

Table 2.0 AMI and target house prices for James City County

% AMI*	4-Person Income	Target House Prices***	Candle Factory**
30%	\$20,350.00	\$61,050.00	N/A
50%	\$33,950.00	\$101,850.00	N/A
80%	\$54,300.00	\$162,900.00	5 units at \$160,000
100%	\$67,900.00	\$203,700.00	5 units at \$190,000
120%	\$81,480.00	\$244,440.00	48 units at \$225,000

Source: U.S. Department of Housing and Urban Development.*Area Medium Income is calculated for the entire Virginia Beach-Hampton Roads MSA 2009 **proffers for Candle Factory-2010. ***Target house prices for James City County-2009.

The revised proffers favor the higher end of the targeted households (earning between 100% and 120% of AMI.) According to the Housing Needs Assessment (page 37 of the 2009 Comprehensive Plan), an analysis of the 2000 Census data shows that approximately half the County’s owner households earning below 80% AMI lack affordable housing. Specifically, more than two-thirds of those earning below 50% AMI and almost half of those earning between 50% and 80% AMI lacked affordable housing in the County. Common professions associated with the income range between 75% and 80% AMI are: fire fighters, police officers, and teachers¹. Staff acknowledges that this proffer is a positive public benefit to the County. However, staff finds that, as revised, this proffer will not provide affordable housing ownership to the same extent as previously proffered.

Proffer No. 5(a) - Cash Contributions for Community Impacts. School cash proffer has been revised to comply with the current school proffer policy. As revised, this proffer now reads:

“A contribution of \$17,115.00 for each single family detached dwelling unit and of \$4,870.00 for each single family attached dwelling unit, other than Affordable Units, 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. ”

Staff supports the above amendment to Proffer No. 05(a) as it now meets the requirements of the approved Cash Proffer Policy for Schools adopted by the Board of Supervisors in July 2007.

Proffer No. 6 (a) - Entrances; Traffic Improvements Two additional traffic improvements have been proffered (i.e., construction of the private driveway with a five-lane road section and a through/left-turn lane). These improvements are triggered by the proposed development of CVS/food market (SUP-0002-2010) at the adjacent property located at 7521 Richmond Road. As revised, this 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 (provided, however, that the Director of Planning may require a fifth lane, if the level of development that has occurred on Tax Map Parcel No. 2331100001C warrants such additional lane) 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 (provided, however, that the Director of Planning may require a through/left turn lane, if the level of development that has occurred on Tax Map Parcel No. 233110001C warrants such through/left turn lane) and a right turn lane.”

Staff supports the above amendment to Proffer No. 06 (a). The construction of a driveway with five lanes (i.e., a left-turn lane, a through/left-turn lane, a right-turn lane, and two receiving lanes) as opposed to four lanes (i.e., a left-turn lane, a through lane, a right-turn lane, and one receiving lane) is contingent on the development

¹ Workforce Housing Affordability Comparisons-Example of occupations from JCC Needs Study 12-08 and informal study by VOP 2005.

of the proposed CVS/food market on the adjacent property at the time Candle Factory starts building its mixed use development.

Proffer No. 11-Design Guidelines and Review; Sustainability Building This proffer has been revised to provide for LEED certification for the assisted living facility and the commercial/office units; single-family homes will achieve EarthCraft Homes certification. As revised, this proffer now reads:

“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 the Comprehensive Plan for the Norge Community Character Area 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. Owner shall achieve LEED certification at the certified level for the assisted living and the commercial buildings shown on the Master Plan. All single family detached houses shall achieve EarthCraft House Virginia certification at the EarthCraft House Certified (Level I) level. Owner shall provide a copy of each certification to the Director of Planning. ”

Staff supports the above revision to Proffer No. 11 as it specifically calls for LEED certification for the assisted living facility and commercial/office units, and EarthCraft House Virginia certification for all single-family detached dwellings. However, staff notes that the current proffer excludes all 142 single-family attached dwelling units from any type of green building certification.

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.

The area subject to the rezoning application is located on the south side of Richmond Road (Route 60), opposite the intersection of Richmond Road and Croaker Road (Route 607). This property 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 2009 Comprehensive Plan. A driveway at the Route 60/Croaker intersection will provide vehicular access from Route 60, a Community Character Corridor, to the proposed development.

The development combines residential and non-residential components to include: 175 residential units (i.e., 142 single-family attached and 33 single-family detached units), up to 30,000 square feet of commercial and office uses, and a 90,000-square-foot assisted living facility complex with capacity for 96 individual rooms. 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, dining 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 3.0 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 3.0-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 \$350,000	33 units	\$ 17,115	\$1,000	\$1,239.00	\$650.00	\$ 500.00	\$676,632
SFA ²	Townhouse	142 units	At or below \$160,000	5 units	N/A	N/A	N/A	N/A	\$ 500.00	\$2,500
			At or below \$ 190,000	5 units	\$4,870	\$1,000	\$934.00	\$650.00	\$ 500.00	\$39,770
			At or below \$225,000	48 units	\$4,870	\$1,000	\$934.00	\$650.00	\$500.00	\$381,792
			Market Price	84 units	\$4,870	\$1,000	\$ 934.00	\$650.00	\$ 500.00	\$668,136
N/A	Assisted Living Units	96 units	N/A	96 units	N/A	\$250.00	\$ 467.00	\$575.00	N/A	\$124,032
Total										\$1,892.862

Source: Rezoning Application Materials Associated with-Z-0003-2008/Master Plan-0003-2008
¹SFD = Single Family Detached; ²SFA = Single Family Attached.

CONTRIBUTIONS-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 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 52.12 acres are developable land. The Candle Factory Master Plan shows approximately 23.97 acres or 46% 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 \$170,000.00) 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, and revised on March 10, 2010, (attached 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 2015, 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 2015, 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 \$798,900 in revenues for James City County and create annual expenditures in the amount of \$845,500. The net fiscal impact is estimated to be negative \$46,700 at build out in 2015; 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: 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 \$17,115.00 per each single-family detached dwelling unit and \$4,870.00 for each single-family attached 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. 5(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: 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 2009, 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 4.0 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 4.0-Student enrollment and school capacity for JCC-Williamsburg schools 2009-2010

School	Design Capacity	Effective Capacity ¹	Current 2009 Enrollment	Projected Students Generated	Enrollment+Projected Students
Norge Elementary School	760	715	592	16	608
Toano Middle School	775	822	859	9	868
Warhill High School	N/A*	1,441	1,132	12	1,144
Total	1,535	2,978	2,583	37	2,620

Source: Williamsburg-JCC Public School Official Student Enrollment Report September 2009 (revised December 2009)

¹ Effective 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 37 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 (Lois S. Hornsby Middle) is funded and is scheduled to open in 2010, staff believes that this proposal would still meet the APF Policy Guidelines.

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 feet x 90 feet in size; and
- Two multi-purpose fields, one which will be at least 200 feet x 200 feet 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 the 2009 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 to the year 2015. 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- or five-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)];
- 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)];
- 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. 6(f)];
- Provision of pedestrian and vehicular connections between the Property and the adjacent property -Tax Parcel 2321100001C (Proffer No.7);
- Provision of 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 (Proffer No. 20); and
- Right-of-way reservation to connect the proposed development with adjacent property located at 341 Farmville Lane (Proffer No.21).

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 3,580 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: On Richmond Road (Route 60) from Rochambeau Drive to Croaker Road (Route 607), there were 17,201 average daily trips. On Richmond Road from Croaker Road (Route 607) to Norge Elementary there were 21,892 average daily trips. On Croaker Road from Rochambeau Drive to Richmond Road, there were 9,275 average daily trips.

2035 Traffic Counts: On Richmond Road from Rochambeau Drive to Croaker Road 29,293 average daily trips are projected. On Richmond Road from Croaker Road to Norge Elementary 39,110 average daily trips are projected. On Croaker Road from Rochambeau Drive to Richmond Road 28,584 average daily trips are projected. The segment of Richmond Road between Croaker Road and Norge Elementary is listed on the “watch” category and the section of Croaker Road is “recommended for improvements” 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 intersection 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.

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. 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. Staff notes that the Candle Factory property located along Richmond Road is currently under a SUP request; if approved, it will allow the construction of a CVS store and Food Lion. Staff notes that the master plans for the Candle Factory development and for CVS/Food Lion incorporate pedestrian and vehicular interconnectivity features between parcels. Further, both developments will primarily use the existing signalized entrance to connect to and from Richmond Road. Staff has worked with VDOT and the applicants of both developments to ensure that each development will address and mitigate their own impact to the traffic/road system.

COMPREHENSIVE PLAN

Land Use Map

The 2009 Comprehensive Plan Land Use Map designates the site for the proposed Candle Factory project as Low Density Residential and Mixed Use. Table 5.0 below shows the two different land use designations on the site broken down by respective acreage, proposed use, and correspondent densities.

Table No.5.0-2009 Comprehensive Plan land use designation for the Candle Factory property

	Candle Factory Site (Total Acreage)	Mixed Use Designated Area	Low Density Residential Designated Area
Area	±64.4 Acres	±3.6 acres	±61.4 acres
Uses Proposed	Residential, non-residential, and recreational uses	Non-residential: Thirty-thousand square feet of commercial/office space	<p>Residential: 33 Single-Family Detached Units, 142 Single-Family Attached Units.</p> <p>Non-Residential: Ninety-thousand square-foot Assisted Living Facility with capacity for 96 units</p> <p>Recreational: ±3.65 acre of park land</p>
Density	±2.7 dwelling units per acre (density calculation based on 175 units/64.5 acres-total area)	N/A	±3.6 dwelling units per acre (density calculation based on 175 units/48 acres- total parcel area 64.4 acre <i>minus</i> ±13 acre-area dedicated to the assisted living facility, and <i>minus</i> 3 acre-area designated Mixed Use area)

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

The residential density proposed for the Candle Factory is below the maximum of 18 dwelling units per acre allowed in Mixed Use Zoning Districts (refer to Section 24-523 of the Zoning Ordinance). Staff notes that the master plan shows two residential density numbers for this project; the lowest gross density number of 2.7 dwelling units per acre, is achieved by using the total acreage of the site (175 residential units/64.4 acres). The highest density number, 3.6 dwelling units per acre is achieved by not considering the approximately 13-acre area dedicated as the location for the proposed assisted living facility (175 residential units/48.4 acres) and the 3 acre-area designated as Mixed Use. Staff finds that the use of the lowest density number for this project to be acceptable and consistent with other residential projects as it considers the entire acreage of the parcel to calculate density. Table 6.0 shows density numbers for the proposed Candle Factory development compared to nearby residential developments:

Table No.6.0- Densities for Candle Factory and nearby residential developments

	Total Number of Units*	Total Area	Density	Comp Plan Designation
Candle Factory	175	64.4 acres	2.7 du/ac	Low Density Residential
Norvalia	59	26.5 acres	2.2 du/ac	Low Density Residential
Toano Woods	75	47 acres	1.5 du/ac	Low Density Residential
Mirror Lakes	241	213 acres	1.1 du/ac	Low Density Residential
Oakland	41	102 acres	0.4 du/ac	Low Density Residential

Source: GIS. Numbers are an approximation.

*Total number of existing units only. For total number of parcels: Norvalia (59), Toano Woods (76), Mirror Lakes (250), Oakland (44).

Staff notes that the 96 assisted living rooms are excluded from the Candle Factory density calculation. The 2009 Comprehensive Plan (Land use section, page 149), discusses density calculations for continuing care and retirement facilities:

“While assisted living rooms and skilled nursing beds do have an impact to the County, they do not represent the same level of impact as would a traditional dwelling unit. Assisted living rooms and skilled nursing beds have been considered to be more along the lines of an institutional land use (like a hospital) than a residential land use, and that their impacts should be accounted for differently than with a density measurement.” Staff notes that the largest public impacts from the assisted living rooms will likely come from traffic (delivery of good and services, employees traveling to and from the site). Staff finds that the set of traffic/road improvements proffered by this application mitigate the impacts of not only the residential/commercial development of the site but that of the assisted living facility as well.

Land Use

<p>Basic Description</p>	<p>Low Density Residential (Residential Designation Description, Chart 2, page 153): Located in the PSA where public services and utilities exist or are expected to be expanded to serve the sites over the next twenty years. Gross density up to one dwelling unit per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units proposed, and the degree to which the development is consistent with the Comprehensive Plan. Gross density from one unit per acre to four units per acre, if particular public benefits are provided. Examples of such public benefits include mixed-cost housing, affordable and workforce housing, enhanced environmental protection, or development that adheres to the principles of open space design. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, very limited commercial establishments, timeshares, retirement and care facilities and communities.</p>
	<p>Staff Comment: This development proposes an overall density of 2.7 dwelling units. 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 that this application is providing affordable and mixed-cost housing, protection to the environmentally sensitive character of the site, and recreational features and open space areas which meet and exceed their ordinance requirements..</p>
	<p>Mixed Use (Mixed Use Designation Descriptions-Norge, Chart 4, page 156): For lands southwest of the Croaker/Richmond Road intersection, suggested uses include commercial and office as primary uses with limited industry as a secondary use. The Croaker Road and Richmond intersection is approaching capacity; therefore any proposed development should be conditioned on maintenance of acceptable levels of service. Building scale and massing should complement the potential adjacent residential development and architecture should compliment historic structures in Norge. Development plans should include adequate transportation connections, including both road and pedestrian level facilities, between the Mixed Use and adjacent Low Density Residential areas.</p>
	<p>Staff Comment: Up to 30,000 square feet of office and commercial space is proposed within the 3 acre-area designated as Mixed-Use by the 2009 Comprehensive Plan. 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. The applicant has proffered design review guidelines (Proffer No. 11) setting forth design and architectural standards for the development of the property generally consistent with the design standards outlined in the 2009 Comprehensive Plan for the Norge Community Character Area. Staff notes that this application provides both pedestrian and vehicular connectivity between non-residential uses to residential areas.</p>

Population Needs

Goals, Strategies, and Actions	<p>Action No. 1.2.5-Page 17: Encourage and promote additional safe and licensed adult care business, including home-based adult care, near adequate and accessible transportation routes.</p> <p>Action No. 1.3.4-Page 18: Promote affordable senior housing options, from independent living to Continuing Care Retirement Communities (CCRCs) and skilled care, for all.</p>
	<p>Staff Comment: Staff finds that the proposed assisted living facility is an asset for James City County by addressing housing and health care issues related to the senior citizens population of this community.</p>

Housing

Goals, strategies, and actions	<p>Action No. 1.1.1-Page 44: Expect energy conservation measures and green building techniques in rehabilitation projects and new residential developments by encouraging participation from builders in green certification programs such as EarthCraft, LEED ND, LEED for Homes, or the National Association of Home Builders National Green Building Program.</p> <p>Action No. 1.1.2-Page 44: Promote residential development that provides a balance of unit types and price ranges, open space preservation and recreational amenities, and supports walkability and bicycle travel both internally and to nearby destinations.</p> <p>Strategy No. 1.3-Page 46: Increase the availability of affordable and workforce housing, targeting households earning 30%-120% area median income as established by HUD.</p> <p>Action No. 1.3.15-Page 47: Promote the full integration of affordable and workforce housing units with market rate units within residential developments and throughout the Primary Service Area.</p>
	<p>Staff Comment: Proffer No. 11-Design Guidelines and Review, Sustainable Building, has been amended to include EarthCraft House Virginia certification (Level I) to all 33 single-family detached dwelling units (this proffer does not propose certification for the remaining 143 single-family attached units). A mix of single-family dwelling units, attached structures containing two, four and more than four dwelling units at different price ranges is being proposed as part of this development. Further, close to 40% of the entire area of the property will be offered and maintained as open space areas. Recreational facilities including the provision of sidewalks, biking and jogging trail are also part of the recreational facilities being proffered by this development (Proffer No. 9).</p> <p>Staff notes that that this development has proffered affordable and workforce dwelling units (refer to proffer No.4) targeting household incomes between 30% and 120% of the Area Medium Income. Please refer to page 3 of the staff report for discussion on affordable and workforce housing. In order to address integration of affordable and workforce housing with market rate units, the applicant proffered not to construct all affordable units in the same location.</p>

Environmental

<p>State and County Quality Improvement Strategies</p>	<p>Yarmouth Creek Watershed Management Plan-Page 65: Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin. The Creek drains into Chickahominy River, which discharges into the James City County River....The Board of Supervisors, adopted the six goals and 14 priorities associated with the Yarmouth Creek Watershed Management Plan by resolution dated October 10, 2006.</p> <p>Staff Comment: This application will comply with the Special Stormwater Criteria (SSC) for the Yarmouth Creek watershed, by providing two forebays at the major stormwater outfalls into the largest of the BMP's (Marston's Pond) in order to address water quality.</p>
<p>Goals, Strategies, and actions</p>	<p>Action No. 1.1.2-Page 76: Promote the use of Better Site Design, Low Impact Development, and effective Best Management Practices (BMPs).</p> <p>Action No. 1.1.3-Page 77: Through the Chesapeake Bay Preservation Ordinance, enforce Resource Protection Areas (RPAs) protecting all tidal wetlands, tidal shores, nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, perennial streams and a 100-foot-wide buffer adjacent to an landward of other RPA components.</p> <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 storm water from 30% of the impervious areas on the property, such as bioretention basins, dry swales, porous pavement systems, underground infiltration BMPs, rain barrels and downspouts are included in the proffered Master Stormwater Conceptual Plan. Further, water conservation standards, which limit the installation and use of irrigation systems and irrigation wells on the property, have also been proffered.</p>

Community Character Area

<p>General</p>	<p>Community Character Areas-Norge-Page 86: In contrast to Toano, Norge is more impacted by recent commercial development along Richmond Road and has not been the subject of a subarea study. While Norge continues to have a unique and very identifiable residential component located off Richmond Road, and some pedestrian-oriented storefronts, the early twentieth century "village" character of its business and residential areas long Richmond Road has been visually impacted by automobile-oriented infill development.... Examples of specific design standards intended to guide future development and redevelopment in Norge are:</p> <ul style="list-style-type: none"> • The architecture, scale, materials, spacing, and color of buildings should complements the historic character of the area; • Where possible, parking should be located to the rear of buildings. Parking should be screened from roadway and adjacent properties; • Pedestrian and bicycle access and circulation should be promoted through the provision of sidewalks, bike racks, benches, crosswalks, streets trees, and other design features which will help to accomplish this goal; • Mixed use development which provides residential, commercial, and office uses in close proximity are encouraged.
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	<p>Staff Comment: Staff notes that Proffer No. 11-Design Guidelines and Review ensures that design review guidelines will be submitted for the review and approval of the Planning Director setting forth design and architectural standards consistent with the general intent of the design standards outlined in the 2009 Comprehensive Plan for the Norge Community Character Area.</p>
Goals, strategies, and actions	<p>Action No. 1.3.7-Page 99: Expect 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...</p> <p>Action No. 1.6.1-Page 101: Expect archaeological studies for the development proposals requiring legislative approval on lands identified by the James City County staff as warranting such study and require their recommendations to be implemented. In making the determination, staff will consult archaeological studies and seek the recommendation of representatives of the County Historical Commission or other qualified archaeologists if necessary.</p> <p>Staff Comment: The applicant has proffered to install streetscape improvements in accordance with the County’s Streetscape Guidelines along Croaker Road extended (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 (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 notes that the County Archeological Policy is proffered (refer to Proffer No.10).</p>

Parks and Recreation

Goals, Strategies and actions	<p>Action No. 1.5.1-Page 114: Continue to encourage new developments to dedicate or otherwise permanently convey open space, greenway, and conservation areas to the County or a public land trust.</p> <p>Action No. 1.5.2-Page 114: 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 Master Plan, the Regional Bicycle Facilities Plan, and the Greenway Master Plan.</p> <p>Action No. 1.5.3-Page 114: Encourage new developments requiring legislative review to proffer public recreation facilities consistent with standards in the Parks and Recreation Master Plan. New developments should have neighborhood parks with trails, bikeways, playgrounds, practice fields, and open spaces.</p> <p>Staff Comment: This application proposes 12 acres of forested buffers landward of the required 100-foot RPA buffer and all other open spaces on the property (including the area within the 100-foot RPA) to be protected either by a homeowners association or by a natural open space easement (refer to Community Impact Statement, BSD/MD Principle #2, page 10). Staff notes that proffers for this application includes provisions for the construction of on-site and off-site sidewalks [Proffers No. 5(f) and No. 12], a shoulder bike lane from eastbound Route 60 into the property [Proffer No. 6(b)] and recreational facilities (Proffer No. 9) which meets and exceeds the requirements set forth by the 2009 Parks and Recreation Master Plan</p>
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Transportation

<p>General</p>	<p>Richmond Road-Page 181: 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-Page 182: The section of Croaker Road extending from Richmond Road to Rose Lane is projected to warrant road widening based on future traffic projections; however, due to the topography and the CSX Railroad bridge along this corridor, road widening would be very expensive. It is recommended, therefore, that careful land use planning, traffic coordination, and the additional of turn lanes be utilized</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 traffic road improvements (refer to Proffer No. 6) will mitigate the negative impacts of increase in traffic flow, particularly at the intersection between Route 60 and Croaker Road.</p> <p>As part of the proposed traffic road improvements, a new right-turn lane from east bound Richmond Road into the property [Proffer No. 6(b)] and the extension of an existing left-turn lane at the intersection of Richmond and Croaker Road [Proffer No.6(c)] are planned as means to address increase traffic flow through the intersection.</p>
	<p>Action No. 1.1.2-Page 186: Ensure that new developments do not compromise planned transportation enhancements. New development should minimize the impact on the roadway system by:</p> <ul style="list-style-type: none"> (a) Limiting driveway and other access points and providing shared entrances, side street access, and frontage roads; (b) Providing a high degree of interconnectivity within new developments, adjoining new developments, and existing developments using streets, trails, sidewalks, bikeways, and multipurpose trails; (c) Concentrating commercial development in compact nodes or in mixed use areas with internal road systems and interconnected parcel access rather than extending development with multiple access points along existing primary and secondary roads; (e) Implementing strategies that encourage shorter automobile trips and accommodate walking, bicycling, and use of public transit.

	<p>Staff Comment: This proposal will feature a single public driveway (refer to Proffer No. 6) connecting the entire development to Richmond Road. Proffer No.7-Connections to Adjacent Properties will ensure pedestrian and vehicular connectivity between this project and adjacent property at 7521 Richmond Road (potential site for a CVS/food market stores). Proffer No. 21 reserves an area shown on the master plan for possible future public road/sidewalk connection to adjacent property located at 341 Farmville Road.</p> <p>The proposed 30,000 square feet office/commercial units will be developed in a 3.0 acres area internally connected to the residential areas. 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 (proffer No. 12). Additionally a minimum eight-foot-wide concrete or asphalt shared use path along one side of the entrance road approximately .36 miles in length and approximately .94 miles of soft surface walking as also proposed (Proffer No. 9).</p> <p>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. Also, Proffer No. 5(f) offers 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 (five-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 proffers would enhance the overall proffers for the Candle Factory development.</p>
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Comprehensive Plan Comments

During the Comprehensive Plan review process, the properties behind the mixed use designated Crosswalk Community Church and the Candle Factory parcels along Richmond Road were re-designated from a mix of Low Density Residential, Limited Industrial and Mixed Use to Low Density Residential and Mixed Use. The revised Low Density Residential designation covers the current A-1 and MU zoning district areas as shown on the new 2009 Comprehensive Plan Land Use Map. Residential uses with gross density up to four units per acre (refer to land use discussion on page 12 and 13 of this report) and an assisted living facility are uses which are compatible with the Low Density Residential re-designation of the parcels. Planning staff finds this proposal consistent with the James City County 2009 Comprehensive Plan.

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, 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 24-528 (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 Homeowners Association.

RECOMMENDATION

Staff finds that this application is consistent with the tenets of both the Zoning Ordinance and the 2009 Comprehensive Plan and recommends that the Board of Supervisors approve this application with the attached resolution. A positive action includes approval of the private streets proposed as part of this development (refer to the master plan for location of private streets).

Jose-Ricardo L. Ribeiro

CONCUR:



Allen J. Murphy, Jr.

JRLR/nb
z-mp03-08CandFac2.doc

ATTACHMENTS:

1. Resolution
2. Mitigation of Traffic Impacts at the Richmond/Croaker Road Intersection Exhibit (prepared by staff)
3. Supplement to Fiscal Impact Study (April 27, 2010)
4. The following documents have been submitted to the Board of Supervisors prior to the April 13, 2010 meeting and have not been modified:
 - a. Community Impact Statement
 - b. Supplemental Material (Elevations)
 - c. Supplement to Traffic Analysis for the Candle Factory Development (December 11, 2009)
 - d. Traffic Analysis for the Candle Factory Development (November 10, 2008)
 - e. Location Maps
 - f. Fiscal Impact Study
 - g. Phase IA Cultural Resources Assessment
 - h. Proffers

RESOLUTION

CASE NO. Z-0003-2008/MP-0003-2008. 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, 7567, and a portion of property located at 7559 Richmond Road and further identified as James City County Real Estate Tax Map Nos. 2321100001D, 2321100001E, and 2321100001A, respectively (collectively, the “Properties”) from A-1, General Agricultural, District; M-1, Limited Business/Industrial, District; and MU, Mixed Use, District; to MU, Mixed Use 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 and Mixed Use on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, on April 1, 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, hereby approves Case No. Z-003-2008/MP-0003-2008 described herein and accepts the voluntary proffers.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves 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 11th day of May,
2010.

Mitigation of Traffic Impacts at the Richmond and Croaker Road Intersection

The Traffic Impact Analyses (TIA) prepared for the proposed development of Candle Factory (DRW Consultants-December 2008) and CVS/Food Lion (Kimley-Horn-January 2010) identifies improvements to the local road system necessary to mitigate the impacts of these two proposals. The scope of the study area for both TIAs includes the same roadway segments and intersections (Refer to page 08 of the Traffic Impact Analysis for CVS/Food Lion and page 01 of the Traffic Analysis for Candle Factory-November 10, 2008). The road improvements proposed by each of these developments primarily impact the signalized intersection of Richmond and Croaker Road. Exhibits No. 1, 2, and 3 below illustrate the existing conditions of this intersection and how it will be modified over time by the improvements proposed as part of the development of Candle Factory and CVS/Food Lion.

Exhibit 1- Richmond/Croaker Road signalized intersection currently includes the following lane configuration:

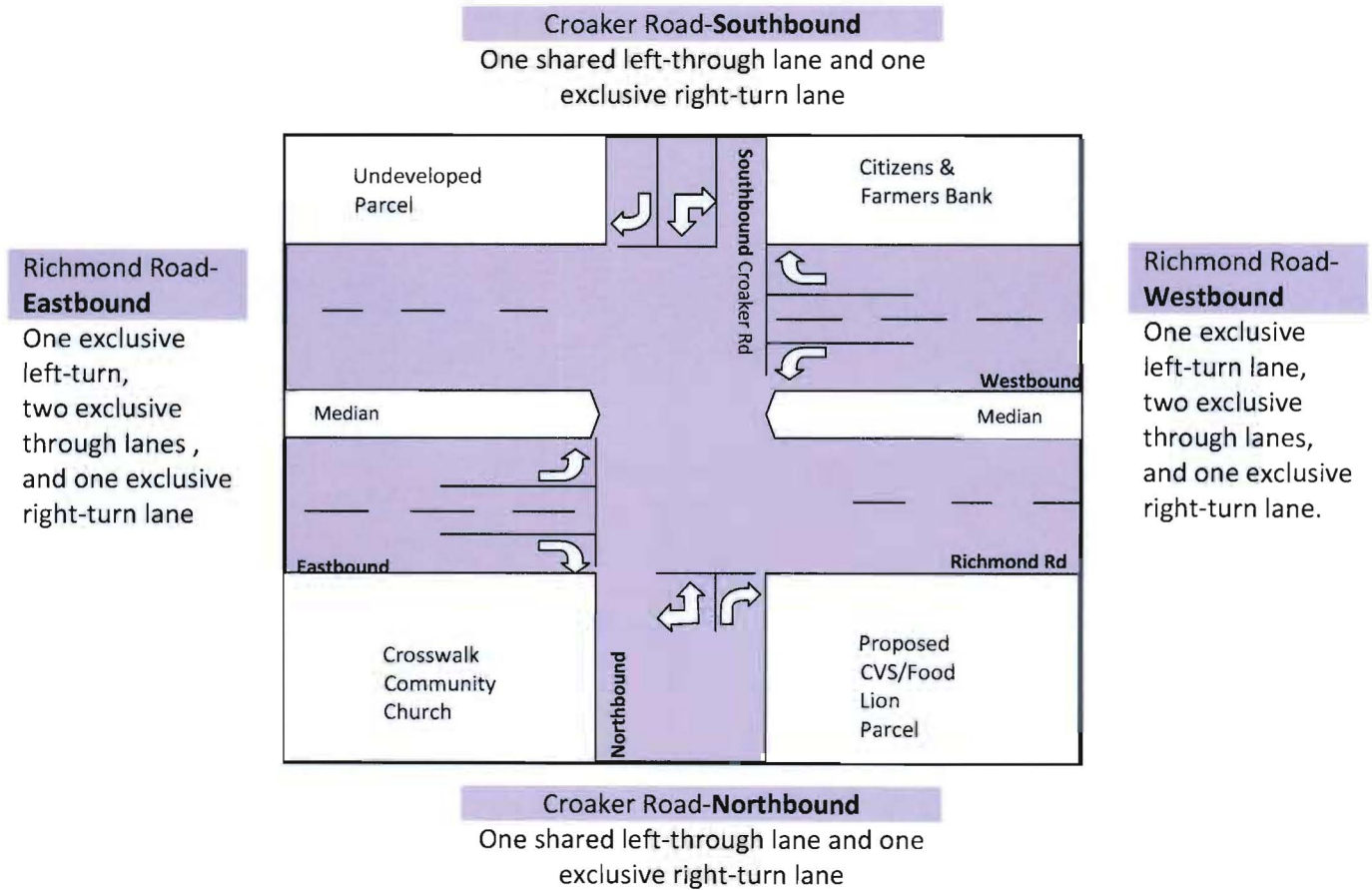
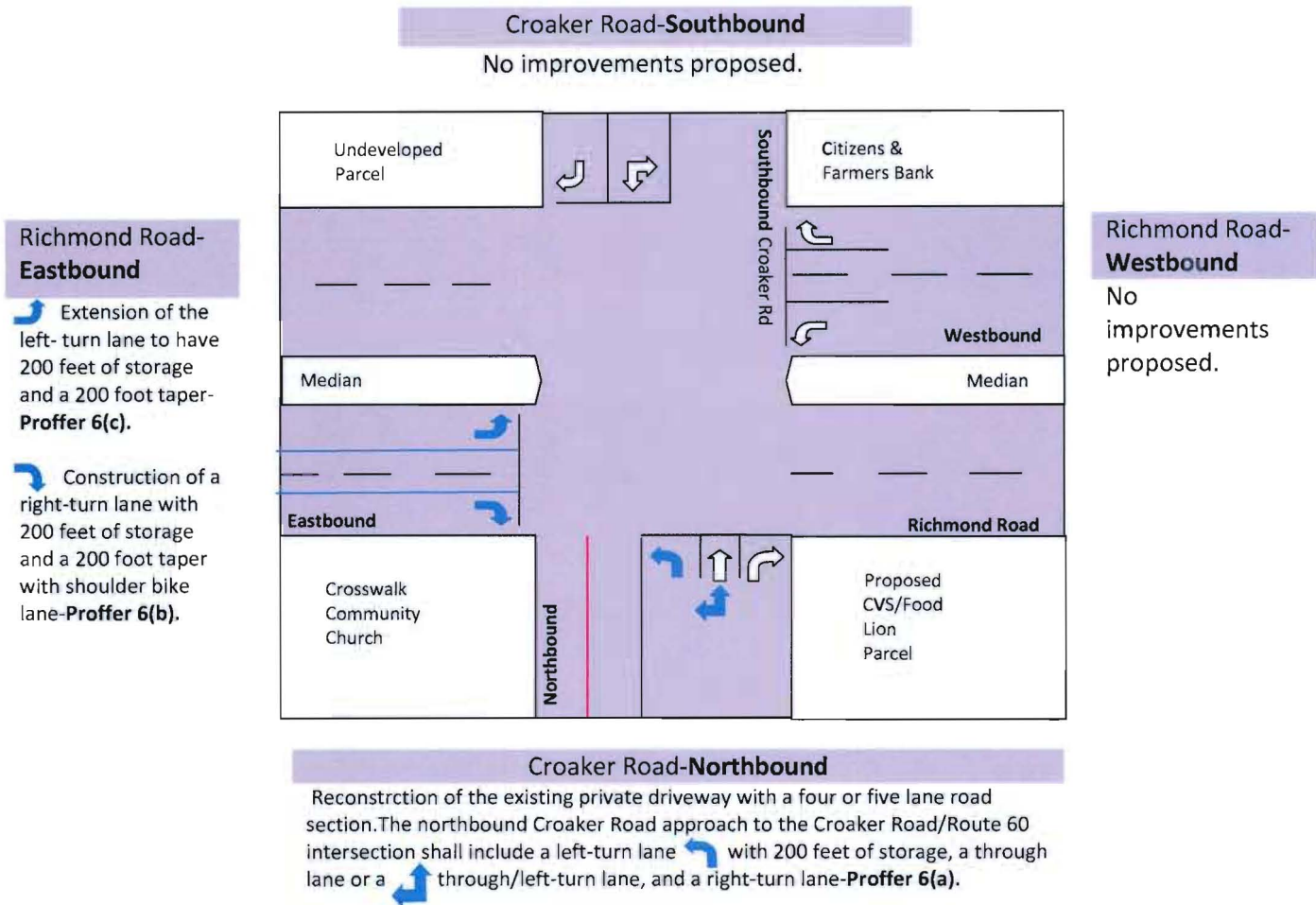


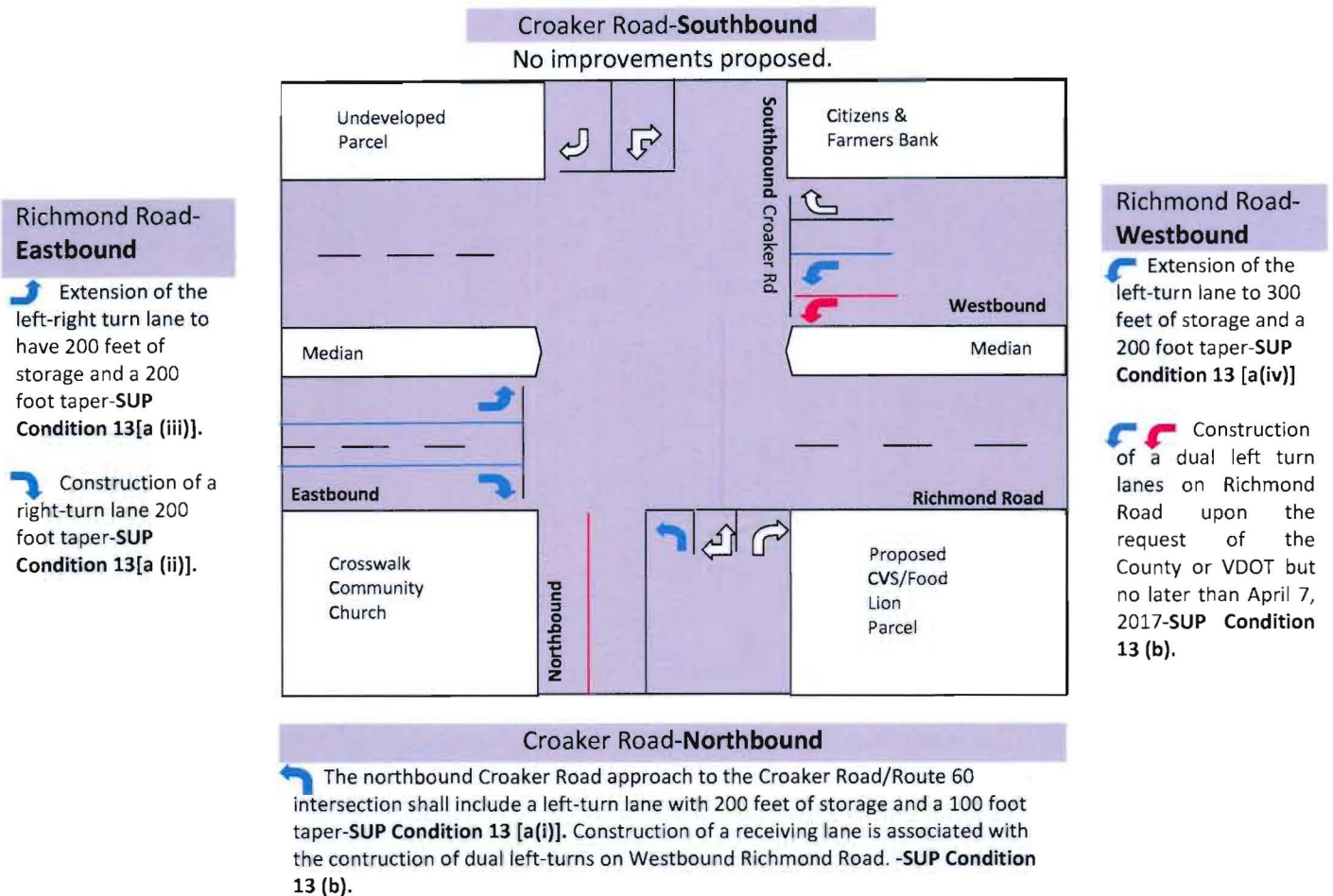
Exhibit 2- Improvements to the Richmond/Croaker Road signalized intersection proposed as part of the Candle Factory development (Z-003-2008/MP-0003-2008):



Because Candle Factory and CVS/Food Lion will use the same driveway as the main point of access to Richmond Road, some of the traffic improvements proffered by Candle Factory are similar to the ones proposed by the development of CVS/Food Lion (i.e. improvements to Richmond Road eastbound and to Croaker Road Northbound). These improvements will ensure that traffic impacts generated by each of the proposals will be mitigated regardless of which development occurs first.

Proffer No. 6a states that the existing private driveway at the northbound approach to Croaker Road will be constructed to a four or five lane road section. The fifth lane is a receiving lane (illustrated in the above exhibit by a red line) associated with the construction of dual left turn lanes by CVS/Food Lion along Richmond Road westbound. The proposed receiving lane and a through/left-turn lane (instead of a through lane) are improvements which are not necessitated by the development of Candle Factory. However, these features are proffered by Candle Factory if at the time of its development there is a need for these improvements to be in place. For additional proffers related to traffic improvements refer to pages 7, 8, and 9 of the proffer document.

Exhibit 3- Improvements to the Richmond/Croaker Road signalized intersection proposed as part of the CVS/Food Lion development (SUP-0002-2010):



As part of the traffic improvements recommended by VDOT, westbound dual left-turn lanes on Richmond Road and a receiving lane at the intersection with Croaker Road will be constructed upon the request of the County or VDOT but no later than April 7, 2017; this date corresponds to the date that the traffic impact analysis indicates that the traffic improvement will be required in order to mitigate traffic conditions at that intersection. The applicant will submit a Traffic Impact Study to the County and VDOT within three years of the date of approval of the Special Use Permit to determine the construction timing of the dual left turn lanes, unless a study is required by VDOT prior to that date. Once the construction date of the westbound dual left-turn lanes is determined, the receiving lane will be constructed either by CVS/Food Lion or Candle Factory; both developments have committed to this improvement. For additional traffic improvements associated with this SUP request refer to page 3, 4, and 5 of the staff report or to the SUP conditions listed as part of the resolution for SUP-0002-2010, CVS/Food Lion.

The Wessex Group, Ltd.

Williamsburg, Virginia

April 27, 2010

James City County
Department of Development Management
101 Mounts Bay Road
Williamsburg, VA 23185

479 McLaw's Circle
Busch Corporate Center
Williamsburg, Virginia 23185
(757) 253-5606 Telephone
(757) 253-2565 Facsimile
wessexgroup@wessexgroup.com (E-mail)

Gentlemen:

At the request of Candle Development, LLC, The Wessex Group, LLC (TWG) has prepared the following expanded Fiscal Impact Analysis of the proposed Candle Factory Development. It is designed to supplement the analysis previously submitted to James City County Department of Development Management dated March 10, 2010 and is designed to illustrate the relative impact of the proposed Assisted Living Facility (ALF) under a variety of assumptions as to when the facility is to open. It has been prepared using the current FY2010 James City County Adopted Operating Budget. With the sole exception of the assumed starting date(s) for the Assisted Living Facility the analysis otherwise considers the same plan for both residential and commercial components of the project described in the March 2010 report. The alternative opening dates considered for the Assisted Living Facility are: 2015, 2020, 2025 and 2030. In addition, an analysis is reported below which assumes the Assisted Living facility is *not* developed. Taken together these analyses should allow the reader to observe the relative impact of the Assisted Living facility on the overall project in addition to the impact of the collateral residential and commercial portions of the development plan. For information, the following is the development plan considered in this analysis and as previously described in the March 10, 2010 report.

**Table 1
Candle Factory Residential Development Plan**

Residential Development	Number of Units	Avg. Sq. Ft. per Unit	Const. Cost per Unit*	Avg. Market Value per Unit
Patio Home Detached	33	2,500	\$315,000	\$350,000
Patio Home Attached	84	1,755	\$216,000	\$250,000
Workforce Patio Home-I	48	1,500	\$196,000	\$225,000
Workforce Patio Home-II	5	1,363	\$176,000	\$190,000
Affordable Townhome	5	1,205	\$149,000	\$160,000
Total Residential Units	175		N/A	

*Construction cost estimates include infrastructure costs

The Commercial Development Plan used in this analysis (and in the March 2010 report) is shown in Table 2 below.

**Table 2
Candle Factory Commercial Development Plan**

Type Commercial Development	Number of Units	Square Feet	Construction Cost per SF*	Cost of Commercial Construction
Office – Class B	N/A	30,000	\$ 126.00	\$ 3,782,000
Assisted Living Facility	96	80,000	175.00	14,000,000

The combined cost of construction is expected to be \$57,900,000 including the Assisted Living facility (where included in the development plan) cost of \$14,000,000. Construction employment is expected to range from 50 – 140 with permanent incremental employment reaching 148 including 48 persons employed by the Assisted Living Facility.

For all analyses, it is assumed that construction will begin in 2010 and all individual housing units are expected to be fully occupied by 2015. At buildout in 2015 it is estimated that the residential development will provide homes for 392 people of whom 37 are expected to be school aged children. Construction of the Assisted Living Facility is estimated to require two (2) years from beginning of construction to completion, with alternative opening dates evaluated for 2015, 2020, 2025 and 2030 respectively. When completed the Assisted Living Facility will contain 96 residential units. For these projections, future revenues and expenditures are calculated by applying a modest 2% annual real appreciation (not including inflation) to the development's real estate valuations. Further, it is assumed that 5% of residential units will be sold every five (5) years resulting in the collection of additional recording fees. All revenues and costs are estimated in current 2010 dollar amounts.

Based on the development plan described above annual fiscal impact estimates of the combined residential and commercial components of the Candle Factory Development are shown in Tables 3-7 followed by a summary shown in Table 8. The dollars shown in the tables are current dollars and no inflation has been assumed or forecasted. Further, in order to compare the alternative development scenarios all of the analyses have been prepared with projections through 2030. For this reason, the numbers reported here are slightly different from those presented in a previous report. All dollar amounts, unless otherwise specified, are current dollars (without any assumed inflation).

When comparing future current dollar revenues and expenses incurred in differing future years, it is generally accepted practice to discount future years' cash revenues and expenditures in recognition of the decreasing value, in today's dollars, of future period current dollar cash payments and/or expenditures. Summing the discounted projected future current dollar cash incomes and expenditures yields a measure referred to as the Present Value of the future stream of revenues and/or expenditures. This measure allows the comparison of current dollar values across various time periods and accounts for the decreasing value of future cash income or expenses. For this analysis a discount rate of 3% has been used. Since both revenues and expenditures are discounted, the difference or net value is referred to as the Net Present Value (NPV) of the projected future cash flows. It is the value one would expect to receive *in today's dollar values* for the projected future cash income stream less the expected cash disbursements. Tables 3-7 following show the current dollar values for the expected future County revenues and expenses under a series of assumptions regarding the timing for opening the Assisted Living Facility together with the resulting Net Present Value of the future cash flows.

Table 3
Candle Factory - Fiscal Impact Assessment
Assisted Living Facility Opens in 2015
(thousands of current dollars)

James City County Cash Receipts & Expenditures	2010	2011	2012	2013	2014	2015	2020	2025	2030
Revenues	\$379.0	\$601.6	\$781.7	\$1,111.1	\$1,093.5	\$762.7	\$807.7	\$852.3	\$901.5
Expenditures	\$31.5	\$141.0	\$295.5	\$477.6	\$753.5	\$782.4	\$782.4	\$782.4	\$782.4
Net Annual Fiscal Impact	\$347.5	\$460.5	\$486.2	\$633.6	\$340.0	-\$19.7	\$25.3	\$69.8	\$119.1
Net Present Value (NPV), 2010-2030, Net Fiscal Impact (\$ thds)								\$ 2,495.3	

Table 4
Candle Factory - Fiscal Impact Assessment
Assisted Living Facility opens in 2020
(thousands of current dollars)

James City County Cash Receipts & Expenditures	2010	2011	2012	2013	2014	2015	2020	2025	2030
Revenues	\$379.0	\$601.6	\$781.7	\$1,111.1	\$802.7	\$636.3	\$807.7	\$852.3	\$901.5
Expenditures	\$31.5	\$141.0	\$295.5	\$477.6	\$685.7	\$752.0	\$782.4	\$782.4	\$782.4
Net Annual Fiscal Impact	\$347.5	\$460.5	\$486.2	\$633.6	\$117.0	-\$115.7	\$25.3	\$69.8	\$119.1
Net Present Value (NPV), 2010-2030, Net Fiscal Impact (\$ thds)									\$ 2,077.0

Table 5
Candle Factory - Fiscal Impact Assessment
Assisted Living Facility opens in 2025
(thousands of current dollars)

James City County Cash receipts & Expenditures	2010	2011	2012	2013	2014	2015	2020	2025	2030
Revenues	\$379.0	\$601.6	\$781.7	\$1,111.1	\$802.7	\$636.3	\$681.2	\$852.3	\$901.5
Expenditures	\$31.5	\$141.0	\$295.5	\$477.6	\$685.7	\$752.0	\$752.0	\$782.4	\$782.4
Net Annual Fiscal Impact	\$347.5	\$460.5	\$486.2	\$633.6	\$117.0	-\$115.7	-\$70.8	\$69.8	\$119.1
Net Present Value (NPV), 2010-2030, Net Fiscal Impact (\$ thds)									\$ 1,728.6

Table 6
Candle Factory - Fiscal Impact Assessment
Assisted Living Facility opens in 2030
(thousands of current dollars)

James City County Cash Receipts & Expenditures	2010	2011	2012	2013	2014	2015	2020	2025	2030
Revenues	\$379.0	\$601.6	\$781.7	\$1,111.1	\$802.7	\$636.3	\$681.2	\$725.8	\$901.5
Expenditures	\$31.5	\$141.0	\$295.5	\$477.6	\$685.7	\$752.0	\$752.0	\$752.0	\$782.4
Net Annual Fiscal Impact	\$347.5	\$460.5	\$486.2	\$633.6	\$117.0	-\$115.7	-\$70.8	-\$26.2	\$119.1
Net Present Value (NPV), 2010-2030, Net Fiscal Impact (\$ thds)									\$ 1,428.1

Table 7
Candle Factory - Fiscal Impact Assessment
Assisted Living Facility Not Developed
(thousands of current dollars)

James City County Cash Receipts & Expenditures	2010	2011	2012	2013	2014	2015	2020	2025	2030
Revenues	\$379.0	\$601.6	\$781.7	\$1,111.1	\$802.7	\$636.3	\$681.2	\$725.8	\$768.9
Expenditures	\$31.5	\$141.0	\$295.5	\$477.6	\$685.7	\$752.0	\$752.0	\$752.0	\$752.0
Net Annual Fiscal Impact	\$347.5	\$460.5	\$486.2	\$633.6	\$117.0	-\$115.7	-\$70.8	-\$26.2	\$16.9
Net Present Value (NPV), 2010-2030, Net Fiscal Impact (\$ thds)									\$ 1,259.0

Table 8 following provides a summary of these results.

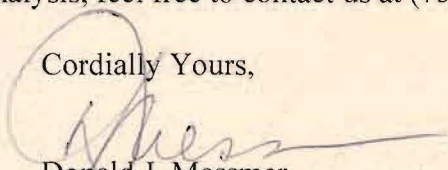
Table 8
Candle Factory - Fiscal Impact Assessment
Summary – Assisted Living Facility Development Alternatives
(thousands of dollars)

Development Plan	Net Present Value - James City County Net Fiscal Impact 2010-2030 (\$ thds)
Assisted Living Developed in 2015	\$ 2,495.3
Assisted Living Developed in 2020	\$ 2,077.0
Assisted Living Developed in 2025	\$ 1,728.6
Assisted Living Developed in 2030	\$ 1,428.1
Assisted Living Facility Not Developed	\$ 1,259.0

The Net Fiscal Impact estimates shown in Tables 3-7 above do **not** include the payments proffered by the developer of \$1,923,300 for schools, stream restoration, sidewalks, traffic lights, sewer and water facilities, emergency and library services.

A more complete report describing this fiscal impact analysis may be made available if so requested. If there are questions regarding this analysis, feel free to contact us at (757) 253-5606.

Cordially Yours,


Donald J. Messmer
President

SPECIAL USE PERMIT-0002-2010. CVS and Food Lion, Soap and Candle Factory Site Staff Report for the May 11, 2010, 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:
Board of Supervisors:

April 7, 2010, 7:00 p.m.
May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. David Todd of The Rebkee Company

Land Owner: KTP Development, LLC

Proposal: To construct a drive-through pharmacy/retail store building of approximately 13,600 square feet and a grocery store of approximately 34,928 square feet. A Special Use Permit (SUP) is required in accordance with Section 24-11 of the Zoning Ordinance.

Location: 7521 Richmond Road

Tax Map/Parcel No.: 2321100001C

Parcel Size: 14.36 acres. The parcel will be subdivided to accommodate the proposed pharmacy/retail store on an area of approximately 1.80 acres and the Food Lion on an area of approximately 4.54 acres.

Existing Zoning: M-1, Limited Business/Industrial District

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

STAFF RECOMMENDATION

This development is generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve SUP-0002-2010 with the conditions listed in the attached resolution.

Staff Contact: Sarah Propst, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On April 7, 2010, the Planning Commission approved the landscape modification request and recommended approval of this SUP request by a vote of 7-0.

Proposed Changes Made Since the Planning Commission Meeting

None

PROJECT DESCRIPTION

Mr. David Todd of The Rebkee Company has applied on behalf of KTP Development, LLC for an SUP to allow the construction of a drive-through pharmacy/retail store (“CVS”) and a grocery store (“Food Lion”) on the property located at 7521 Richmond Road. The 14.36-acre property, formerly known as the site for the Williamsburg Soap and Candle Factory, will be subdivided to accommodate the proposed 13,600-square-foot drive-through pharmacy/retail building (CVS) in a 1.80-acre area and the 34,928-square-foot grocery store (Food Lion) on a 4.54-acre area. Once subdivided from the 14.36-acre parent parcel, the property will be bounded on the east by the remaining Soap and Candle Factory parcel, to the north by Richmond Road and directly across Richmond Road by areas zoned General Business. Property to the west is zoned Mixed Use (i.e., the Cross Walk Community Church parcel) and areas to the south are currently zoned A-1, General Agriculture. The property is located within the Norge Community Character Area and fronts on Richmond Road, which is designated by the 2009 Comprehensive Plan as a Community Character Corridor.

Access to the proposed CVS and Food Lion will be via two proposed right-in/right-out entrances (one on Richmond Road and the other on Croaker Road Extended) and one full-movement entrance on Croaker Road Extended. The existing Candle Factory parking lot area will be modified to accommodate a 50-foot landscape buffer along Richmond Road and a 30-foot landscape buffer along Croaker Road Extended. An existing five-foot-wide sidewalk along the entire northern property line and parallel to Richmond Road will be preserved. This proposal includes the construction of an eight-foot-wide shared-use path along the eastern side of Croaker Road Extended, which will connect with the existing sidewalk along Richmond Road. A bike lane will be constructed along Richmond Road, from the intersection of Richmond Road and Croaker Road to the right-in/right-out entrance.

The proposed development will provide two fewer parking spaces than is required by the ordinance. In order to allow for this decrease in parking, a shared parking agreement will be entered into by both the CVS and the Food Lion (Condition No. 18). An additional condition has been included which will require a parking analysis prior to the application for the site plan of the proposed 7,000-foot expansion on the Food Lion (Condition No. 19). This analysis will determine if the proposed expansion’s parking demand will be met by existing parking spaces.

PROJECT HISTORY

The Williamsburg Soap and Candle Factory was founded in 1964 by John Barnett. The commercial complex consisted of a restaurant, a manufacturing plant, and many smaller shops. In 2005, the plant closed its doors. Currently, only a small portion of the commercial complex is operating.

In 2006, KTP Development LLC and Candle Development, LLC applied for a combined SUP and rezoning application (Z-0003-2008/MP-0003-2008) to allow the development of a master-planned community spread out in three contiguous parcels located at 7521, 7551, and 7567 Richmond Road. This application is scheduled to be heard at the May 11, 2010, Board of Supervisors Meeting.

In 2008, an SUP application for a Walgreen’s drive-through pharmacy/retail building (SUP-0016-2008) was approved by the Planning Commission but the application was withdrawn per the applicant’s request prior to being considered by the Board of Supervisors.

An SUP (SUP-0008-2009) was approved in July 2009 for the property at 7521 Richmond Road. This SUP allows for the construction of a 13,225-square-foot drive-through pharmacy/retail building (the CVS store) on a 2.09-acre area of the 14.36-acre parcel.

Currently, the Soap and Candle Factory commercial complex occupies a building area of approximately 183,300 square feet. The proposed development will demolish approximately 27,581 square feet of

existing retail space and vacant storefronts. The existing uses along the west end of the commercial complex to be redeveloped include one vacant shop, one restaurant (Candle Light Kitchen), one antique store (Dovetail Antiques), one hair salon (Cindy's Classic Cuts), and one public restroom. The owner of the property has informed the applicant that he intends to relocate all of those existing businesses within the remaining portion of the Soap and Candle Factory development.

PUBLIC IMPACTS

Archaeology

Staff Comments: This project will be located on a previously disturbed site and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment "Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia."

Environmental

Watershed: Within Subwatershed 103 of the Yarmouth Creek Watershed.

Staff Comments: According to information provided by the applicant, the 1.80-acre area being delineated as the proposed CVS site currently has 87 percent impervious coverage. However, this portion of the project will be redeveloped and the impervious area is proposed to be reduced to 61 percent. The 4.54-acre Food Lion site currently has an impervious area of five percent and this will be increased to 64 percent upon development of the grocery portion of the site. Overall, the 6.3-acre site will go from 28 percent impervious cover (1.8 acres) to 63 percent impervious cover (4 acres).

The Chesapeake Bay Ordinance indicates that no development site shall exceed 60 percent impervious area unless it can be demonstrated that the water quality that is being provided is consistent with a site that is at or below 60 percent. The applicant has included several water quality improvement measures as a means to provide mitigation for the proposed impacts which exceed the impervious area threshold established by ordinance. The site design includes manufactured filtration systems, sumped or bottomless inlets, dry detention, grass swales, an underground sand filter, and/or multiple bioretention areas. These measures will improve stormwater quality and mitigate post-development runoff rates. The applicant has demonstrated to the Environmental Division's satisfaction that this development will be in compliance with the Chesapeake Bay Ordinance requirements.

The Environmental Division has indicated that a receiving drainage system may be required; connection to an off-site system may require the need for off-site drainage easements.

Planning Division Comments: Staff has designed a special use condition (Condition No. 9) requiring the applicant to demonstrate compliance with Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance-Impervious Coverage, prior to site plan approval. A special use condition has also been written (Condition No. 7) to ensure that all necessary drainage easements for the site are secured.

Public Utilities

The site is located within the Primary Service Area (PSA) and will be served by public water and sewer.

JCSA Comments: Staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards. Water Conservation and Irrigation standards are part of the SUP conditions for this proposal (Conditions Nos. 5 and 6).

Transportation

Access: This site will primarily be accessed through the signalized intersection of Richmond and Croaker Roads. An off-site right-in and right-out driveway from Richmond Road to the Candle Factory Commercial Complex Parcel will be relocated to approximately 430 feet east of the Richmond and Croaker Roads intersection. This entrance will serve as a secondary access to the site (Condition No. 12). One existing access point on Croaker Road Extended will be closed as part of this development. The site will be accessed via one full-movement access point located approximately 480 feet south of the Richmond Road and Croaker Road intersection and a right-in and right-out access approximately 270 feet south of the Richmond Road and Croaker Road intersection. The full-movement access will be aligned across from the church entrance which is being moved by the CVS and Food Lion development (Condition No. 14).

2007 Traffic Counts: On Richmond Road (Route 60) from Rochambeau Drive to Croaker Road (Route 607), there were 17,201 average daily trips. On Richmond Road from Croaker Road (Route 607) to Norge Elementary, there were 21,892 average daily trips. On Croaker Road from Rochambeau Drive to Richmond Road, there were 9,275 average daily trips.

2035 Volume Projected: On Richmond Road from Rochambeau Drive to Croaker Road 29,293 average daily trips are projected. On Richmond Road from Croaker Road to Norge Elementary 39,110 average daily trips are projected. On Croaker Road from Rochambeau Drive to Richmond Road 28,584 average daily trips are projected. The segment of Richmond Road between Croaker Road and Norge Elementary is listed on the “watch” category and the section of Croaker Road is “recommended for improvements” in the Comprehensive Plan.

Traffic Impact Assessment: A Traffic Impact Assessment (TIA) to address the requirements set forth by VDOT’s Traffic Impact Analysis regulations, commonly known as Chapter 527, was prepared for the proposed CVS and Food Lion development and submitted as part of this SUP application for review by Planning staff and VDOT (Attachment No. 4). The scope of this study encompassed (i) the existing conditions for (a) the signalized intersection at Croaker Road and Richmond Road (Route 60), (b) the signalized intersection at Richmond Road and Norge Lane, (c) the signalized intersection at Richmond Road and Norge Elementary, (d) the signalized intersection at Croaker Road and Rochambeau Drive, (e) the proposed Richmond Road right-in/right-out entrance, (f) the proposed right-in/right-out entrance on Croaker Road extended, (g) the proposed full-movement entrance on Croaker Road extended, (ii) trip generation for existing development, (iii) traffic volumes for the 2011 and 2017 Build and No-Build scenarios, (iv) Level of Service (LOS) analysis for Richmond Road and Croaker Road Intersection and for the Richmond and Croaker Road entrance, (v) turn lane analysis, and (vi) queuing analysis.

According to the TIA, this development has the potential to generate, a total of 5,256 daily vehicular trips with 181 a.m. peak hour trips and 621 p.m. peak hour trips.

Level of Service at Intersections: According to the TIA, the LOS for Richmond Road at the intersection with Croaker Road is currently at Level C for a.m. peak hours and Level C for p.m. peak hours. At the same intersection, assuming the road improvements shown on the master plan, the LOS is projected to decline to Level D for p.m. peak hours and remain at Level C for a.m. peak hours for the 2017 “No-Build” scenario. Under the 2017 “Build” scenario, with the road improvements shown on the Master Plan, the LOS is projected to remain at Level D for p.m. peak hours and at Level C for a.m. peak hours (both compared to the 2017 “No-Build” scenario).

Study Recommendations: Below are the recommendations for road improvements as identified by the TIA for CVS and Food Lion, not including any approved but unbuilt or planned developments:

At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):

- (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100-foot taper;
- (ii) An eastbound right-turn lane with a 200-foot taper must be provided;
- (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200-foot taper;

- (iv) Dual westbound left-turn lanes shall be constructed with a total of 600 feet of storage (400 feet and 200 feet of storage in each of the respective left-turn lanes).
 - a. This improvement shall also include the construction of a second receiving lane on Croaker Road that will terminate at the entrance for the Food Lion and the church, as a southbound right-turn lane.

At the right-in and right-out entrance to the development from Richmond Road (U.S Route 60):

- (i) A right-turn lane shall be provided, with 100 feet of storage and a 200-foot taper on eastbound Richmond Road shall be provided at this entrance; and
- (ii) These road improvements shall be depicted on the site plan for the Property and shall be completed or bonded prior to final Certificate of Occupancy (CO).

VDOT Comments: VDOT has reviewed this application and traffic studies. VDOT concurs with the traffic generation and with the LOS described in the studies. The improvements which VDOT has suggested are recommended in Condition No. 13 or will be covered in the site plan.

Planning Division Comments:

Vehicular and Pedestrian Connectivity with Adjacent Properties:

Pedestrian access to and from the site will be facilitated by the construction of an eight-foot-wide, shared use path along the entire length of the northwestern property line (Condition No. 16). Once constructed, the path will provide pedestrian connectivity with the proposed mixed-use development to the south of the property (The Candle Factory development) by connecting to an eight-foot-wide shared use path proffered by the developers of the Candle Factory Mixed Use project. Further, five-foot-wide concrete sidewalks will connect the north-south shared use path along the eastern boundary of the properties with the both retail stores.

COMPREHENSIVE PLAN

Land Use Map

Environment:

General	<p><i>Mixed Use-page 124:</i> Mixed Use areas are centers within the Primary Service Area (PSA) where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. 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.</p> <p>Staff Comments: Staff finds the proposed commercial development to be in keeping with the intent and land use recommendations for mixed use areas located at or near major transportation corridors, as indicated by the Land Use Section of the 2009 Comprehensive Plan.</p>
Yarmouth Creek Watershed Management Plan Area	<p><i>Description-Page 47:</i> Yarmouth Creek is a predominantly forested watershed of about 12 square miles located in the lower James River Basin in James City County. The Creek drains into the Chickahominy River, which in turn discharges into the James River.</p>

	<p>Staff Comments: Because of its location, this property is subject to Special Stormwater Criteria (SSC) established for developments located within the Yarmouth Creek Watershed Area.</p>
Goals, Strategies, and Actions	<p><i>Action No. 1.1.2- Page 77:</i> Promote the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs).</p> <p>Staff Comments: According to information provided by the applicant, the following methods will be considered for implementation and compliance with the requirements set forth by SSC for the Yarmouth Creek Watershed Management Plan Area: (i) manufactured filtration systems, (ii) sumped or bottomless inlets, (iii) dry detention, (iv) grass swales, (v) an underground sand filter, (vi) and/or multiple bioretention areas. Staff is encouraged by the proposed use of such Low Impact Designs (LIDs) methods on the property.</p>

Transportation:

Richmond Road	<p><i>Description-Page 181:</i> Although future volumes indicate the potential need for widening Richmond Road between Centerville Road and the City of Williamsburg/Rochambeau Road to Croaker Road, it is recommended that Richmond Road remain four lanes. Widening in these sections, which includes Norge, should be avoided or limited due to the physical limitations and the negative impacts on existing uses and the character of this historic community.</p> <p>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. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination is crucial.</p> <p>Staff Comments: According to the Traffic Engineer’s traffic analysis conclusions, the traffic generated by this proposal may lower the LOS for this segment of Richmond Road from Level C to Level D during p.m. peak hours.</p> <p>This proposal will not require additional signals or entrances onto Richmond Road. One existing Candle Factory entrance will be closed on Richmond Road and a new entrance will be built approximately 125 feet west of that location on Richmond Road.</p> <p>VDOT concurs with the staff’s conditions for this application.</p>
Goals, Strategies, and Actions	<p><i>Action No. 1.3.4.-Page 188:</i> Encourage pedestrian circulation by providing safe, well-lit, and clearly marked crosswalks and unobstructed sidewalks.</p> <p><i>Action 1.3.9. -Page 189:</i> Include bikeways and/or pedestrians facilities within major developments and elsewhere in the County, especially connecting residential and non-residential areas.</p>

	<p>Staff Comments: According to the James City County, Williamsburg, and York County Regional Bikeway Map, this section of Route 60 includes a shoulder bike lane. The applicant has agreed to provide accommodations for a bicycle lane to meet VDOT standards along the frontage of the property adjacent to Route 60 (please refer to SUP Condition No. 15). In order to facilitate internal pedestrian access and connectivity with adjacent parcels, the applicant will provide an eight-foot-wide shared use path along the entire northwestern side of the property (please refer to SUP Condition No. 16). Further, crosswalks located within the parking lot area are provided in order to encourage a safe interaction between pedestrians and motor vehicles at the site.</p>
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Community Character Corridor (CCC):

<p>Suburban and Urban CCC</p>	<p><i>Description-Page 84:</i> A suburban or urban CCC is characterized as an area that has moderate to high traffic volumes, moderate to high levels of existing or planned commercial or moderate-density residential uses, and may contain some natural screening buffers along roads. The predominant visual character of these CCCs should be the built environment and natural landscaping, with parking and other auto-related areas clearly a secondary component of the streetscape.</p> <p>Development in urban and suburban CCCs should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general, and an emphasis on innovative design solutions.</p> <p>Staff Comments: Staff notes that the applicant proposes to increase the width of the existing landscape buffer along Richmond Road from the existing 15 feet to 50 feet and the parking lot for the Food Lion will be screened from Croaker Road Extended by a 40+-foot setback (please refer to SUP Condition No. 8).</p>
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Community Character Area (CCA):

<p>Norge Area</p>	<p><i>Description-Page 86:</i> Norge has been significantly impacted by recent commercial development along Richmond Road. While Norge continues to have a unique, very identifiable residential component located off Richmond Road and some pedestrian-oriented storefronts, the early 20th century ‘village’ character of its business and residential areas along Richmond Road has been significantly impacted by infill automobile-oriented development.</p> <p>Staff Comments: Staff notes that enhanced and increased landscaping along Richmond and Croaker Road Extended are proposed. The applicant has provided architectural elevations (please refer to the Community Impact Statement) for the proposed buildings. Staff has written a condition ensuring the final architecture of the building to be similar to the architectural elevations presented during the SUP request (please refer to SUP Condition No. 2). Architectural elevations of the proposed building are discussed further in a later section of this report.</p>
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Staff Comments: Staff finds that this proposal is consistent with Comprehensive Plan recommendations for this area in Norge. Staff also finds that the proposed development promotes a balance between two important elements concerning land development in Norge, the economic benefits for the area (i.e., generation of employment and revenues, expansion of services and amenities, etc) and the desire to preserve the “village style” character of Norge.

The Comprehensive Plan (page 86) outlines design standards intended to guide future development and redevelopment in the Norge area. Staff finds that the applicant has addressed

some of the Norge design standards primarily by providing measures to (i) share parking (see Condition No. 17); (ii) design new landscape areas which complement and enhance the proposed buildings and site design; and (iii) provide pedestrian and bicycle circulation through the provision of crosswalks, sidewalks, a shared use path, and a bike lane.

Staff further notes that, the Norge design standards call for design elements such as the architecture, scale, materials, spacing, and colors for buildings to complement the historic character of the area. Staff has evaluated the architectural elevation for the proposed buildings and finds the following architectural features noteworthy of positive feedback:

- The materials used for the construction of the building (i.e., bricks, hardieplank siding, and standing seam roofs);
- Piers, gables, and windows which break up the mass of the buildings;
- Decorative brackets and accents to fit in with the village feel of Norge.

Request for Landscape Modification: Section 24-99 (c)(1) of the Zoning Ordinance states that “A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width.” Staff notes that the two parcels to be subdivided from the parent parcel will establish new property lines adjacent to the portion of the existing Candle Factory building not slated for demolition and between the CVS and Food Lion parcels. To minimize the impervious pavement necessary to serve all three parcels, the applicant proposes to share access drives between the newly created parcels. In order to do this the landscaping normally required along the lot lines of the adjoining parcels will need to be relocated to other areas of the site. The applicant has submitted a request to modify the landscape requirements for the eastern side yard of the Property and the southern side of the CVS parcel by transferring landscape materials from those areas to the two-street frontage buffers along Richmond Road and Croaker Road Extended (please refer to the Community Impact Statement for The Candle Factory Conceptual Planting Plan).

Section 24-88 of the Zoning Ordinance states that “the commission or planning director may modify, permit substitution for any requirement of this section, or permit transfer of required landscaping on a site upon finding that:”

- (1) Such requirement would not promote the intent of Section 24-88 of the Zoning Ordinance;
- (2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section;
- (3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section;
- (4) Such modification, substitution, or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this section, shall have no additional detrimental impacts on the orderly development of character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of Section 24-88 of the ordinance.

The Planning Director reviewed the landscape modification request and found them to meet the criteria listed above. The Planning Commission approved the modification requests subject to approval of the SUP.

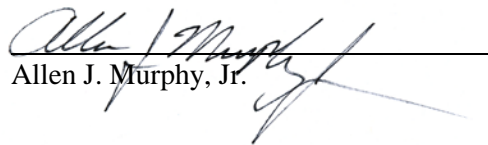
RECOMMENDATION

On April 7, 2010, the Planning Commission recommended approval of this application by a vote of 7-0. Staff finds the proposal to be consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Further, the SUP conditions associated with this case will mitigate any impact on adjacent properties and along Richmond Road. Staff notes that this proposal achieves significant objectives in the Norge Design Guidelines of the Comprehensive Plan.

Staff recommends the Board of Supervisors approve SUP-0002-2010 with the conditions listed in the attached resolution.

Sarah Propst

CONCUR:



Allen J. Murphy, Jr.

SP/nb
SUP02_2010

ATTACHMENTS:

1. Resolution
2. Location Map
3. Landscape Modification Request
4. Master Plan (non-binding)
5. Community Impact Statement
6. Traffic Impact Assessment
7. Traffic Analysis Addendum

RESOLUTION

CASE NO. SUP-0002-2010. CVS AND FOOD LION AT

SOAP AND CANDLE FACTORY SITE

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. David Todd has applied on behalf of The Rebkee Company for an SUP to allow for the construction of a drive-through pharmacy/retail store on an approximately 1.8-acre parcel and a grocery store on an approximately 4.54-acre parcel of land zoned M-1, Limited Business/Industrial, District; and

WHEREAS, the proposed development is shown on a plan prepared by Kimley-Horn and Associates, Inc. dated March 16, 2010, (the "Master Plan") and entitled "CVS and Food Lion Master Plan"; and

WHEREAS, the property is located at 7521 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2321100001C (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on April 7, 2010, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0002-2010, as described herein with the following conditions:

1. **Master Plan:** This SUP shall be valid for the construction of an approximately 13,600-square foot, one-story-high, drive-through pharmacy/retail store building (the "CVS" store) and an approximately 34,928-square-foot grocery store building (the "Food Lion" store). The grocery store building may have a possible future expansion of approximately 7,000 square feet for the grocery store, or additional shop space. The property is located at 7521 Richmond Road and further identified as James City County Tax Map Parcel No. 2321100001C (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "CVS and Food Lion Master Plan," prepared by Kimley-Horn and Associates, date-stamped February 23, 2010, (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. **Architectural Review:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the final building elevations and architectural design for the CVS and the Food Lion. Such buildings shall be reasonably consistent, as determined by the Planning Director, or his designee, with the CVS architectural

elevations titled “CVS No. 75584 James City County, VA” and dated January 13, 2010, and the Food Lion architectural elevations titled “Food Market-Intersection of Rt. 60 and Croaker Road” dated February 2, 2010, submitted with this SUP application, and prepared by The Rebkee Company.

3. **Free-Standing Sign:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the design and location of the ground-mounted signs for the Property for consistency with the Norge Community Character Area, as described in the James City County Comprehensive Plan. The sign base shall be made of brick and the colors and materials shall be similar to the CVS and Food Lion buildings.
4. **Dumpsters/HVAC Units:** All heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing. Dumpsters shall be screened from view by a brick enclosure (exclusive of doors). All screening devices must be approved by the Planning Director, or his designee, prior to final site plan approval.
5. **Water Conservation:** The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the “JCSA”) prior to final 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 irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the “Impoundments”), or water taken from an underground cistern, may be used for irrigating common areas on the Property (the “Irrigation”). In no circumstances shall the JCSA public water supply be used for Irrigation, except as otherwise provided by this condition. If the owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.
7. **Subdivision:** Prior to approval of the Food Lion parcel subdivision plat, evidence must be provided to the County that JCSA has the ability to connect waterlines from the fire hydrant on the southeast corner of the parcel located at 7521 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2321100001C to the parcel directly to the south, located at 7551 Richmond Road and further identified as James City County Real Estate Tax Map No. 2321100001D, in perpetuity.

8. **BMP Discharge:** Overflows from any proposed Best Management Practices (BMPs) shall discharge to an adequate channel in accordance with State Minimum Standard No. 19 and shall not be conveyed through any of the adjacent parcels without an off-site drainage easement. All associated easements shall be of an appropriate width to permit access for maintenance of the channel and any associated appurtenances such as outlet protection, flow control devices, channel linings, etc. Said easement shall be in place prior to the issuance of a Land Disturbing Permit.
9. **Landscape Plan:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve a landscape plan for this development. The landscape plan shall meet all applicable zoning ordinance requirements and shall include at a minimum: (i) enhanced landscaping within the northern 50-foot landscape buffer along Richmond Road, (ii) enhanced landscaping within the western 30-foot landscape buffer along Croaker Road, (iii) enhanced landscaping along the southern property line. Enhanced landscaping is hereby defined as 125 percent of the size requirements of the James City County Landscape Ordinance.
10. **Impervious Coverage:** Prior to final site plan approval, the applicant must demonstrate compliance with the provisions of Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance. Demonstration of equivalent water quality will be through compliance with guidelines established by the Environmental Director.
11. **Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director, or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director, or his designee, prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.
12. **Internal Traffic Signage Plan:** The applicant shall include along with the materials submitted as part of the site plan review process for this development, an internal signage plan indicating the location of internal traffic signs and the orientation of vehicular flow within the Property. The internal signage plan shall be reviewed and approved by the Planning Director, or his designee, concurrently with the site plan submission for this project.
13. **Roadway Improvements:** Prior to issuance of a Certificate of Occupancy (CO) for the Food Lion, the road improvements listed below shall be constructed or bonded in a manner acceptable to the County Attorney:
 - a. At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):
 - (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100-foot taper;
 - (ii) An eastbound right-turn lane with a 200-foot taper must be provided;
 - (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200-foot taper;
 - (iv) The westbound left-turn lane shall be lengthened to 300 feet of storage and a 200-foot taper.

Prior to issuance of a CO for the CVS, the road improvements listed below shall be completed at the following intersections:

- b. At the right-in and right-out entrance to the development from Richmond Road (U.S Route 60):
 - (i) The existing entrance into the Candle Factory complex from Richmond Road will be relocated to 430 feet east of the Richmond Road Croaker Road intersection; and
 - (ii) A right-turn lane shall be provided, with 100-feet of storage and a 200-foot taper on eastbound Richmond Road shall be provided at this entrance.

The applicant shall construct westbound dual left-turn lanes on Richmond Road and all associated Virginia Department of Transportation (VDOT) requirements (which includes a receiving lane) at the intersection with Croaker Road upon the request of the County or VDOT but no later than April 7, 2017. The applicant shall submit a traffic impact study to the County and VDOT within three years of the date of approval of this SUP to determine the construction timing of the dual left-turn lanes, unless a study is required by VDOT prior to that date. The submission of the traffic impact study may be delayed upon request and approval of the Director of Planning and VDOT. This request must demonstrate that the dual left-turn lanes are not warranted due to development timing.

- 14. **Shared Access Easement:** Prior to issuance of a CO for either the CVS or the Food Lion, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easements have been obtained and recorded, as applicable, allowing vehicular access to the Property. This includes the entrance being relocated 430 feet east of the intersection of Croaker Road (Route 607) and Richmond Road (U.S. Route 60), off Richmond Road, and the existing entrance located across from Croaker Road.
- 15. **Church Entrance Realignment:** Prior to the issuance of a CO for the Food Lion the entrance to the Crosswalk Community Church must be realigned with the proposed entrance to the Food Lion as shown on the Master Plan. The realignment must not prevent access to the church and should not pose any safety risk to visitors of the church.
- 16. **Bike Lane:** Prior to issuance of a CO for the CVS, a VDOT standard shoulder bike lane along the front of the Property adjacent to Richmond Road (U.S. Route 60) shall be provided. This bike lane shall be depicted in the site plan for the Property.
- 17. **Sidewalk:** Should the construction of the proposed CVS or Food Lion building start on the Property prior to construction of any building at adjacent parcels located at 7551 and 7567 Richmond Road, The Rebkee Company shall provide and construct along the length of the northwestern property line a portion of the eight-foot-wide concrete or asphalt shared use path referenced by the Master Plan titled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC." Construction shall be hereby defined as obtaining permits for building construction and installation of footings and foundations.

18. **Shared Parking Agreement:** Prior to the issuance of a CO for the Food Lion, a shared parking agreement shall demonstrate to the satisfaction of the County Attorney that both the CVS and the Food Lion will have access to adequate parking. Proffer No. 6, from Case No. Z-0003-1997, requiring shared parking for Parcel No. 2321100001B on the Property must also be satisfied.
19. **Parking Analysis:** Prior to application for a site plan to expand the Food Lion building (the "Expansion"), a parking analysis shall be prepared and submitted to the Planning Director for review and approval. If after review of the parking analysis, the Planning Director determines that the expansion requires additional parking spaces beyond that which is already provided, the site plan for the Expansion must accommodate such additional parking spaces.
20. **Commencement of Use:** Use of the Property as described in this SUP shall commence within 36 months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business with regular business hours, and/or obtaining permits for building construction and installation of footings and foundations.
21. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

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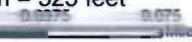
SUP-0002-2010

CVS & Food Lion, Soap & Candle Factory Site



Proposed site for the CVS and Food Lion

1 inch = 325 feet



UNAPPROVED MINUTES FROM THE APRIL 7, 2010 PLANNING
COMMISSION MEETING

SUP-0002-2010 CVS and Food Market at Soap and Candle Factory Site

Ms. Sarah Propst stated Mr. David Todd of The Rebkee Company has applied for an SUP to allow the construction of a CVS store and a Food Lion store at 7521 Richmond Road. This SUP replaces SUP-0008-2009 for a CVS on this site, approved by the BOS in July of 2009. The parcel is zoned M-1, and designated Mixed Use. The site fronts on Route 60, a community character corridor, and it is located within the Norge Community Character Area. The 13 acre Candle Factory parcel will be subdivided to create separate parcels for the pharmacy and the grocery store.

Ms. Propst stated a shared access agreement between the Candle Factory, CVS, and Food Lion is one of the conditions for approval. A portion of the existing Candle Factory commercial complex will be demolished to accommodate CVS. A section of the existing parking area adjacent to Route 60 will be removed and the existing buffer between the front parking area and Richmond Road will be widened to 50 feet to meet the Community Character Corridor requirement. Additionally, the existing parking area located along Croaker Road Extended will be removed and the buffer will be widened to 30 feet. A shared parking agreement between CVS and Food Lion is one of the conditions of approval for this SUP. Elevations for this proposed development have been reviewed at two DRC meetings. These elevations were revised per comments at the last DRC meeting on January 27th. This SUP application includes a landscape modification request. To transfer plant materials from the eastern side of the properties and between the CVS and Food Lion Parcels to the western, southern and northern buffers. This request has been reviewed by staff and approval of this landscape modification is recommended. Staff and all agencies have reviewed this proposal and find it to be in accordance with the Zoning Ordinance and Comprehensive Plan. Staff recommends that the Planning Commission approve the landscape modification request and recommend approval of this application with the conditions included in the staff report.

Mr. Peck opened the public hearing.

Mr. Tim Trant with Kaufman and Canoles spoke on behalf of the Rebkee Company. Mr. Trant stated the neighboring property owner at Crosswalk Community Church had been concerned with how this parcel would be redeveloped and how it would impact the area. The applicant has since received a letter of support from the pastor of this church. Mr. Trant read from the letter. Reverend Mark Murrow stated the leadership of the church has closely reviewed the plans forwarded by the Rebkee Company to redevelop a portion of the Candle Factory Shopping Center into a CVS and Food Lion. The leadership does support the project and asks that the Planning Commission approve the SUP for the development. Mr. Trant pointed out that this project is a redevelopment and that there have been buffering increases as a result. This will be seen along the Route 60 Community Character Corridor. The architectural consistency displays that which has been envisioned by the Comprehensive Plan for the Norge Community Character Area. There are significant enhancements gained from this redevelopment. There are also enhanced environmental controls with this project, particularly better stormwater

management tools. The type “A” soils found on this site are particularly good for infiltration which the design team has attempted to take maximum advantage of, using pervious pavement in the parking lot, underground storage vaults for the recycling of stormwater for irrigation.

Mr. Henderson asked that Mr. Trant display the building elevation for CVS. The building elevation has been amended per DRC request, and has become an attractive building. Mr. Henderson stated that the biggest concern he has is with the traffic movement at the intersection with Richmond Road. Also, the right-in and right-out east of CVS, may be problematic. Mr. Henderson stated he is concerned with the interaction of traffic leaving the CVS parking lot and attempting to make a left-hand turn while vehicles are approaching at a fairly high-rate of speed into the site. Mr. Henderson expressed concern over conflicting traffic movement on the other side of the parking lot.

John Riley with Kimley-Horn stated the majority of traffic would be using Croaker Road. The queuing at Croaker Road is expected to be one vehicle or less. The flow of traffic will not be blocked.

Mr. Henderson stated he is looking to the future when the adjoining property is developed and there is conflicting traffic movements and higher volume. Mr. Henderson stated he is concerned with the safety at this intersection.

Mr. Trant stated the adjacent property owner is the landowner of the subject property as well as the seller to the Rebkee Company. In the closing of this development there is under negotiation and review a binding agreement for an Easements Convenience Restrictions (ECR) to address the redevelopment of both sites. Traffic flow and other safety issues would be taken into consideration to mitigate any potential problems.

Mr. Henderson asked if this document has been approved.

Mr. Trant stated it is not at this time, though it will be at closing.

Mr. Woods asked staff to further elaborate on “an aggravated initial impact” and “mitigated future impact” as referenced in the staff report.

Ms. Propst stated that the traffic impact analysis suggests this development will increase the volume of traffic. It will be mitigated by the traffic improvements recommended as conditions of approval by staff, and in the future this intersection is showing a drop in the level of service. The drop in service will be seen and future improvements will be made to the extent that it will resume a level of service comparable to the one seen today.

Mr. Woods asked for the underlying analytical basis of this determination.

Mr. Trant stated there are declining levels of service predicted in this intersection in a “no build” scenario. Meaning, in looking ahead to future traffic volumes without development of this parcel, the traffic volume of this road will still increase at a certain rate due to anticipated development of surrounding parcels and neighborhoods. Using the Institute in Traffic Engineers

(ITE) Manual one can determine the rate of increased volume. In a build scenario without traffic improvements those declining levels of service would become worse. What the applicant has agreed to do, based on analysis, is to make the necessary improvements to mitigate future traffic impacts. With the proposed improvements in place the decline in the level of service is a wash. It is equivalent to the “no build” scenario.

Mr. Woods asked, will traffic be aggravated initially.

Mr. Trant stated no.

Mr. Woods asked if the ECR will improve the functionality of the intersection Mr. Henderson had spoken of.

Mr. Trant stated yes.

Mr. Woods asked if the applicant had considered making this a condition of the proposed development.

Mr. Trant stated no. Mr. Trant stated that in a practical sense the ECR is necessary. Making this a condition upon approval is not feasible due to the degree of complexity seen with this agreement.

Mr. Henderson stated that this is the first case review in the County subject to the VDOT 527 Review. The traffic report seen here is much more comprehensive than those seen in the past. Mr. Henderson asked if the portion of the property in the rear had been had been treated as if it had been redeveloped while creating traffic forecasts?

Mr. Riley stated that the redevelopment of the property in the rear had been taken into consideration. There are two scenarios for build out. Scenario one is without those developments in place. Scenario two is with those impacts in place.

Mr. Henderson asked if redevelopment of the property in the rear had been incorporated into the development proposal.

Mr. Riley stated yes.

Mr. Peck opened the public hearing.

Seeing no speakers, Mr. Peck closed the public hearing.

Mr. Krapf commended the applicant for their efforts to work with the feedback received.

Mr. Poole stated that given the zoning and Comprehensive Land Use designation of the site this type of redevelopment makes a lot of sense. The life-span of the property has passed. Mr. Poole stated that he understood Mr. Henderson’s concern though he is inclined to hold onto the increased setback.

Mr. Poole moved for approval with the attached landscape modification request and conditions.

In a unanimous roll call vote, the motion passed (7-0).



Request for Landscape Modification

Please complete all sections of the application. Call (757) 253-6685 if you have any questions, or go online to www.jccgov.com/resources/devmgmt/dept_devmgmt_planning.html

1. Project Information

Project Name: The Candle Factory

Address: 7521 Richmond Road Zoning: M1 Limited Business/Industrial
Williamsburg, Virginia 231881917

Tax Map & Parcel ID: Tax map: (23-2)(1-67); Parcel ID 2321100001C

2. Applicant/Contact Information

Name: Ryan Perkins

Company: Kimley-Horn and Associates, Inc. Phone: 1-804-673-3882

Address: 1500 Forest Ave. Suite 115 Fax: 1-804-673-3890
Richmond, VA 23229 E-mail: ryan.perkins@kimley-horn.com

3. Modification Information

Section of the Landscape Ordinance: 24-99 (c) (1) Side Landscape Areas.

Justification (use additional paper as necessary):

The applicant desires to request modifications to the landscape and buffer requirements of the James City County Code of Ordinances as defined in section 24-88 (b) Cases for modifications, substitutions, or transfers. Requests for modifications or transfers may be granted in the following cases:

(1) The proposed landscape plan by substitution of technique, design materials or comparable quality, but differing from those required by this section will achieve results which clearly satisfy the overall purposes of this section in a manner clearly equal to or exceeding the desired effects of the requirements of this section.

(6) When transfers of required landscape areas to other areas on site are necessary to satisfy other purposes of this section, including screening or preserving existing trees, provided such transfers do not reduce overall landscape requirements for a development.

See attached.

4. Signature of Applicant: *RyP* Date: 1/18/10

For Planning Office Use Only

Approved: YES Signature of Planning Director: _____
NO Date: _____ JCC Case No. _____

Notes:

The applicant desires to subdivide an existing developed parcel and master plan the proposed uses and remaining uses for three newly created parcel. In order to minimize the impervious pavement necessary to serve all three parcels the applicant proposes to share access drives between the newly created parcels. In order to do this the landscaping normally required along the lot lines of the adjoining parcels (where the shared access drives are proposed) will need to be relocated to other parts of the site. The applicant proposes that the required landscape material be relocated to the two street frontage buffers along Route 60, Croaker Road Extended and also along the rear yard transitional buffer.

**REZONING-0003-2009/SPECIAL USE PERMIT-0017-2009. Freedom Market
Staff Report for the May 11, 2010, Board of Supervisors Public Hearing**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

April 7, 2010, 7:00 p.m.
May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Philip Richardson, Whitfield Bacon LLC

Land Owner: Whitfield Bacon LLC

Proposal: To allow for the operation of a convenience store with fuel sales on the subject property

Location: 5534 Centerville Road

Tax Map/Parcel No.: 3130100011

Parcel Size: 1.15 acres

Existing Zoning: LB, Limited Business

Proposed Zoning: B-1, General Business, with proffers

Comprehensive Plan: Neighborhood Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff recommends the Board defer consideration of this application to the May 25, 2010 meeting. The applicant concurs with the request. Staff recommends the Board open and continue the public hearing until the next meeting.

Staff Contact: Luke Vinciguerra 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval of the application by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Philip Richardson has applied for a rezoning and Special Use Permit (SUP) to allow for the operation of a convenience store with fuel sales at 5534 Centerville Road. The current zoning of Limited Business precludes fuel sales as a by-right or specially permitted use. The proposed zoning of B-1, General Business, permits convenience stores with fuel sales with an SUP. The applicant has offered a proffer to restrict other permitted uses on the property to those found in the Limited Business district (Condition No. 1). Mr. Richardson proposes a 2,400-square-foot convenience store and three fueling islands (six pumps). The applicant has informed staff that a stand-alone convenience store without fuel sales would not be economically viable. The proposed layout of the site is shown on page 2 of the Conceptual Plan (Attachment No. 4); elevations can be found in the front packet of the application binder.

HISTORY

In October 1998, an SUP was approved by the Board of Supervisors for a similar proposal for this site. The proposal was for a 2,700-square-foot convenience store with four fueling islands (eight pumps). A zoning change to B-1 was not necessary at the time because a convenience store with fuel sales was a specially permitted use in Limited Business district. The use was later removed from the Limited Business district in the 1999 Zoning Ordinance update. The SUP has expired and is no longer valid.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek

Staff Comments: The Environmental Division supports this application as currently presented. The applicant has made an agreement with neighboring Longhill Grove Apartments to utilize an existing off-site Best Management Practice (BMP). The Longhill Grove BMP was originally designed to treat runoff from the Freedom Market parcel. The bioretention pond located in the rear of the proposed building will drain to the Longhill Grove BMP and is provided to meet the requirements of Special Stormwater Criteria (SSC).

Public Utilities

Service: James City Service Authority (JCSA)

Staff Comments: The site is served by public water and sewer. Any upgrades required as a result of the proposal would be the applicant's responsibility.

Transportation

As the proposal would generate over 100 peak hour trips, the submission of a traffic impact study was required by Ordinance. The traffic study concludes that there is adequate capacity at the Centerville Road/Longhill Road intersection to accommodate the proposed development. The traffic study takes into account the turn lane additions and the traffic signal the County will be adding to the intersection in the coming months.

The proposed entrances do not meet Virginia Department of Transportation (VDOT)'s access management guidelines as they are too close to the intersection of Centerville Road and Longhill Road; however, VDOT has agreed to permit both entrances to the site if certain turning movements are prohibited. The applicant is proposing signage and vehicular channelization (raised curbs or medians) to restrict prohibited turning movements (prevent left turns in from Centerville Road and left turns out on Longhill Road) as shown on page 2 of the Conceptual Plan (Attachment No. 4). VDOT has conceptually approved of the design.

VISUAL IMPACTS

The site is located on a vacant parcel of wooded land along two Community Character Corridors. The existing tree line is shown on page 2 of the attached Conceptual Plan. The parcel is flat and consists mainly of second growth pine, sweet gum trees, and undergrowth. There are no specimen trees on the site. As the subject property abuts residential land, a 35-foot transitional buffer is required by Ordinance between the proposed development and the neighboring property.

The applicant is proposing a bio-retention pond and swale within the transitional buffer. Documentation has not been provided on what trees would need to be removed to accommodate the proposed stormwater features; however, staff finds it likely that most, if not all, of the trees within the 35-foot buffer would need to be removed. The existing density of the trees will prevent them from growing to their potential maximum height.

As the site is adjacent to existing three-story residential buildings, staff finds mature vegetation necessary to adequately screen the apartments at Longhill Grove. Though retention of the trees would provide some immediate screening between Longhill Grove and the convenience store, new staggered evergreen plantings with varying heights and underbrush would likely be more effective. Evergreens could provide year-round screening and would be spaced in a manner where they would have room to grow. With the proposed SUP Condition Nos. 4 and 6, staff finds the proposal would adequately screen Longhill Grove apartments.

Staff has also recommended Condition No. 4 ensuring consistent architectural treatments on all four sides of the proposed convenience store, as it is likely that the rear of the structure will be in full view from portions of the Longhill Grove apartments until any new landscaping matures. The proposed 30-foot Community Character Corridor buffer (rather than the typical 50 feet) is permitted by Ordinance by a special provision for lots under 1.5 acres. The buffer would be planted with ornamental trees and shrubbery.

Archaeology

The archaeological study that was conducted for Freedom Park states that the park and the land within the vicinity of the intersections of Centerville and Longhill roads have potential for containing significant artifacts. This area was the site of the *Battle of Spencer's Ordinary* and was also the site of the Centerville Free Black settlement. A previous Phase II study on the property recommended a Phase III Data recovery. The applicant has proffered a condition stating that prior to land disturbing, the Owner will have prepared a Phase III Data Recovery Plan and completed archaeological excavation under the supervision of the Virginia Department of Historic Resources.

Architecture

Staff finds the design of the convenience store and the canopy as depicted in the attached rendering consistent with the Neighborhood Commercial Development Standards policy. It is worth noting that the policy is only applicable for property zoned Limited Business; however, staff finds it as a valuable tool to compare against for any land designated Neighborhood Commercial. Staff is proposing SUP Condition Nos. 1 and 4 to ensure final elevations are consistent with this application.

COMPREHENSIVE PLAN

Land Use Map

Designation & Recommended Intensity	Neighborhood Commercial (page 162) : Neighborhood scale commercial, professional, and office uses such as individual medical offices, branch banks, small service establishments, day care centers, churches, convenience stores with limited hours of operation, small restaurants, and smaller public facilities. Examples of uses which are considered unacceptable include fast-food restaurants, 24- hour convenience stores and gas stations.
	Staff Comment: A convenience store with limited hours of operation is a recommended use in Neighborhood Commercial designated land. As fuel sales is a secondary use, staff would not categorize the proposed operation as a ‘gas station.’ The Zoning Ordinance differentiates automobile service stations (gas stations) and convenience stores with fuel sales. Additionally, as the proposed zoning changes to B-1, General Business, it is usually considered more appropriate for lands designated Community Commercial. The applicant has proffered Condition No. 1, restricting the property to uses found in the Limited Business district (with the addition of convenience store with fuel sales).
	Neighborhood Commercial (page 162) : The total building area within any area designated Neighborhood Commercial should generally be no more than 40,000 square feet in order to retain a small-scale neighbor character.
	Staff Comment: The proposed convenience store is 2,400 square feet under the 40,000-square-foot recommended maximum for this area.

Community Character

CCC Recommendations and GSAs	Community Character Corridors and Right-of-Way Landscape Requirements (pg 92) When development occurs along one of the County’s Community Character Corridors or other roads, landscape buffers are required to be preserved or installed along the rights-of-way. Community Character Corridors require a 50-foot buffer for commercial projects and a 150-foot buffer for residential projects.
	Staff Comment: Both Longhill Road and Centerville Road are Community Character Corridors. Due to the small size of the parcel, the applicant is proposing a 30-foot buffer along both roads. An expansion to a 50-foot buffer severely restricts the developable area of the site. Staff does not believe it is the intent of the Comprehensive Plan to preclude development of smaller parcels by means of the Community Character Corridor recommendations.
	<i>Action 1.1.1.</i> ”Expect that development along Community Character Corridors protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains a greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors”.
	Staff comment: Staff finds the proposed structure at a scale similar to other development in the area and the gas pump canopy well designed and relatively unobtrusive. The proposal should not be visually disruptive to the character of Longhill or Centerville Roads.
	<i>Action 1.3.3.</i> ”Require illustrative drawings, including streetscapes, architecture, and perspectives as a binding component for appropriate rezoning and special use permit applications.
	Staff Comment: The perspectives submitted will be compared to any elevations submitted during site plan review.

Comprehensive Plan

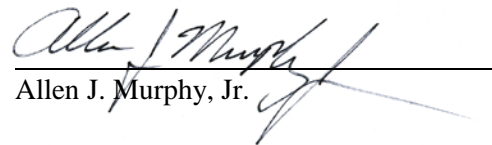
This proposal is generally consistent with the Comprehensive Plan. Staff finds that the conditions attached to the Special Use Permit and proffers will assure orderly development of the site and provide a development which complements the surrounding community.

RECOMMENDATION

Staff recommends the Board defer consideration of this application to the May 25, 2010 meeting. The applicant concurs with the request. Staff recommends the Board open and continue the public hearing until the next meeting.

Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

LV/gb
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ATTACHMENTS:

1. SUP Resolution
2. Rezoning Resolution
3. Community Impact Statement
4. Conceptual Plan
5. Proffers
6. Location map
7. Unapproved Planning Commission Minutes

RESOLUTION

CASE NO. SUP-0017-2009. FREEDOM MARKET

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 (the "SUP") process; and

WHEREAS, Mr. Philip Richardson has applied for an SUP to allow the operation of a convenience store with fuel sales on the property located at 5534 Centerville Road, further identified as James City County Real Estate Tax Map No. 3130100011 (the "Property"); and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised and adjoining property owners were notified; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 7, 2010, recommended approval of the application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0017-2009 as described herein with the following conditions:

1. **Master Plan and Use:** This SUP shall be valid for a convenience store with fuel sales at 5534 Centerville Road (the "Property") as shown on the plan titled "Conceptual Plan For Freedom Market" prepared by AES Consulting Engineers, dated June 29, 2009, and revised March 4, 2010 (the "Master Plan"), with minor changes thereto as determined by the Planning Director. The Property shall not contain any vehicle-wash facilities.
2. **Hours of Operation:** The daily hours of operation for both the convenience store and gas pumps shall be limited to the hours of 5 a.m. to 11 p.m. The daily hours for deliveries and solid waste pickup shall be limited to the hours between 7 a.m. and 8 p.m.
3. **Intercoms:** Any intercom systems designed to allow communication between employees and customers shall operate in such a manner that they will not be audible by adjacent property owners.
4. **Architectural Review:** The architecture of the convenience store and the fuel island canopy shall be substantially in accordance with the submitted rendering prepared by Paul White referenced on page 2 of the Community Impact Statement. No stucco or *Exterior Insulation & Finish System* (EIFS) material shall be used on the building or canopy. The canopy roof shall have a roof constructed of materials identical to the store's roof. The canopy shall contain architectural features and materials that complement the store. The rear and sides of the convenience store shall have windows and other treatments consistent with the front of the structure. The architectural design and materials for both the building and canopy shall be approved by the Planning Director prior to final site plan approval.

5. **Fueling Stations:** There shall be no more than three fueling islands (six vehicle fueling positions) permitted on the Property. The pumps shall be arranged in a manner generally consistent with the Master Plan. No high pressure diesel pumps for tractor trailer fueling are permitted. The maximum height of the pump island canopy shall not exceed 20 feet from current grade.
6. **Lighting:** Any exterior site or building lighting, including canopy lighting, shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the Property lines.
7. **Signage:** The freestanding sign shall be ground-mounted and shall not exceed a height of six feet. The sign's supporting structure shall be constructed to match the building and its design shall be approved by the Planning Director prior to the issuance of a sign permit. The building face sign(s) shall not exceed a cumulative size of 16 square feet and the location, design, materials, and lighting of such sign(s) shall be approved by the Planning Director. No signs shall be allowed on the canopy.
8. **Landscaping:** An enhanced landscaping plan shall be provided in the buffers along Centerville Road and Longhill Road. Enhanced landscaping shall be defined as 125 percent of the minimum ordinance size requirements of planting materials. The 35-foot transitional buffer between the Property and Longhill Grove shall substantially screen the Property using evergreen vegetation and fencing. The transitional buffer shall be designed such that when mature, the vegetation shall substantially obscure the view of the convenience store and gas pumps from all stories of the Longhill Grove apartments. The proposed effect must be demonstrated to the Planning Director prior to final site plan approval.
9. **Dumpster screening:** The dumpster shall be completely screened on three sides with brick or an alternative material approved by the Planning Director. The front gate shall be a dark color and shall screen the view of the dumpster.
10. **Trash Removal:** Rubbish bins shall be available for use by customers during all operating hours and shall be emptied on a daily basis.
11. **Outside Merchandise:** No outside display, sale, or storage of merchandise shall be permitted except for the outside storage of propane. Merchandise shall include, but not be limited to, ice, soda, candy, newspaper, or snack machine(s). Outside propane storage shall be screened from view. Public telephones, Automated Teller Machines (ATMs) for cash, and public restrooms shall be located inside the store.
12. **Water Conservation:** The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final 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 and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season

grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

13. **Stormwater Pollution Prevention Plan**: Prior to issuance of any Certificate of Occupancy (“CO”), a stormwater pollution prevention plan shall be submitted to the Environmental Director for review and approval.
14. **Spill Prevention and Control Plan**: Prior to issuance of any CO, a spill containment plan that addresses the chemical handling and storage areas shall be submitted to the Environmental Director and to the Fire Chief for their review and approval.
15. **Commencement of Construction**: If construction has not commenced on this project within 36 months from the issuance of this SUP, this SUP shall become void. Construction shall be defined as obtaining an approved site plan, permits for building construction, and footings and/or foundation has passed required inspections.
16. **Severance Clause**: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

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RESOLUTION

CASE NO. Z-0003-2009. FREEDOM MARKET

WHEREAS, Mr. Philip Richardson has applied to rezone a 1.15-acre parcel of property located at 5534 Centerville Road, further identified as James City County Real Estate Tax Map No. 3130100011 from LB, Limited Business, to B-1, General Business, with proffers; and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised and adjoining property owners were notified; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 7, 2010, recommended approval of the application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0003-2009 and accept the voluntary proffers.

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 11th day of May,
2010.

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PROFFERS

THESE PROFFERS are made this __ day of _____, 2010 by WHITFIELD BACON, LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of that certain tract or parcel of land located in James City County, Virginia, with an address of 5534 Centerville Road, Williamsburg, Virginia and being Tax Parcel 3130100011, being more particularly described on Exhibit A attached hereto (the "Property"). The Property is now zoned L-B, Limited Business.

B. Owner has applied to rezone the Property from L-B to B-1, with proffers, and for a Special Use Permit to permit a convenience store with sale of fuel.

C. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned B-1, General Business.

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, 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.

CONDITION

1. **Permitted Uses.** A convenience store with fuel sale shall be permitted on the Property. Additional uses permitted on the Property shall be limited to those uses listed on Exhibit B attached hereto. No other uses shall be permitted on the Property.

2. Archaeology. Prior to any land disturbing activity taking place on the Property the Owner shall have prepared a Data Recovery Plan (Phase III) for the Property. The Data Recovery Plan shall be submitted to the Virginia Department of Historic Resources (“VDHR”) for review and approval. Once approved, the archaeological excavation and recovery work on the Property recommended by the Data Recovery Plan shall be implemented. No other clearing, grading or construction activities on the Property beyond those recommended by the Data Recovery Plan shall be undertaken. Once all work recommended by the Data Recovery Plan has been completed, VDHR shall be requested to verify that no additional excavation or data recovery work on the Property is required. Once such verification is received from VDHR, Owner may proceed with clearing, grading and construction on the Property provided all other required permits have been received. The Data Recovery Plan shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard 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.

3. Safe Drinking Water. The Owner shall notify the Manager of the James City County Service Authority (“JCSA”) if any of the contaminants included in the Safe Drinking Water Act Amendments Phase II, IIB, or V will be used or stored on the Property. If the storage or use of any of these contaminants on the Property causes Virginia Department of Health (VDH) to rescind or deny the waiver from monitoring for any of these contaminants at any JCSA well facilities, the Owner shall reimburse the JCSA for all expenses associated with the required

monitoring. If leakage or spill involving any of these contaminants on the Property causes the JCSA to remove any well facility from service the Owner shall be responsible for the cost of replacing the well(s) to restore capacity to the JCSA water system.

WITNESS the following signature.

WHITFIELD BACON, LLC

By: _____
Title:

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

The foregoing instrument was acknowledged this _____ day of _____, 2010, by _____ as _____ of WHITFIELD BACON, LLC.

NOTARY PUBLIC

My commission expires: _____.
Registration No.: _____

Exhibit A
Property Description

Parcel One:

All that certain lot, piece or parcel of land situate, lying and being in James City County, Virginia as shown, designated and set forth as: ANNA LIGURIA, DEED BOOK 382, PG 512, Tax Map (31-3)(1-11), AREA=38,974.832 S.F., 0.895 ACRES ZONED "LB (LIMITED BUSINESS)", on a certain survey entitled "PLAT OF BOUNDARY LINE ADJUSTMENT AND LOT LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY: ANNA LIGURIA AND UCP LIMITED PARTNERSHIP, A VIRGINIA LIMITED PARTNERSHIP, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated September 30, 1998 made by G. T. Wilson, Jr., Certified Land Surveyor, a copy of which is recorded in the Clerk's Office of the Circuit Court of James City County in Plat Book 72, page 26, reference to which is made for a more complete description of the property herein conveyed.

And

Parcel Two:

All that certain lot or parcel of land situate in James City County, Virginia containing 0.253 acres, more or less, which is shown and designated as "AREA 11056.829 S. F. +/-" on a certain plat entitled "PLAT OF BOUNDARY LINE ADJUSTMENT AND LOT LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY: ANNA LIGURIA AND UCP LIMITED PARTNERSHIP, A VIRGINIA LIMITED PARTNERSHIP, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated September 30, 1998 made by AES Consulting Engineers of Williamsburg, Virginia, which plat is recorded in the Clerk's Office of the Circuit Court of James City County in Plat Book 72, at page 26, reference to which is made for a more complete description of the property herein conveyed.

Exhibit B
Permitted Uses

See attached lists

Adult day care centers.

An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property.

Bakeries and fish markets.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Child day care centers.

Contractor's offices without the storage of construction equipment or building materials.

Drug stores.

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, fitness centers.

Houses of worship.

Libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

Medical clinics or offices.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by this section 24-53.

Office supply stores, secretarial and duplicating services.

Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.

Post offices.

music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.

Schools.

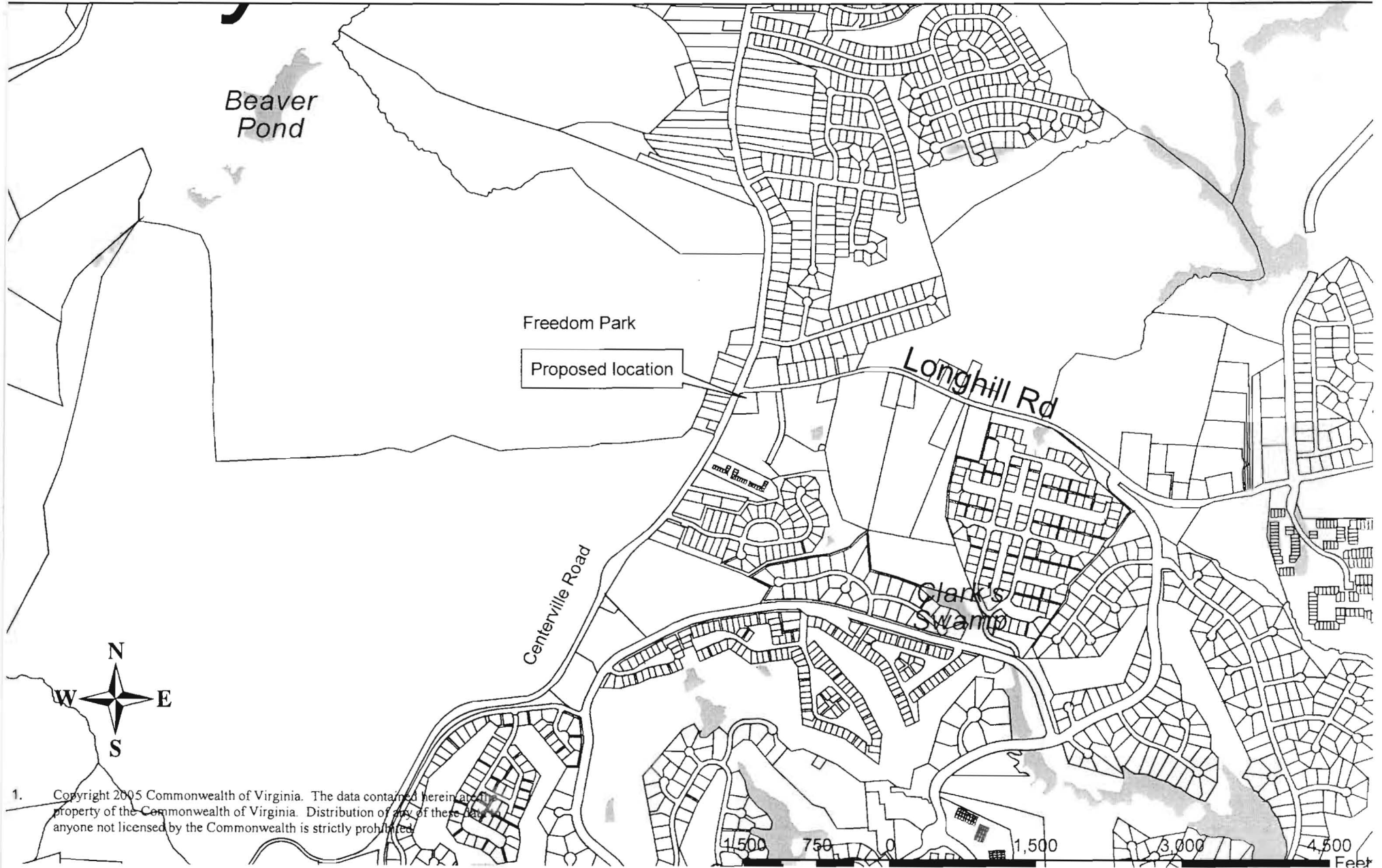
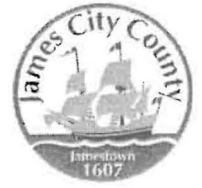
Timbering in accordance with section 24-43.

Veterinary hospitals (with all activities limited to a fully enclosed building).

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

Z-0003-2009/SUP-0017-2009

Freedom Market



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UNAPPROVED MINUTES FROM THE APRIL 7, 2010 PLANNING
COMMISSION MEETING

Z-0003-2009/ SUP-0017-2009 Freedom Market

Mr. Vinciguerra stated that Mr. Philip Richardson has applied for a Rezoning from Limited Business to General Business with proffers and an SUP to permit the operation of a convenience store with fuel sales for a 1.1 acre parcel located at 5534 Centerville Road. A rezoning is necessary because fuel sales are not a permitted or specially permitted use in the Limited Business district. General Business permits convenience stores with fuel sales only with an SUP. The applicant is proposing a 2,400 square foot store and six gas pumps. The BOS approved a similar proposal in 1998 for a 2,700 square foot store and eight gas pumps. The SUP has since expired.

Staff found the proposed site design and architecture compatible with surrounding development and consistent with the Neighborhood Commercial designation and recommended approval of the application and acceptance of the voluntary proffers

Mr. Vinciguerra stated that the applicant proposed a change to Condition No. 8, Enhanced Landscaping, to reduce the required planting size from 133% to 125% of ordinance requirements. The applicant stated that it is difficult to purchase plant materials at 133% of ordinance requirements. Mr. Vinciguerra stated that staff supports the requested change.

Mr. Henderson stated that he only sees three pumps but six fueling positions on the plans.

Mr. Vinciguerra stated that is correct.

Mr. Fraley stated that he had had a meeting with the applicant some time ago with Ms. Kratter. A report had been issued directly thereafter.

Mr. Peck opened the public hearing.

Mr. Vernon Geddy representing the applicant spoke. Freedom Market has been proposed by Whitfield Bacon, LLC. Mr. Whitfield is a business owner with another convenience store, with fuel sales on Route 143 in Lee Hall. It is called the Patriot Market. The site is just over one acre. It is on the corner of Longhill and Centerville Road. It is zoned Limited Business and is Neighborhood Commercial on the Comprehensive Plan Land Use Map. It is inside the PSA. It was previously approved for a larger convenience store with fuel sales. The parcel is surrounded by the Longhill Grove Apartment complex. There is a veterinary office nearby, as well as the entrance to Freedom Park. It is a small, neighborhood-scale use. The proffers and conditions associated with this ensure that there will be no adverse impacts on the neighbors. We think it is a use that the neighbors will embrace and use. It is needed in the area. Mr. Geddy pointed out several features on an image.

Mr. Geddy pointed out that there are limited hours of operation and delivery. There are

no outdoor merchandise sales. There are limits on lighting, noise, signage, and trash removal. There is dumpster screening, and enhanced buffer landscaping. The site layout and number of fueling islands are established by the Master Plan and conditions. There is architectural review provided for by the elevations. The applicant has not provided the Community Character Corridor landscaping to open up the view. It is an attractive building and is compatible with the neighboring buildings. The buildings have brick siding with a “V” architectural shape. There was a traffic study done by DRW. It accounted for existing development as well as approved, but un-built development in both corridors. There is a new traffic signal being installed at this intersection, with turn lanes and various improvements. The study has been submitted to and approved by VDOT, and the approval is granted under the access management regulations for the entrances. It is a Community Character Corridor buffer and is an extremely small site, 1.15 acres. There are two Community Character Corridors that meet here. The site would be severely limited with a full, 50-foot buffer. The applicant is proposing a 30-foot buffer with enhanced landscaping. The site would use the Longhill Grove BMP pond, which was designed to handle stormwater from this site. There is a swale by a retention area and pervious pavement incorporated into the design. There is a water conservation plan. Because of fuel use, there will be stormwater pollution prevention, spill prevention, a control plan and a proffer of mitigation for an impact on any JSCA facilities. This was a condition developed for Exxon and has been carried forward into these plans. Mr. Whitfield has met with the Forest Glen Neighborhood Association and briefed them on the proposal. He met with the management of the Longhill Grove Apartments and provided renderings for residents to see. He went to a second community meeting with the New Zion Baptist Church. Certain Commissioners were present along with Staff. Staff made a presentation on the Comprehensive Plan at that time. There have been a couple of petitions that have circulated in support of this proposal. The owner of the adjacent apartments has written a letter supporting it. The applicant agrees with the staff report and the proposed conditions. The applicant believes that it is consistent with the Neighborhood Commercial Designation on the Comprehensive Plan Land Use Map.

Mr. Henderson asked if the fuel offering will be branded and, if so, has it been identified?

Mr. Geddy stated that it is likely to be unbranded.

Mr. Henderson stated that on the rendering he did not see any signage on the canopy. He asked whether this was an omission or an intended circumstance?

Mr. Geddy stated that the applicant does not plan for there to be signage on the canopy.

Mr. Woods asked Mr. Geddy to expound on the anticipated community need.

Mr. Geddy stated that the closest gas station is near Olde Towne and Longhill on Route 60.

Mr. Woods noted that there is a gas station on News Road.

Mr. Fraley asked Mr. Geddy for more information regarding the conditions. One condition has to do with the intercoms, as stated: “Any intercom system designed to allow oral

communications between employees and customers shall operate in such a manner that they would not be audible by adjacent property owners.” What does “not be audible” mean?

Mr. Geddy stated that it means you cannot hear it (from an adjacent property).

Mr. Murphy stated that he would be inclined to ask Mr. Geddy if his client intends to have an intercom system.

Mr. Richardson stated that he is not certain at this time. If there is a system put in place it would be used exclusively for communications between the attendant and customer.

Mr. Geddy stated that for that limited purpose it would not be difficult to make it inaudible at adjoining properties.

Mr. Fraley asked about the intended hours of operation. Mr. Fraley stated that the proposed 5:00 a.m. seems early.

Mr. Richardson stated that in this location they will serve a number of commuters, they would be leaving for work early. If you visit some of the convenience stores in the area they are busy at this time. The proposed hours are 5:00 a.m. till 11:00 p.m.

Mr. Fraley stated that delivery would take place between 7:00 a.m. and 8:00 p.m.

Mr. Vinciguerra pointed out that Staff drafted SUP conditions similar to the conditions adopted by the BOD for the Greensprings Grocery on Centerville Road.

Mr. Fraley stated that Mr. Geddy had referred to a prior application. Mr. Fraley asked Mr. Vinciguerra if the hours are comparable to this other proposal.

Mr. Vinciguerra stated that he believes they are consistent.

Mr. Geddy stated he was not certain.

Mr. Fraley stated that he was interested in those hours, as they were proposed for this site.

Mr. Peck opened the public hearing.

Dr. Bonnie Brown of 105 Crescent Drive spoke. Dr. Brown noted that she is very happy about the new CVS that will be coming in down the street. Dr. Brown stated that she is the owner of Jolly Pond Veterinary Hospital, near the site. The location of the clinic is 3800 Longhill Road, directly across from the street from the proposed development. She stated she is against the proposal. She is concerned about the added traffic that would be generated. This is an already very busy and at times dangerous intersection. Dr. Brown stated when she first built in 2003 this was a relatively quiet intersection. Over the last seven years several new housing developments have been added. The Wisk Complex, Freedom Park, Warhill School, Matoaka

Elementary, and the Thomas Nelson Community College have all been brought in over the past seven years. This coming September, Hornsby Middle School and Blakely Elementary School will add volume to the busy Jolly Pond Road near this intersection. The bus traffic alone will cause this Longhill/Centerville intersection to be a trouble spot for motorists. A gas station and convenience store have a very high turnover of cars every hour, making turns into and out of the business an unwise choice for this intersection. A similar situation exists at the intersection of 199 and Jamestown Road where a 7-11 was located prior to the 199 bypass becoming a busy thru fare. The parking lot of that business has been reduced with each change in the traffic pattern, leaving a very narrow and at times harrowing entrance and exit of cars into the area. The intersection of Longhill and Centerville is already a busy intersection. The piece of property in question is limited in scope to accommodate reductions that will be necessary in the very near future to keep the intersection safe for motorists and school buses alike. My second concern is the anticipated increase in foot traffic to and from the apartment complex. Over the last seven years Dr. Brown stated she has been a victim of vandalism ranging from stolen light bulbs to one or two broken windows per year. Loitering was a problem in their parking lot necessitating the erection of a fence around the property. The fence has greatly reduced the foot traffic around the parking lot. We are grateful to the James City County Police Department who frequently parks in the parking lot to keep an eye on things. The area could become a busy place during late evening hours, and loitering could once again become a concern for the safety of my business, my employees, as well as the residents in the area. I have no problem with progress and understand the need for the County to allow businesses to come in and generate services for the citizens and tax revenue for the County. Zoning changes are frequently positive for the community. One only has to remember the high crime and abandoned apartments that were replaced by the well kept and nicely managed apartments we now have at this very intersection. These apartments were enabled to be built because of the zoning changes made, allowing a higher density complex. That zoning change made this corner safer and a more attractive place to live and work. The businesses permitted with the current zoning designation would be appropriate for the location and, would have little negative impact on the traffic patterns and overall safety of the area. The proposed zoning changes and SUP's are a poor choice and would have a negative impact on this section of town.

Mr. Peck closed the public hearing.

Mr. Woods asked Mr. Vinciguerra if there were any traffic studies or analysis available for this area.

Mr. Vinciguerra stated that within the packet of materials there is a traffic study. The traffic study does conclude that an additional delay would be caused by the proposed development. The capacity of Longhill Road and Centerville Road can handle the expected traffic. VDOT concurs with this analysis.

Mr. Woods asked for more detail regarding the traffic light previously discussed.

Mr. Vinciguerra stated that the County will be putting up a new traffic light at the intersection as well as creating new turn lanes. The Master Plan shows what the intersection will look like following its construction within eight months.

Mr. Woods asked if the new traffic pattern has been incorporated into the analysis.

Mr. Vinciguerra stated that the traffic analysis includes the new turn lanes and the traffic light.

Mr. Poole stated that he is very impressed with the proposal. Externally the appearance is attractive and an enhancement to the area. Mr. Poole stated that he would hope, if approved, there would not be a great deal of convenience store debris. The music, commercials, and advertisements seen at many convenience stores is very unattractive. Mr. Poole stated that he can support this rezoning. It fits into the other elements already occurring in the area. It does not have a preponderance of gas pumps. He stated he is comfortable with the conditions as they are written as well as the landscaping. With the density of residential units in the area this development is appropriate. Mr. Poole stated that he would appreciate the applicant enhancing condition number seven, about temporary signage. Limiting signage would be appreciated.

Mr. Krapf thanked Dr. Brown for speaking. Her concerns are not unreasonable. If you consider this proposal on the grounds of compatibility with zoning, land use designations and the architecture it is a good fit. If there is an increase of loitering as a result of this development Dr. Brown should notify Staff. Mr. Krapf stated that he supports this proposal.

Mr. Henderson moved for approval of the proposal as amended, with the landscape reduction from 133% to 125% of required planting size requirements. In a unanimous roll call vote, the motion passed (7-0).

SPECIAL USE PERMIT-0028-2009. Ingram Road Pegasus Wireless Communications Facility Staff Report for the May 11, 2010, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

February 3, 2010, 7:00 p.m. (deferred)

April 7, 2010, 7:00 p.m.

Board of Supervisors:

May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Stephen Romine, LeClairRyan

Land Owner:

Ingram Road, LLC

Proposal:

To allow the construction of a 124-foot (120-foot tower with four-foot lighting rod) "slick stick" Wireless Communications Facility (WCF) on the subject property.

Location:

108 Ingram Road

Tax Map/Parcel No.:

4710100007

Parcel Size:

6.98 acres

Existing Zoning:

B-1, General Business

Comprehensive Plan:

Mixed Use

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff recommends the Board defer consideration of this application to the May 25, 2010 meeting. The applicant concurs with the request. Staff recommends the Board open and continue the public hearing until the next meeting.

Staff Contact:

Luke Vinciguerra, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted 5-2 recommending denial of the application.

Proposed Changes Made by the Planning Commission

None.

PROJECT DESCRIPTION

Mr. Stephen Romine has applied for a Special Use Permit (SUP) to allow the construction of a 124-foot WCF to be located in the wooded front buffer of 108 Ingram Road. Tower-mounted communication facilities higher than 60 feet in the B-1, General Business, District require an SUP. The proposed WCF would be a “slick stick” with no visible external antennas. An illustration of the proposed tower is provided at the end of the report (Attachment No. 5).

PUBLIC IMPACTS

Environmental

Watershed: Mill Creek

Staff Comments: The Environmental Division has no comments on the SUP application at this time. Any site development issues will be dealt with at the site plan level.

Public Utilities and Transportation

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

VISUAL IMPACTS

The proposed tower site is located within the wooded buffer on the south side of the property adjacent to Route 5. The trees surrounding the site are in the 60- to 70-foot range. The proposed tower is approximately 800 feet from the closest home in Baron Woods, 1,100 feet from Brandon Woods, and 1,800 feet from Graylin Woods. The combination of topography, low tree cover, and proximity to multiple neighborhoods and primary routes would make the proposed tower highly visible from multiple locations.

Based on a publicly advertised balloon test on February 22, 2010, staff finds that the proposed tower would be highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. Due to topography on Route 5, and on a westbound approach toward Ironbound Road, the proposed tower would be would become highly visible at the entrance of Graylin Woods and then disappear from view until the eastern entrance of John Tyler Commercial Park. The proposed WCF is also visible through the trees at multiple points within Brandon Woods and the entrance to Powhatan Crossing. The proposed tower was not visible from locations within Graylin Woods, Westray Downs, Village Green, or Baron Woods. The proposed tower would be the dominating eastward view for many locations within the Villas at Five Forks. Attachment No. 2 illustrates documented locations where staff was able to view the balloon during the height simulation.

COMPREHENSIVE PLAN

Community Character

Development Standards and Goals, Strategies, and Actions	<i>Five Forks</i> (Page 89): Five Forks is generally understood to encompass the area that lies within three-quarters of a mile of the intersection of John Tyler Highway and Ironbound Road (During the 2008 Comprehensive Plan update, Five Forks became a Community Character Area (CCA)).
	The Primary Principles for the Five Forks Area referenced in the Comprehensive Plan state: Building architecture, scale, materials, spacing, height, and color should respect the architectural context of existing structures such as the historic schoolhouse and veterinary clinic and maintain the village character of Five Forks. New buildings should attempt to emulate distinguishing architectural elements of existing structures such as windows, roof lines, and cornices.
	<i>Action No. 1.2.1.:</i> Encourage developers to apply the design guidelines developed for Toano and Five Forks to projects within these areas...”
	Staff Comment: Staff finds the proposal inconsistent with the Primary Principles for the Five Forks Area and Action No. 1.2.1 as the proposal is dissimilar to any historic element of the CCA and does not emulate distinguishing architectural elements of the surrounding area.
	<i>Suburban Community Character Corridor (CCC) Recommendation</i> (Page 84): The predominant visual character of the suburban CCC should be the built environmental and natural landscaping, with parking and other automobile-related areas clearly a secondary component of the streetscape.
	Staff Comment: Though the description of the Comprehensive Plan does not specifically discuss WCFs, staff finds the proposal inconsistent with the policy statement as the tower would become a predominant visual feature of Five Forks rather than the built environment and natural landscaping.
	<i>Action No. 1.1.1:</i> Expect that development along CCCs protect the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.
	<i>Action No. 1.2.2.:</i> Expect that development along CCAs protect the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network, and establishes entrance corridors that enhance the experience of residents and visitors.
	Staff Comment: Staff finds this proposal inconsistent with Action Nos.1.1.1. and 1.2.2. as the quality of the historic view shed would be compromised as the tower would become a dominating visual feature.

Staff finds this application, as proposed, is not in compliance with the Comprehensive Plan. Given the proposed height of the tower, the on-site topography, and the lack of adequate tree cover, there is no way to provide additional screening for the adjacent neighborhoods and CCCs. While the proposed tower will provide greater coverage for up to three carriers, the tower will have a negative visual impact on the surrounding area. Areas of visual impact include homes in Brandon Woods, and The Villas at Five Forks and along the CCCs of Route 5 and Ironbound Road.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (Attachment No. 7). In general, it is expected that all facilities should substantially meet the provisions of these performance standards.

These performance criteria note that tower-mounted WCFs should be located and designated in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development.

While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County's ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted an SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. The applicant has provided documentation in the written narrative of the application that discusses failed collocation attempts and offers justification for the proposed location.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regard to demonstrating the necessity for the tower, the applicant submitted propagation maps showing coverage of the area as unreliable. The applicant has explored alternative locations but claims this site is the most viable option.

Standard A3 recommends that the site be able to contain at least two towers on-site to minimize the need for additional towers elsewhere. Though it appears structurally possible to locate an additional tower on-site, a second tower on the site would make the WCF even more noticeable to adjacent property owners.

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

B. Location and Design

Performance Standard B1 states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. The proposed tower is highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary school to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from near the Five Forks Water Treatment Facility to the entrance to the Brandon Woods subdivision. Additionally, the proposed WCF is also visible within Brandon Woods and The Villas at Five Forks. As the proposed tower would be significantly taller than any surrounding structure, staff finds this performance standard has not been met.

Performance Standard B2(a) states that towers should be located in a manner that use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors. The proposed tower is not a camouflaged tower, as it is visible above the tree line from off-site properties. The base of the tower, along with any utility structures housed at ground level, will be visible from Route 5 as there are few understory plantings or shrubbery on-site. As noted above, the tower has a significant impact on adjacent residential areas and a CCC. Therefore it does not meet this performance standard.

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

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

C. Buffering

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

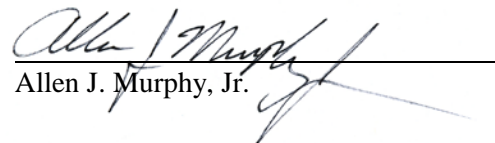
The tower site is situated among a small area of trees roughly 200 feet back from Route 5 adjacent to the front parking area within an office/warehouse development. These mature trees may partially screen the proposed tower from a distance; however, there are few understory plantings that would screen the base of the proposed tower from view at close proximity. As the proposed tower is highly visible from multiple surrounding developments and likely be visible from the immediate vicinity, staff finds the site inadequate to buffer the proposed tower from view along Route 5 and from within nearby residential neighborhoods. The performance standard has not been met.

RECOMMENDATION

Staff recommends the Board defer consideration of this application to the May 25, 2010 meeting. The applicant concurs with the request. Staff recommends the Board open and continue the public hearing until the next meeting.

Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

LV/nb
SUP28_2009.doc

ATTACHMENTS:

1. Resolution
2. Location Map and Balloon Test Results
3. Binder Application
4. Photos from the February 22, 2010, Balloon Test
5. Illustration of Proposed Tower
6. Unapproved Planning Commission Minutes
Performance Standards for WCFs Policy

RESOLUTION

SPECIAL USE PERMIT-0028-2009. INGRAM ROAD

PEGASUS WIRELESS COMMUNICATIONS FACILITY

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. Stephen Romine has applied on behalf of LeClairRyan for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned B-1, General Business; and

WHEREAS, the proposed development is shown on a plan prepared by BC Architects Engineers, PLC, with a final revision date of February 11, 2010 (the "Master Plan"), with the Site No. listed as VAJC01; and

WHEREAS, the property is located at 108 Ingram Road and can be further identified as James City County Real Estate Tax Map/Parcel No. 4710100007; and

WHEREAS, the Planning Commission, following its public hearing on April 7, 2010, voted 5-2 to recommend denial of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0028-2009 as described herein with the following conditions:

1. Term of Validity: This SUP shall be valid for a total of one wireless communications facility at a total height of 124 feet including all appurtenances on the property as depicted on Sheet A-2 of the *Special Use Permit application site plan titled "Pegasustower A New 120' Stealth Pole in a New Tower Compound"* prepared by Christopher D. Morin, dated February 11, 2010.
2. Time Limit: A final Certificate of Occupancy (CO) shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
3. Structural and Safety Requirements: Within 30 days of the issuance of a final CO by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design,

structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations, set forth in the 2000 International Building Code, or any amendment thereof, have been met.

4. Tower Color: The tower color shall be gray. Any alternative color used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
5. Advertisements: No advertising material or signs shall be placed on the tower.
6. Additional User Accommodations: The tower shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. Guy Wires: The tower shall be freestanding and shall not use guy wires for support.
8. Enclosure: The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.
9. Tree Buffer: A minimum buffer of 100 feet in width of existing mature trees shall be maintained between the tower and Ingram Road/John Tyler Highway. This buffer shall remain undisturbed except for the access drive and necessary utilities that accompany the operation of the tower.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

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SUP-0028-2009

Ingram Road Pegasus Wireless Communication Facility

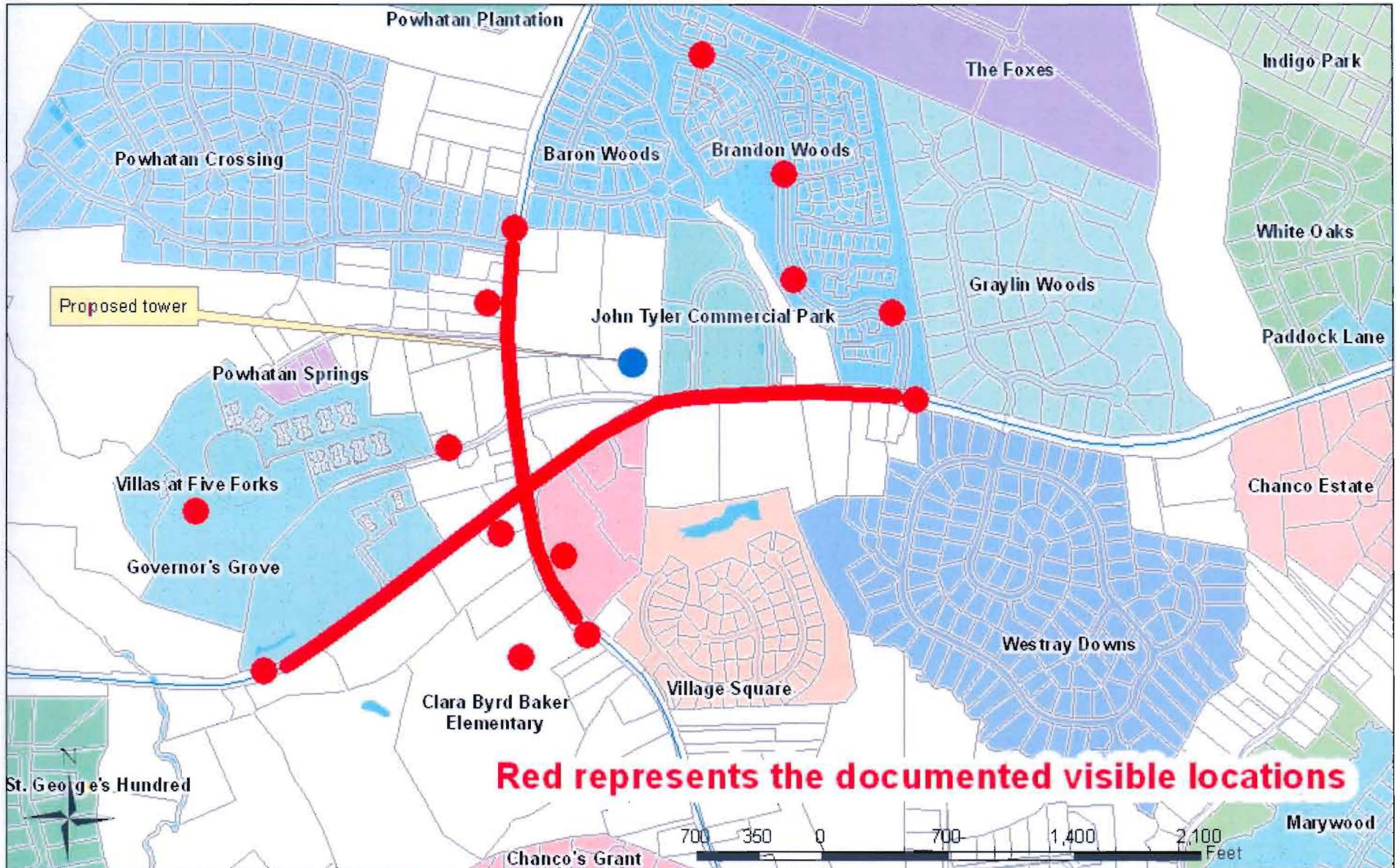




Figure 1: Eastbound Route 5 entrance to Governor's Gove



Figure 2: Eastbound Route 5 approaching Ironbound Road.



Figure 3: Eastbound Route 5 approaching the Shops at Five Forks



Figure 4: Eastbound Route 5 at Seven Eleven



Figure 5: Eastbound Route 5 at the Five Forks Shopping Center



Figure 6: Westbound Route 5 at the entrance of Graylin Woods



Figure 7: Westbound Route 5 approaching Venture Lane



Figure 8: West entrance of Venture Lane Business Park



Figure 9: Route 5 entrance of Powhatan Crossing



Figure 10: Ironbound Road at Airtight Self Storage



Figure 11: Entrance of Village at Five Forks facing Ironbound Road



Figure 12: Rear of Villages at Five Forks



Figure 13: Entrance to Clara Byrd Baker Elementary northbound on Ironbound Road

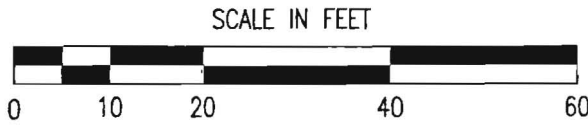
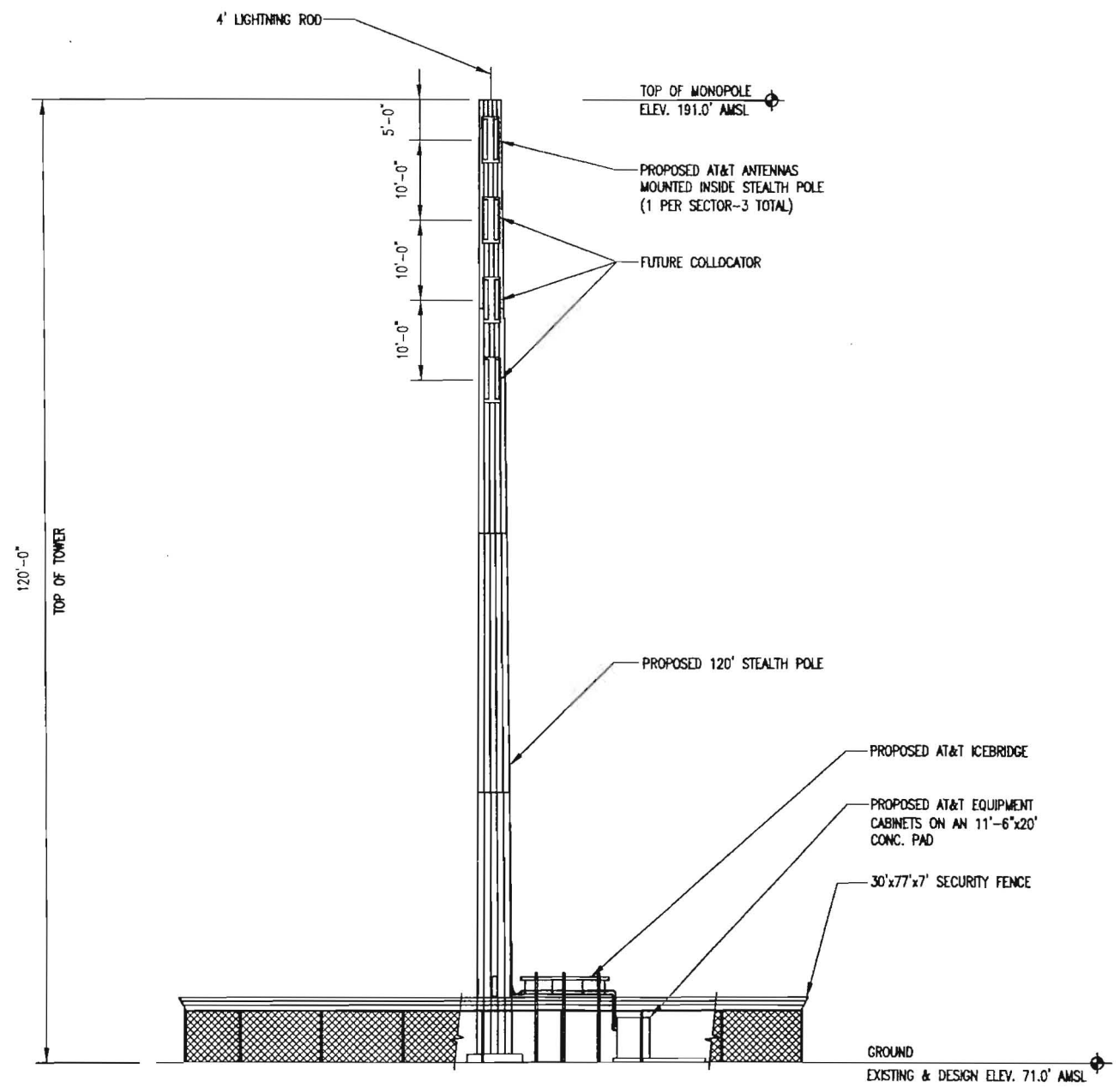


Figure 14: McDonalds in the Governor's Green Shopping Center



Figure 15: Cities Grille in Governors Green Shopping Center

02-11-10 CHRIS MORIN 09:49:14 Y:/Drawings - 2009/Pegasus/Ingram - VAJC01/ZONING 02-11-10/A2.dwg



1"=20'

TOWER ELEVATION

PEGASUS TOWER
 PEGASUS TOWER CO. LTD
 139 STEELSBURG HWY
 CEDAR BLUFF, VA 24069
 TEL: (276) 964-7416
 FAX: (276) 963-2587

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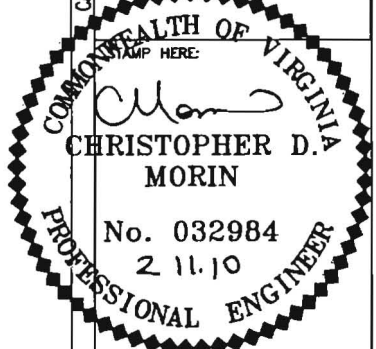
BC
 architects
 engineers
 5659 COLUMBIA PIKE, SUITE 101
 FALLS CHURCH, VA 22041-2888
 TEL: (703) 671-8000
 FAX: (703) 671-8300

SHEET REVISION

NO.	DESCRIPTION	BY	DATE
1	TOWER CHG	AGT	02-11-10

CALL FOR UNDERGROUND UTILITIES PRIOR TO DIGGING

SITE NUMBER:
VAJC01
 SITE NAME:
INGRAM
 SITE ADDRESS:
 108 INGRAM RD
 WILLIAMSBURG, VA 23188



DRAWN BY:	AGT
CHECKED BY:	CDM
DATE DRAWN:	12-22-09
SUBMISSION:	ZONING

SHEET TITLE:

TOWER ELEVATION

SHEET NUMBER:	REV. #
A-2	1

UNAPPROVED MINUTES FROM THE APRIL 7, 2010 PLANNING
COMMISSION MEETING

SUP-0028-2009 Ingram Road Pegasus Tower

Mr. Luke Vinciguerra stated that Mr. Stephen Romine has applied for an SUP to allow for the construction of a 120' wireless communications facility with a four foot lighting rod at 108 Ingram Road. The parcel is zoned B-1 and, designated Mixed Use. Tower mounted communication facilities higher than 60 feet in the B-1 district require an SUP. The proposed facility would be a "slick stick" with no visible external antennas.

Staff found that the combination of topography, low tree cover, and proximity to multiple neighborhoods and primary routes would make the proposed tower highly visible from multiple locations. The BOS adopted Performance Criteria for Wireless Communication Facilities in 1998. These performance criteria noted that tower mounted facilities should be located in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. The Performance Standards also indicate that towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses. The proposed tower is highly visible north and southbound on Ironbound Road from Clara Byrd Baker Elementary School to the entrance of the Powhatan Crossing subdivision and east and westbound on Route 5 from the Five Forks Water Treatment Facility to the entrance of the Graylin Woods subdivision. The proposed facility will also be visible from a portion of Powhatan Crossing and multiple points within Brandon Woods, The Villas at Five Forks, and the Governors Green Shopping Center.

Staff found that the application is not in compliance with the Comprehensive Plan, specifically the Community Character Corridor and Community Character Area recommendations, and does not meet the BOS adopted Performance Standards for Wireless Communications Facilities due to the negative visual impact. Staff recommends denial of this application. Should the Planning Commission wish to recommend approval of this application, staff recommend including the conditions that were listed in the staff report.

Mr. Peck asked if there were any questions of staff at this time.

Hearing none, Mr. Peck opened the public hearing.

Mr. Romine, representing the applicant spoke. This location was initially being developed for AT&T. Technology provides a critical link for government and emergency services. Today over 80% of the U.S. population relies on wireless telephone service. Fifty percent of all subscribers use their wireless phone as a primary phone. The growth and use of wireless has developed an expectation of service availability in all locations. Seventy percent of all 911 calls are made from wireless phones. Reliability is critical. The phone works by operating on a low-power radio signal. Where there are no antennae, there is no coverage. The application is an attempt to address a coverage gap. If you have unreliable or non-existent coverage you cannot sustain or maintain a phone call. Lack of availability is evident in this

vicinity, especially near the intersection of Ironbound Road and John Tyler Highway. Pegasus is working with AT&T to provide service to the community in this area. The location, 108 Ingram Road, is zoned B-1 General Business. It currently has several industrial, flex-type buildings stacked behind one another. Mr. Romine provided several images. Mr. Romine stated that they ran balloon tests at several heights. The primary concern expressed to them was the visual effect/impact. Mr. Romine provided a map to illustrate how the accessibility of service would be improved as well as currently available coverage. This is the 13th site that the applicant has considered in this area over the course of five years. Mr. Romine provided a map to illustrate the other sites that were considered. Mr. Romine provided images of the balloon test. Mr. Romine stated that there were a couple of areas where the balloon was slightly visible. At 120-feet it is not possible to completely eliminate the visibility of the tower. Mr. Romine reviewed the reasons for dismissal regarding the other 12 sites. In the staff report there are some determinations made regarding "highly visible". Mr. Romine stated that this has been a difficult area to provide coverage for. Mr. Romine stated that he acknowledges that it is visible in certain areas. The staff report states that the tower is not camouflaged. Mr. Romine stated that the "slick stick" proposed is considered camouflaged. One hundred twenty feet is as low as they can go without eliminating functionality. The facility is consistent with the County guidelines and the Comprehensive Plan. It is in a Community Character Corridor and Community Character Area they have gone to great lengths to accommodate that. Pegasus has agreed to the ten conditions proposed by staff. One condition, number nine, requires a 100-foot buffer. The trees will remain notwithstanding the ability to develop the property. The viewshed will remain virtually the same.

Mr. Peck asked if the Commissioners had any questions for the applicant.

Mr. Peck asked if there were any members of the public that would like to speak.

Mr. Gerald Johnson of 4513 Wimbledon Way stated that he gets excellent reception throughout the area. Mr. Johnson stated that he is representing the Historic Route 5 Association. On the occasion of the balloon tests he drove throughout the area to get a sense of the visibility. Mr. Johnson stated that staff's assessment of it being "highly visible" is accurate. The major disagreement is that it is not inconspicuous. Given that it is a Community Character Corridor makes it even more important. The Five Forks study illustrates that the community is supposed to have a coherency. The housing around the area is numerous. The housing developed because it is a small community setting. This is what the people expect. The Commission should deny the application. This is not a ridge as described by the applicant. The Commission should support Staff's position.

Mr. John Miller representing AT&T Mobility stated that AT&T has been looking for an appropriate site in the area for the past five years to provide satisfactory coverage. The site is a good location and will help satisfy coverage needs along the Ironbound corridor. Earlier on there were questions regarding the JCSA property, next to the elementary school. There are two communication towers already located on the site; AT&T has collocated on one tower at 90 feet. Placing a new tower on this site would not satisfy their coverage needs. The applicant also considered extending the tower at 140 and 160 feet, still it would not meet the coverage needs. The balloon tests showed that it would not be highly visible from many subdivisions. It was

visible along Ironbound Road and John Tyler Highway. In certain areas in Brandon Woods it was visible.

Mr. Peck closed the public hearing.

Mr. Henderson asked if the applicant had considered the timeshare property at Powhatan Plantation as a possible location for the tower. That site may be ideal considering the coverage area the applicant is attempting to target.

Mr. Miller stated that the site had been considered, though due to the 400-foot setback required it was not feasible.

Mr. Poole stated he understands the difficulty in finding an appropriate site. Mr. Poole stated that the visual quality along Route 5 is very important. The apparent visibility of the tower along Route 5 is a concern.

Mr. Romine stated that this area is highly developed making the placement of a tower more difficult. The proposed site will be further developed however, if the tower is approved the required buffer of trees would remain. Otherwise the trees may be cleared to make way for another type of development. The other landscaping elements required will also provide screening at the vehicle and pedestrian level coming up Route 5. The top 20 feet cannot be screened. If you look at the staff report and the outlined performance standard requirements the applicant has satisfied all of the standards other than a visible viewshed-type impact. The viewshed impact is in itself debatable.

Mr. Krapf asked if the applicant had examined any alternatives beyond the tower.

Mr. Romine stated that he was not aware of AT&T considering any alternatives.

Mr. Krapf stated that he shares Mr. Poole's concern. The proposed location is a prominent location.

Mr. Romine stated that they had conducted a community meeting. After providing several images of the viewshed the response from the community was not one of concern.

Mr. Mike Maddocks asked for clarification regarding visibility of the tower from certain locations.

Mr. Romine provided information regarding visibility.

Mr. Maddocks asked if the diameter of the tower is comparable to the diameter of the balloon.

Mr. Romine stated that typically the diameter of a "slick stick" is between two and three feet. The diameter of the balloon was five feet.

Mr. Fraley stated that the Commission did receive a letter from a community organization regarding the tower. Verizon will be an active participant in an industry forum on planning for wireless communication facilities. Planning for the facilities in a more comprehensive way would be advantageous for the community and the service carriers. Finding locations in the least obtrusive areas is of foremost concern. By working in this manner the public can become more engaged in the process, and it can be more predictable for service providers. Mr. Fraley stated that he cannot support the proposal.

Mr. Henderson asked for more information regarding the service customers that would be served by the proposed tower. Specifically this would provide in-office capability for people in the office park nearby.

Mr. Romine stated yes. This area is lacking in-building coverage.

Mr. Henderson stated that there is a significant day-time population in the vicinity within the professional buildings. Also, the neighborhoods nearby would benefit from more reliable coverage. Mr. Henderson stated that he can support the proposed location.

Mr. Romine stated that coverage in the area needs to be addressed.

Mr. Krapf moved for denial of the proposed SUP. In a roll call vote the motion passed (5-2, AYE: Poole, Fraley, Woods, Krapf, Peck; NAY: Maddocks, Henderson).

PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
MAY 26,1998

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

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
 - a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
 - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.
 - c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

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

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

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

Proposed Location of Tower	Impact Criteria
a. Within a residential zone or residential designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
b. Within a historic or scenic resource area or within a scenic resource corridor	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
c. Within a rural lands designation in the Comprehensive Plan	<p>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.</p> <p>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</p>
d. Within a commercial or in an industrial designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
<p><i>Notes for the above table:</i></p> <ol style="list-style-type: none"> 1. <i>Exceptions to these criteria may be made on a case by case basis where the impact of the proposed tower is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.</i> 2. <i>A tower will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.</i> 3. <i>Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.</i> 	

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

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

C. Buffering

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

**SPECIAL USE PERMIT-0008-2010/HEIGHT WAIVER-0001-2010. BUSCH GARDENS
GRIFFON THEATRICAL LIGHTING
Staff Report for the May 11, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

May 5, 2010, 7:00 p.m.
May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Suzy Cheely, SeaWorld Parks and Entertainment, LLC

Land Owner: SeaWorld Parks and Entertainment, LLC doing business as Busch Gardens Williamsburg

Proposal: To amend Condition No. 3 of the existing special use permit and height waiver (SUP-0002-2006/HW-0001-2006) for the Griffon roller coaster to permit upwardly-directed theatrical lighting.

Location: 7851 Pocahontas Trail, Roberts District (inside Busch Gardens Theme Park)

Tax Map/Parcel No.: 5140100009

Parcel Size: Project will affect approximately five acres of a 383-acre parcel

Zoning: M-1, Limited Business/Industrial

Proposed Zoning: (No change in zoning proposed.)

Comprehensive Plan: Limited Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

Given the location of the Griffon roller coaster internal to Busch Gardens, the proposed lighting has limited additional visual impact outside the theme park. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve these Special Use Permit (SUP) and Height Waiver (HW) applications with the associated conditions found in the resolutions.

Staff Contact: Leanne Reidenbach Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on May 5, 2010, the Planning Commission voted 6-0 (1 absent) to recommend approval of SUP-0008-2010 to the Board of Supervisors and to forward HW-0001-2010 to the Board for their consideration.

Proposed Changes Made Since Planning Commission Meeting

There have been no changes since the Planning Commission meeting.

PROJECT DESCRIPTION

Ms. Suzy Cheely of SeaWorld Parks and Entertainment has applied to amend Condition No. 3 of the existing SUP and HW to allow upwardly directed LED theatrical lighting on the Griffon roller coaster as part of the “IllumiNights” program. No other changes are proposed to the Griffon or to the existing height of the coaster. “IllumiNights” is scheduled to take place in late June and will run through the summer in the main villages hourly from 5 p.m. to 9:30 p.m. As part of the display in the park’s France area, the structural supports and tracks for the Griffon roller coaster are proposed to be illuminated with green, blue, red, or magenta LED lighting. Both the lighting color and type are limited through Condition Nos. 2 and 3 of the HW resolution.

When the expansion to permit the Griffon was initially reviewed, the SUP and HW conditions were combined into a single resolution. As a result, though this amendment is specifically related to the HW, both applications have to be reviewed through the Planning Commission and Board of Supervisors. As part of this amendment, staff has divided the HW and SUP conditions into separate applications and resolutions. There are several proposed and carry-over conditions that pertain to site lighting. Condition No. 3 of the SUP requires a lighting plan for the coaster expansion (building and landscape lighting) to be approved by the Planning Director. This condition was satisfied when the site plan for the Griffon was approved, but will remain part of the SUP in the event any changes to the plan are desired. As noted earlier, Condition Nos. 2 and 3 of the HW application relate specifically to the upwardly directed lights to illuminate the coaster and regulate the lighting color and type.

The Griffon is located near the center of the theme park near the northwest end of the Rhine River and just north of the existing *Alpengeist* rollercoaster attraction. The coaster exceeds the 60-foot height limitation imposed by the M-1 Zoning District, reaching a total height above grade of 210 feet at its highest point.

SURROUNDING ZONING AND DEVELOPMENT ANALYSIS

To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter’s Grove County Road, also owned by Busch Properties. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2, General Industrial. To the northeast of the park are the Route 60 and Route 143 roadways, sections of rail line owned by CSX Railroad, and the Williamsburg Country Club and Golf Course. To the east and southeast of the theme park is Grove, which contains residentially zoned properties. Planning staff believes that the proposed lighting within an existing theme park on an existing attraction is compatible with surrounding land uses due to its limited visibility from these areas.

HEIGHT WAIVER

As noted earlier, Ms. Cheely has also applied to the Board of Supervisors for a height waiver. On property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board with the issuance of a height limitation waiver (height waiver). The Griffon reaches a maximum height of 210 feet above grade at its highest point (approximately 280 feet above sea level). Again, because the original SUP and HW applications were combined, both applications require amendment.

Projected sight lines, as depicted on “BGW 2010 Summer Nights, Griffon Site Lines,” show that the Griffon has a limited or negligible visual impact on motorists or pedestrians on roadways in the vicinity of Busch Gardens and residents of Kingsmill. The applicant conducted a lighting demonstration on April 14, 2010, to help evaluate potential impacts of the added lighting to the visibility of the Griffon. A DVD of this test and photographs taken from Sections A, B, and C sight lines shown on the plan are also included as attachments. While the Griffon is visible in the daylight in several locations, most notably from Route 60 near the

interchange of Route 199, the additional lighting was not visible from adjoining properties or roadways until after about 8:30 p.m. and does not significantly add to the visibility of the coaster. Due to the nature of the lights as LED fixtures, the lighting effects are muted and only visible on the track itself. The lighting does not produce glare or illuminate the sky itself. At night while illuminated, the Griffon was visible from Route 60 and Route 143 as you pass the parking areas, but at these points, an eastbound observer would have to turn his/her head a significant amount in order to see the coaster. It was also visible from where the Grove interchange of I-64 crosses over Route 60. Finally, the coaster was virtually unnoticeable from the Route 60 corridor near the Route 199 interchange as the light from multiple traffic signals along this corridor essentially block the lighting on the Griffon.

HEIGHT WAIVER ANALYSIS

Section 24-419(a) of the James City County Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding:

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60 feet;
Staff comment: The Griffon is located very near the center of the amusement park, in a conscious effort to minimize its audio and visual impacts. The nearest park boundary is roughly 800 feet from the expansion, which is well in excess of what is required by the Zoning Ordinance.
2. Such structure will not obstruct light from adjacent property;
Staff comment: Given the distances to the Busch Gardens property boundary lines and the relatively small mass of the structures being anticipated in relation to the overall site and operation, Planning staff finds that the coaster with the proposed additional lighting will not obstruct light from adjacent properties.
3. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
Staff comment: The closest area of historic interest is Carter's Grove Country Road, which is roughly 1,000 to 1,200 feet from the site of the coaster. The Griffon is currently not visible from this location. The nearest residential development is Kingsmill. Staff drove through areas closest to the theme park during the lighting demonstration and verified that neither the coaster nor the lighting was visible given the significant distance, existing buffer, and tree cover between Busch Gardens and Kingsmill. Based on these observations, Planning staff finds that the proposed lighting will not impair the enjoyment of nearby historic attractions, areas of significant historic interest, or nearby developments.
4. Such structure will not impair property values in the area;
Staff comment: The Real Estate Assessments division indicated that the region immediately adjacent to the subject site has experienced stable or increasing property values over the last several years, even with the addition of other park attractions. The Director of Real Estate Assessments also indicated that his office had not seen any market changes in adjacent residential areas attributable to the proximity to Busch Gardens. As such, his opinion is that the proposed lighting addition will not negatively affect the property values.
5. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;
Staff comment: The Fire Department indicated that they had no concerns with the addition of lighting to the Griffon.

6. Such structure will not be contrary to the public health, safety, and general welfare.
Staff comment: Based on the current proposal and supporting information submitted by the applicant, staff believes the additional lighting on the Griffon will not unduly or adversely affect the public health, safety, or general welfare.

PUBLIC IMPACTS

1. Environmental Impacts, Utilities, and Traffic

Staff Conclusions: the addition of lighting on the Griffon coaster does not have any additional impacts on the environment, utility service, or traffic generation.

Comprehensive Plan

Land Use Map

Designation	<p><i>Limited Industry (Page 154):</i> Land included in this designation generally are within the Primary Service Area and used for warehousing, office, and service industries. Parcels require access to arterial roads, public water and sewer, nearby police and fire protection, and adequate buffers to residential developments</p> <p>Staff Comment: The proposed lighting is within an existing theme park which meets the general site characteristics contained within the 2009 Comprehensive Plan. Particularly important with this application is the adequate buffer to the nearby Kingsmill residential development.</p>
Development Standards	<p><i>Compatibility (a)-Page 154:</i> For Limited Industry areas, dust, noise, odor, and other adverse environmental effects (but not size) are primary considerations for determining whether land uses are acceptable in these areas.</p> <p><i>Environmental protection (a)-Page 154:</i>Protect environmentally sensitive resources including... historic and archaeological resources, designated Community Character Corridors and Area, and other sensitive resources by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers, and screening to adequately protect the resource.</p> <p>Staff Comment: The location of the Griffon coaster and proposed lighting internal to the park use the park’s existing buffers to provide screening from Kingsmill and most areas along Route 60. In terms of visibility from the Route 60 Community Character Corridor, the coaster and lighting could only be seen in the area where the Busch Gardens parking lots are located. In all other areas adjacent to the park along Route 60, the observer has to actually be looking for the coaster in order to see it. Even when visible through buffers or adjacent to the parking areas, the proposed lighting was subtle and relatively unobtrusive.</p>
Goals, strategies and actions	<p><i>Action #1.3.2-Page 164:</i> Communicate with adjacent jurisdictions regarding development plans that have potential impacts on adjacent localities and public facilities. Work with them to coordinate plans and to identify and mitigate areas where there are impacts.</p> <p>Staff Comment: York County was notified of the lighting demonstration and also of the public hearing dates through adjacent property owner notifications. No comments were received as part of either notification.</p>

Community Character

Goals, strategies and actions	<p><i>Strategy #1.1-Page 97:</i> Preserve and enhance entrance corridors and roads that promote the rural, natural, or historic character of the County.</p> <p><i>Action #1.3.10-Page 100:</i> Encourage on-site lighting that enables the retention of rural “dark sky” qualities of the County by promoting the use of cut-off and glare reducing fixtures and low intensity lighting.</p>
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<p>Staff Comment: During the lighting demonstration, the impacts of the additional lighting were carefully evaluated along the Route 60 Community Character Corridor. The Griffon and much of Busch Gardens are already visible from Route 60 during the day and the addition of lighting does not significantly increase the visual impact of Griffon at night due to the presence of other bright light sources (parking lot lighting, the brewery, and traffic lights). While the lights are directed upwards, they are generally “wash lights” meant to illuminate only the structural components of the Griffon and does not create additional glare beyond the tracks. Through the proposed conditions, possible colors are restricted to blue, green, red, or magenta, which either blend with the existing color of the coaster or the night sky to produce a more subtle effect than stark white or yellow light would produce.</p>

Comprehensive Plan Staff Comments

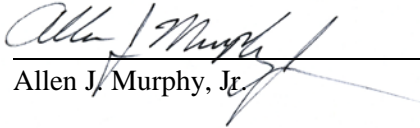
An amusement park is a service industry, albeit not a traditional one. The additional lighting will not create dust, odor, or any additional noise. Since the attraction is near the center of the park, the visual impacts of the lighting on adjacent properties and the Route 60 Community Character Corridor are minimal and unobtrusive.

RECOMMENDATION

Given the location of the Griffon roller coaster internal to Busch Gardens, the proposed lighting has limited additional visual impact outside the theme park. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. At its meeting on May 5, 2010, the Planning Commission voted 6-0 (1 absent) to recommend approval of SUP-0008-2010 to the Board of Supervisors and to forward HW-0001-2010 to the Board for their consideration. Staff recommends the Board of Supervisors approve these SUP and HW applications with the associated conditions found in the resolutions.

Leanne Reidenbach

CONCUR:


Allen J. Murphy, Jr.

LR/gb
Sup08-10Lighting

ATTACHMENTS:

1. Height waiver resolution
2. Special use permit resolution
3. Unapproved minutes of the May 5, 2010, Planning Commission meeting
4. Special use permit/height waiver submission package (includes two full-color location maps and a DVD of the lighting demonstration) (*please note that the supporting documents were previously forwarded to the Board as part of the Planning Commission materials*)

RESOLUTION

CASE NO. HW-0001-2010. BUSCH GARDENS GRIFFON THEATRICAL LIGHTING

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Height Limitation Waiver process; and

WHEREAS, Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC has applied to amend an existing Height Limitation Waiver to allow for the installation of four upwardly directed theatrical lights (the "Lights") on an existing structure that is approximately 210 feet above grade (the "Griffon"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case HW-0001-2010; and

WHEREAS, the proposed Lights are depicted on the plan prepared by LandMark Design Group, dated April 5, 2010, and entitled "BGW 2010 Summer Nights Griffon Theatrical Light Locations" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Height Limitation Waiver HW-0001-2010 to grant the applicant a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall as generally shown on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled "BGW New France Expansion: Sight Lines, Ex. 1."
2. **Lighting Type:** Only LED lighting fixtures or landscape-shielded "wall washer" type fixtures may be installed to upwardly illuminate vertical walls or structural components of the Griffon. Installation of any other type of upwardly-directed lighting shall be prohibited.
3. **Lighting Colors:** The color of the Lights shall be limited to blue, green, red, and/or magenta.

4. **Time Limitations:** Operation of the Lights shall only be permitted for the 2010 operating season. Upon written request to the Director of Planning, the operation of the Lights may be extended beyond the 2010 operating season provided that no adverse impacts caused by the Lights have been identified during the previous season. The request shall be submitted no less than three months prior to the opening of the upcoming operating season.
5. **Color Scheme:** The color of the structure(s) of the Griffon at any point at or above 60 feet above finished grade shall be muted and made to blend with the sky or other surrounding natural features. A color scheme plan shall be submitted to, and approved by, the Planning Director or his designee for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Griffon.
6. **Severance Clause:** This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

Hw-01-10Lighting_res

RESOLUTION

CASE NO. SUP-0008-2010. BUSCH GARDENS GRIFFON THEATRICAL LIGHTING

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

WHEREAS, Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC has applied for an SUP to allow for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square feet in size, and with additional auxiliary support buildings, as needed, to serve a theme-park attraction in the New France area of Busch Gardens, Williamsburg, ("Expansion") which will be laid out over a total area of approximately five acres; and

WHEREAS, the proposed Expansion is depicted on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled "BGW New France Expansion: Sight Lines, Ex 1" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property");

WHEREAS, the Planning Commission, following its public hearing on May 5, 2010, voted 6-0 (1 absent) to recommend approval of SUP-0008-2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP-0008-2010, as described herein, pursuant to the following conditions:

1. **Permit:** This SUP shall be valid for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square feet in size, together with additional auxiliary support buildings to serve the Expansion. The Expansion shall be generally located as shown on the Plan.
2. **Height:** No part of the queuing building, embarking/disembarking station, or any auxiliary support buildings shall exceed 40 feet in height over "average finished grade." The "average finished grade" at the site of the Expansion shall be defined as 70 feet above mean sea level.
3. **Lighting:** A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy for the Expansion. The lighting plan shall show that no glare will be cast beyond any boundary line of the Property by any lighting installed as a component of or result of this Expansion.

4. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
5. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

sup08-10Litig_res

UNAPPROVED MINUTES FROM THE MAY 5, 2010 PLANNING COMMISSION
MEETING

Ms. Leanne Reidenbach stated that Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC has applied to amend condition 3 of the existing special use permit and height waiver for the Griffon roller coaster in Busch Gardens to allow 4 upwardly-directed LED theatrical lights. No changes to the height of the coaster are proposed. The property is currently zoned M-1, Limited Business Industrial and designated Limited Industry on the 2009 Comprehensive Plan.

Originally, the special use permit and height waiver for the Griffon were combined in one resolution. The condition related to upward lighting is linked to the height waiver, which will be evaluated by the Board of Supervisors on May 11th, but because the height waiver conditions were combined with the special use permit resolution, the SUP amendment is required to be reviewed by the Planning Commission as well. With this application, staff proposed to separate the two applications to clarify the conditions related to each and to simplify any future amendments.

The applicant conducted a lighting demonstration on April 14. The lighting was not visible until after 8:30 pm and due to the Griffon's location within the park, had limited impacts on surrounding areas. Planning staff has reviewed this application and finds it to be consistent with the Zoning Ordinance, Comprehensive Plan, and adjacent development. Based on this assessment, staff recommends that the Planning Commission approve this special use permit amendment and forward the height waiver application to the Board of Supervisors for review.

Mr. Peck opened the public hearing.

Mr. Neil Delorenzo of 101 Jefferson's Hundred spoke. He stated that his property is directly west of this site. He stated he was unaware of the lighting demonstration that was done. He asked when the case involving the height waiver involving the new ride at Busch Gardens would be heard.

Ms. Reidenbach answered that the application for the height waiver for the new attraction will be heard by the Board of Supervisors on June 8, 2010. There will be a balloon test for this application done but it has not been scheduled yet. The date will be shared with Kingsmill residents and adjacent property owners.

Mr. Delorenzo stated that he and his neighbors have had issues with the noise in that area. He expected the height waiver will be an issue also. He expressed his concerns about how the lighting will affect the area since he can view the Griffon coaster from his home.

Mr. Peck closed the public hearing.

Mr. Fraley, a resident of Kingsmill, and the Planning Commissioner representing the Roberts District, asked about the light test. He stated that it was mentioned that the lighting was not visible from Kingsmill.

Ms. Reidenbach stated she and the Planning Director drove around Wareham's Pond, including the corner of Wareham's Pond and Jefferson's Hundred. She stated that the Griffon is not visible from Wareham's Pond and was not visible when the rollercoaster was illuminated.

Mr. Fraley asked how the Kingsmill residents would be notified of any lighting or balloon test.

Ms. Reidenbach stated that generally with a cell tower application, adjacent property notifications are sent and it is advertised in the newspaper. That similar advertisement is not required for any kind of demonstrations or balloon tests that are conducted for height limitations and waivers. This test had not been advertised and was not required to be advertised.

Mr. Fraley recommended to Mr. Allen Murphy that some consideration be given to the residents concerning items that affect them. He suggested that notifications could be sent to the Kingsmill Community Services Association. He stated that with Mr. Delorenzo's concern, the Planning Commission does not review height waivers. The Board of Supervisors reviews those applications.

Mr. Henderson asked if the height waiver request was for the new ride.

Ms. Reidenbach stated that the new ride is a separate application to be heard by the Board of Supervisors tentatively on June 8, 2010. The reason for the height waiver for the Griffon is that this rollercoaster had originally received a height waiver to exceed the sixty foot limit. She stated that because the resolutions were grouped together both applications are before the Planning Commission.

Mr. Henderson stated that in essence the Planning Commission is reinstating the prior approval.

Ms. Reidenbach answered that was correct. The case before the Planning Commission this evening deals solely with the lighting for the Griffon coaster.

Mr. Poole stated he is a big supporter of the tourism industry in this area. He realizes the importance of Busch Gardens in this area. He is also very concerned about aesthetic quality in this community. Busch Gardens in Williamsburg has been known as one of the most beautifully landscaped theme parks in the county. Mr. Poole wanted to emphasize that it is his expectation that these lights proposed shine on the rollercoaster itself. He stated that the ride is already above the tree line but that he does not want any

lights in the sky. He emphasized the importance of condition 4 which places a time limit on this of one year with the potential for the Director of Planning to extend the timeline barring unforeseen impacts. He is willing to support this application.

Mr. Peck closed the public hearing.

Mr. Henderson welcomed the applicant, the new owner of Busch Gardens, InBev. He moved for approval of the application.

In a roll call vote the application was approved, 6-0. (AYE: Fraley, Maddocks, Krapf, Poole, Henderson, Peck. Woods absent.)

**SPECIAL USE PERMIT-0005-2010. Hogge Family Subdivision
Staff Report for the May 11, 2010, 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

Board of Supervisors:

Building F Board Room; County Government Complex

May 11, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Thomas R. Hogge

Land Owner: Mr. Thomas and Mrs. Annikki Hogge

Proposal: Family subdivision resulting in lots that are less than three acres in size.

Location: 2679 Jolly Pond Road

Tax Map/Parcel No.: 3520100013B

Parcel Size: Parent Lot (Parcel 13B + Parcel 13C): 2.77 acres
Proposed Lot (Parcel 13C): 1.00 acre
Remaining Parent Lot (Parcel 13B): 1.77 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding development and Section 19-17 of the James City County Subdivision Ordinance. Staff recommends approval of this application with the conditions listed in the attached resolution.

Staff Contact: Jose-Ricardo L. Ribeiro, Senior Planner Phone: 253-6876

PROJECT DESCRIPTION

Mr. Thomas Hogge has applied for a Special Use Permit (SUP) to allow a family subdivision resulting in lots of less than three acres in size for family residential use. The lot is currently owned by Mr. Thomas and Mrs. Annikki Hogge and is planned to be transferred to their daughter, Mrs. Amy Dunbar. Mr. and Mrs. Hogge have owned this parcel for more than 30 years. An existing shared 50-foot ingress/egress easement and gravel driveway will continue to be used as the primary point of access to the lot(s). The existing lot is 2.77 acres; the proposed family subdivision would result in a new one-acre lot and a remainder parent parcel of 1.77 acres.

The majority of the surrounding properties range between one and five acres and several of the properties were created as a result of past family subdivisions. All adjacent parcels are zoned A-1 and designated Rural Lands by the 2009 Comprehensive Plan and are being used for single-family residences and agricultural uses.

The property is located in the A-1, General Agricultural, District. The minimum lot size in A-1 for single-family detached units is three acres. Section 24-214 of the Zoning Ordinance allows for a minimum lot size of less than three acres, but more than one acre, if the creation of said lot is for use by a member of the owner's immediate family (children 18 years of age or older or parents of an owner) and an SUP is issued. The Zoning Ordinance requires the Board of Supervisors to review and approve this type of application. The application submitted is for an SUP only; should the Board approve the SUP, the applicant will need to submit a subdivision plat for further administrative review and comment.

PUBLIC IMPACT

Public Utilities

Public water and sewer are not available to the site. The proposed new one-acre lot will be served by a private septic system and well. The Health Department has reviewed the proposed locations, but requires additional soil documentation to determine soil suitability. However, staff has no record of soil deficiencies in this area for septic fields. Should the Board approve this SUP, the Health Department will review soils information and final well and septic locations as part of subdivision plan review and if adequate drainfield locations cannot be verified, the new lot would not be able to be approved.

COMPREHENSIVE PLAN

The site is located outside the Primary Service Area (PSA) and is designated as Rural Lands on the 2009 Comprehensive Plan Land Use Map. Recommended primary uses in the Rural Lands include agricultural and forestal activities and public or semi-public institutions that require a spacious site. Recommended residential uses include single-family developments at low-density and small-scale rural clusters. Such developments should be compatible with the natural and rural character of the area and be in accordance with the Rural Lands Development Standards provided in the Comprehensive Plan.

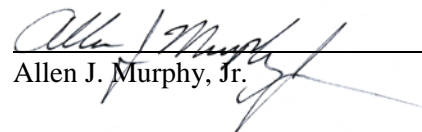
Staff Comments: The creation of the additional lot is not in conflict with the rural character of the area, is compatible with surrounding lot sizes and land uses, and compatible with other existing family subdivisions in the area. The proposed family subdivision does not represent a large-scale residential development and will not negatively impact any agricultural or forestal uses.

RECOMMENDATION

Staff finds the proposal to be consistent with the surrounding zoning and development and with the 2009 Comprehensive Plan. Staff recommends approval of this application with the conditions listed in the attached resolution.

Jose-Ricardo L. Ribeiro

CONCUR:



Allen J. Murphy, Jr.

JLR/nb
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ATTACHMENTS:

1. Resolution
2. Preliminary Plat (under separate cover)
3. Location Map
4. Family Subdivision Affidavit

RESOLUTION

CASE NO. SUP-0005-2010. HOGGE FAMILY SUBDIVISION

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

WHEREAS, the applicants have requested an SUP to allow for a family subdivision with a lot less than three acres in size in an A-1, General Agricultural, District, located at 2679 Jolly Pond Road, further identified as James City County Real Estate Tax Map No. 3520100013B; and

WHEREAS, the Board of Supervisors of James City County, Virginia, following a public hearing, is of the opinion that the SUP to allow for the above mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP No. 0005-2010 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of one new lot and one parent lot and shall be generally as shown on the plan drawn by Angle and Distance Land Surveying, Inc., titled “(proposed) Subdivision of the Property of Thomas R. and Annikki S. Hogge,” and dated April 13, 2010.
2. Only one entrance serving both lots shall be allowed onto Jolly Pond Road.
3. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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 11th day of May, 2010.

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SUP-0005-2010

Hogge Family Subdivison



COUNTY OF JAMES CITY, VIRGINIA

FAMILY SUBDIVISION AFFIDAVIT

April 13, 2010

Commonwealth of Virginia

County of James City

I, Thomas R + Annick's Hogge, hereby request that James City County, Virginia, approve a family subdivision of 1 parcel(s), consisting of 2.77 acres as set forth and designated on a plat entitled "Subdivision of the Property of Thomas R + Annick S Hogge" made by Edward Clark dated April 13, 2010.

This subdivision is being made for the purpose of transferring a lot by sale or gift to:

Amy M. Dunbar, (an) immediate family member(s), and specifically my Daughter, and is not made for the purpose of circumventing Section 19-17 of the Code of the County of James City, Virginia.

It is my intention that the deed(s) of transfer will be drawn and duly recorded as soon as reasonably possible subsequent to the approval of the plat submitted herewith.

Thomas R Hogge
Owner
Annikke S Hogge
Owner

Subscribed and sworn to before me this 13th day of April, 2010.

[SEAL]

Paige Kirkpatrick
Notary Public

Notary Registration Number: 7113675

My commission expires: April 30, 2011

Prepared by and return to: Name: <u>Thomas R Hogge</u> Address: <u>2679 Jolly Pond Rd</u> <u>Wmsbg, Va 23188</u> Telephone: <u>757-258-0118</u>
