

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

May 25, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Mia Nesselrodt, a tenth-grade student at Warhill High School

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes –
 - a. May 5, 2010, Budget Work Session
 - b. May 11, 2010, Regular Meeting
2. Appointment – 2010 County Fair Committee
3. Request to Change the Name of the Colonial Services Board to Colonial Behavioral Health
4. County/Golf Course Agreement for Inspection and Maintenance of a County Controlled Grade Separation Structure for The Tradition Golf Club at Stonehouse
Supports County's Strategic Pathway 1.b - identify services/programs with overlapping missions and/ or constituents and increase efficiencies through shared or merged services

G. BOARD CONSIDERATION

1. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory

H. PUBLIC HEARINGS

1. Case No. SUP-0002-2010. CVS and Food Lion 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 Communications Facility
4. Ordinance to Extend the Cox Cable Franchise to December 31, 2010
5. Authorization to Execute a Lease for Operation and Management of Little Creek Park
Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community

-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. Historical Commission
 - b. Parks and Recreation Advisory Commission

M. ADJOURNMENT to 7 p.m. on June 8, 2010

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AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 5TH DAY OF MAY 2010, AT 3:00 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

The Board reviewed the James City County contribution to the Williamsburg-James City County Public Schools. Ms. Ruth Larson, Vice Chair, Ms. Denise Koch, and Ms. Elise Emanuel were in attendance from the Williamsburg-James City County School Board. Dr. Scott Burckbuchler, Acting Superintendent of Williamsburg-James City County Public Schools, reviewed the Schools' budget and the County's contribution. He reviewed position eliminations without the reduction of teaching positions through stimulus funds. He reviewed reductions which were made in areas other than instructional program funding, including the Virginia Retirement System (VRS) payment deferrals and administrative reductions. He emphasized that preservation of the instructional programming was very important in the budget process.

Discussion was held about instructional technology and one-time technology expenses and target student-to-teacher ratios. Discussion was held on the future uses of James Blair Middle School and relocating the School Board's Central Office. Dr. Burckbuchler reviewed how the deferred VRS expenses would be handled in the coming years.

Mr. Wanner recommended that the James City Service Authority (JCSA) come into session in order to discuss its budget prior to the discussion of the operating and capital budgets.

Ms. Sue Mellen Assistant Manager of Financial and Management Services, reviewed the Virginia Public Assistance Fund which supports the Social Services and Community Services budgets, Community Development Fund, Colonial Community Corrections Fund, and Special Projects and Grants Fund.

Discussion was held about increased demand for services and increased workloads for staff. Discussion was held on collaborative efforts with community groups to assist citizens with temporary needs.

Mr. Kennedy commented that he had requested information on organizations funded by surrounding localities and the level of funding for those agencies. Mr. Wanner asked that staff review room tax proceeds, Ms. Diana Hutchens, Manager of Community Services, review the allocation decisions, and other staff review educational, environmental, and public safety costs.

Ms. Mellen reviewed room tax receipts. She noted that those allocations were directed toward tourism enhancement and the decline in these revenues over the past several years.

Ms. Hutchens reviewed the process for determining contributions to Outside Agencies through the Allocation Review Team.

Ms. Mellen reviewed Business and Regional Associations, as well as Educational and Environmental contributions, which were based on formulas to determine contribution by localities. She reviewed Public Safety contributions which were either level-funded or reduced.

Discussion was held on funding for Hospice House and offset of taxes, usage, and proportion of residents served compared to other localities. The Board and staff discussed services provided by organizations funded by the County including Child Development Resources and Olde Towne Medical Center. Ms. Hutchens highlighted the reasoning of the Allocation Review Team in relation to the elimination of funding for Hospice House. The Board requested reinstatement of the funding for Hospice House in the County Budget.

Discussion was held on funding for Bacon Street and Ms. Hutchens noted that there was no funding application for this year. It was noted that the Colonial Services Board and other programs provided similar services to Bacon Street and the agency received funding from other sources as well.

Discussion was held on Housing Partnerships and Community Action Agency (CAA) funding for housing rehabilitation and weatherization. Discussion was held about stimulus funds which were granted to CAA for housing projects. Mr. Kennedy emphasized that he would like to see local contractors utilized for these projects and a work session was proposed with the CAA director.

The Board and staff discussed cuts to the Williamsburg Land Conservancy and reductions in resources to land conservation issues. Discussion was held on Purchase of Development Rights and Greenspace funds and membership level funding reductions for the Williamsburg Land Conservancy and contributions to various other educational and environmental memberships including the Hampton Roads Planning District Commission, Thomas Nelson Community College, Williamsburg Area Arts Commission, and the Big Brothers Big Sisters Program. Discussion was held on various reductions and eliminations to Outside Agencies. Discussion was held on restoration of funding for the Williamsburg Land Conservancy to facilitate documentation and inspection of conservation properties as part of a separate agreement. Discussion was held regarding contributions to the 4-H program and capital improvements.

The Board and staff discussed contributions to other agencies for Public Safety with particular attention to a reduction in contributions to the James City Volunteer Rescue Squad (JCVRS). Fire Chief Tal Luton explained the "first responder" nature of the JCVRS activities and the number of call responses by the JCVRS. Discussion was held on how contributions to JCVRS could alleviate workload for paid Fire Department staff. Discussion was held on how the receipt of Advanced Life Support/Basic Life Support (ALS/BLS) fees has impacted the JCVRS contributions.

At 4:56 p.m., the Board took a short break.

At 5:03 p.m., Mr. Kennedy reconvened the Board.

Discussion continued with Non-Department and Debt Service contributions and reductions in Personnel Contingency. Ms. Mellen indicated that the Housing Development Fund was impacted due to the upcoming Forest Heights Community Development Block Grant (CDBG) project. Discussion was held about the Local Aid to State Government. Discussion was held on pass-through revenue from State sales taxes for the Schools and budget adjustments that may be necessary. Ms. Mellen reviewed contributions to other agencies and health contributions.

Mr. John McDonald, Manager of Financial and Management Services, reviewed the Capital Budget, including School projects and improvements, stormwater projects, and County building renovations and maintenance. Discussion was held on stormwater management needs and funding sources and the possible reallocation of Greenspace/Purchase of Development Rights (PDR) funds. It was clarified that there was no recommendation to use bond proceeds from Greenspace/PDR funds for stormwater management projects, but the available cash from projects where spending was slower than anticipated to be used for stormwater projects, which had a more immediate need. The Board reached a consensus to pose a referendum question for Stormwater Management improvement funding and to allow the Greenspace/PDR cash balance to remain available for property acquisition.

Mr. Wanner noted that the Board would need to adopt the Strategic Management Plan in conjunction with the budget. He noted that since the Board would not need to hold a work session on May 6, 2010, the Board should adjourn to 7 p.m. on May 11, 2010, for a regular meeting.

D. ADJOURNMENT to May 11, 2010, at 7 p.m.

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 5:58 p.m., Mr. Kennedy adjourned the Board until 7 p.m. on May 11, 2010.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF MAY 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 – Bryant Ricks, Abubakar Alawy, Rene Canales Andino, Stephen Council, and Jakob Weiss, members of the “W-JCC Battle of the Books” Championship Team from Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. William Halteman, 109 Randolph’s Green, commented on an illegal Cellular on Wheels (COW) Tower in Kingsmill.

2. Mr. John Haldeman, 1597 Founder’s Hill North, on behalf of the James City County Citizens Coalition (J4Cs), commented on the County Budget and noted the Board’s decision not to transfer Purchase of Development Rights (PDR)/Greenspace funds to support stormwater management capital projects.

3. Mr. Ed Oyer, 139 Indian Circle, commented on supporting the local economy and buying locally; real estate assessment levels in relation to sale prices; and declining revenue projections in coming fiscal years.

F. CONSENT CALENDAR

Mr. Icenhour 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 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

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.

G. BOARD CONSIDERATIONS

1. FY 2011-2012 County Budget

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, stated that the Board had two items for consideration which was an appropriation resolution for the FY 2011-2012 County Budget and also an ordinance to amend Chapter 2 in order to charge a fee for criminal history record information for employees. She recommended adoption of the items related to the FY 2011-2012 County Budget.

Mr. Goodson made a motion to adopt the budget. He stated that he felt this budget process was cooperative and productive.

Mr. McGlennon commented that he shared Mr. Goodson's feelings about the budget process and noted that the budget has decreased significantly and that the Board and staff had to look for funding from other sources that would not normally be utilized. He stated that difficult decisions may lie ahead. He stated he felt there was great consensus and great cooperation in working on this budget. He thanked the citizens for their input and the staff for helping to facilitate the budget process.

Mr. Icenhour thanked the Board and staff for facilitating the budget process and stated his support. He commented that there was a dramatic decrease in revenue and workforce and noted that he had concern about increased borrowing and deferred capital improvement projects. He stated his concern for cumulative impact of development in the County and additional infrastructure and revenue needs.

Ms. Jones stated her appreciation for staff and the cooperative nature of the budget process. She thanked Mr. Wanner for his efforts to solicit public input on the budget. She stated her appreciation for the citizens' input and commented that as the economy improves, prioritizing spending will become critical. She noted consolidated services and efficiencies that have reduced spending. She commented that she felt it was important not to pass an increase in the tax rate due to the economy.

Mr. Kennedy noted that the General Assembly has passed on its budget shortfalls to local governments, and he felt that would likely remain the same. He thanked Mr. Wanner and staff for recognizing declining revenues and working to mitigate the impacts on services. He commented that it was imperative to plan for the future to facilitate growth. He stated his support for the budget.

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

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

FY 2011

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

FY 2011

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 \$26,164,505

Current Year Expenditures \$26,164,505

Debt Service Fund Disbursements \$26,164,505

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 \$6,408,500

Expenditures:

Administration and Assistance \$6,408,500

Total Virginia Public Assistance
Fund Expenditures \$6,408,500

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>

Expenditures:

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

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>

Expenditures:

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

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>

Expenditures:

Comprehensive Services Act	\$ 705,276
Total Special Projects/Grants Fund Expenditures	<u>\$ 705,276</u>

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

Mr. Wanner thanked the Board and citizens for their efforts and input during the budget process. He noted that he has been working to fiscally prepare the Board for a difficult FY 2011 and FY 2012. He stated that the County's outstanding bonds have been rated by Moody's, Fitch, and Standard and Poors (S&P) and stated these ratings have been recalibrated by Moody's and Fitch to make them comparable to other sectors. He noted that these changes did not indicate a rating change, but rather an adjustment and commented that the S&P rating did not change since that agency considered its rating system sufficiently comparable to other sectors. He stated that the Fitch Ratings has moved up to AAA from an AA+ and the Moody's rating has moved up to Aa1 from Aa2. He noted that an Aa1 rating was one level below AAA. Mr. Wanner stated the S&P rating continued to be AA+, which was also one level below AAA. He also commented that the County

was awarded the Certificate of Achievement for Excellence in Financial Reporting from the Government Financial Officers Association of the United States and Canada (GFOA) for significant achievement for governmental accounting and financial reporting for the 25th consecutive year. He stated that the Board's budget stewardship and the work of the staff received outstanding recognition.

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

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

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

2. Endorsement of the County's FY 2011 Strategic Management Plan

Ms. Rona Vrooman, Human Resources Coordinator, stated that the Board has been asked to endorse the FY 2011 Strategic Management Plan. Staff recommended adoption of the resolution.

Mr. McGlennon made a motion to adopt the resolution.

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

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.

3. Zoning and Subdivision Ordinance Update Methodology

Ms. Tammy Rosario, Principal Planner, stated that as part of the implementation of the Comprehensive Plan update, Planning staff has reviewed various ordinances to be updated to reflect the current language of the Comprehensive Plan. She reviewed the development of the methodology and the guidance received from the Policy Committee, the Planning Commission, and the Board of Supervisors.

Ms. Rosario stated the Planning Commission endorsed the methodology at its meeting on April 7, 2010, by a vote of 7-0.

Staff recommended that the Board of Supervisors endorse the attached methodology.

Mr. Goodson made a motion to adopt the resolution. He stated his support for the methodology.

Mr. McGlennon stated he would not support this item because he felt that more citizen involvement was needed and that he did not feel the priorities established by the methodology were not his priorities or what he felt were the priorities of the citizens.

Mr. Icenhour stated he would not support the methodology. He stated he voted against the Comprehensive Plan because he felt it did not accurately reflect the priorities of the citizens, particularly the establishment of Economic Opportunity zones in Rural Lands.

Ms. Jones stated her support for the methodology and stated that it works within the fiscal restraints that are being experienced. She noted public involvement opportunities through public forums and electronic media through the Comprehensive Plan.

On a roll call vote, the vote was: AYE: Goodson, Jones, Kennedy (3). NAY: McGlennon, Icenhour (2).

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.

Mr. Kennedy noted that Mr. Jack Fraley was in attendance on behalf of the Planning Commission.

4. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Jose Ribeiro, Senior Planner, stated that the applicant has requested deferral until May 25, 2010.

Mr. Goodson noted that the application was received in 2008.

Mr. McGlennon asked for clarification as to why the case has been in the process for two years.

Mr. Ribeiro stated that the original case was opened in 2006 and in 2008 the Candle Factory came forward with a new project.

Mr. McGlennon stated that this project has been delayed and deferred for some time at the request of the applicant. He noted that the Chairman had expressed a desire to hear this case in conjunction with the public hearing related to this case. He asked for clarification for the public regarding their opportunities to comment on the case.

Mr. Kennedy stated there were opportunities during Public Comment and during the Public Hearing related to the other development on the property.

Mr. McGlennon stated that he wanted to allow people the opportunity to speak on this case.

Mr. Kennedy stated that he would be flexible with comments related to the Candle Factory development during the public hearing.

The case was deferred to May 25, 2010.

At 7:38 p.m. the Board took a break.

At 7:43 p.m. Mr. Kennedy reconvened the Board.

H. PUBLIC HEARINGS

1. Case No. SUP-0002-2010. CVS and Food Market at Soap and Candle Factory Site

Ms. Sarah Propst, Planner, stated that Mr. David Todd of The Rebkee Company has applied on behalf of KTP Development, LLC for a Special Use Permit (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.

Staff found the proposal generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on April 7, 2010, the Planning Commission recommended approval of the application by a vote of 7-0.

Ms. Propst noted that a revised resolution was provided that required the Food Lion store to achieve Leadership in Energy and Environmental Design (LEED) certification. She stated staff was in agreement with this condition.

Staff recommended approval of the resolution.

Mr. Icenhour stated concern about a non-binding master plan on the property.

Ms. Propst noted the first condition of the resolution addressed the Master Plan and any substantive changes would be considered by the Development Review Committee (DRC).

Mr. Icenhour stated that he felt the same was true about a binding master plan. He stated concern about what may be considered substantive changes and what the actual outcome of the development would be.

Mr. Rogers stated the binding master plan is bound to the SUP condition which dictates the process for the master plan.

Mr. Allen Murphy, Planning Director, responded to the process for changes to the master plan. He stated the first condition of the SUP refers to the master plan that was included with the Board package. He stated the condition allows the DRC to determine if minor changes are appropriate, and if that is not the case, the changes would come back to the Board of Supervisors.

Mr. Icenhour asked why the master plan was designated as non-binding.

Mr. Murphy stated that the first condition is binding to the master plan and if the DRC decided that minor changes were not appropriate to the master plan, it would come back before the Board.

Mr. Kennedy opened the Public Hearing.

1. Mr. Tim Trant, Kaufman and Canoles PC, on behalf of the applicant, presented the proposal for the CVS and Food Lion at the Soap and Candle Factory Site. He gave an overview of the project history. He reviewed the architectural elevations of the Food Lion and CVS stores. He noted community input in the design that was specific to the Norge Community Character Area and endorsement by the Crosswalk Community Church. He reviewed the proposed project and noted redevelopment of the property, compliance with Norge Community Character guidelines, and environmental benefits. He noted the interconnectivity provided in the project and the proposal to build the Food Lion to LEED certification guidelines. He requested approval of the application.

Mr. Goodson asked if the applicant considered the master plan and landscape design as binding.

Mr. Trant stated that was correct and noted that any substantive changes would come back before the Board.

Mr. McGlennon asked about credits toward LEED certification due to transit-friendly orientation of buildings. He asked if the applicant could offer any assurance that Williamsburg Area Transit Authority (WATA) busses would access these buildings.

Mr. Trant stated that there was limited experience with the LEED certification, but the applicant was willing to examine any method to achieve that certification including transportation matters.

Mr. Kennedy asked about tenants that would be displaced by this project, such as Candle Light Restaurant.

Mr. Trant stated that the current owner of the property was the contract seller, so there was no direct contractual relationship with the tenants but there were open lines of communication with the current tenants. He commented that he understood from the community that the Candle Light Kitchen has been allowed to relocate to another space in the Soap and Candle Factory and the terms would include setup of the space that would be incurred as a result of the move. He stated that it was a positive offer for the tenant and this would be part of the renegotiation of the lease contract. He stated the antique store was much easier to relocate and would also be moved into another portion of the remaining Soap and Candle Factory development. He stated that Cindy's Classic Cuts has been attempting to move to another retail space in the community and the landlord has facilitated that move.

Mr. Kennedy asked about adjustments that would need to be made for traffic patterns.

Mr. Trant stated the traffic improvements required to accommodate the joint proposal would be the same as the improvements needed for the Soap and Candle Factory rezoning. He stated that it would be financially difficult to meet the traffic requirements without the adjacent developer, but he felt it would be viable and improvements to the intersection would be triggered regardless of what is ultimately built on the property.

Mr. Icenhour asked about where the main entrance of the CVS would be located in relation to the drive-through window.

Mr. Trant stated that the term "rear-east" was in relation to the entrance, facing the existing Soap and Candle Factory development. He clarified the position of the elevations.

Mr. Kennedy asked if the applicant was willing to accept a deferral until May 25, 2010, to allow the two related Soap and Candle Factory cases to be considered at the same time.

Mr. Trant stated that deferrals were sometimes costly to the applicant, but he was willing to accept the desire of the Board to defer if the case would be considered on May 25, 2010.

Mr. Goodson stated he felt the Board should consider this at the next meeting regardless.

As no one else wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

Mr. Icenhour asked staff to correct a discrepancy in the date stamp on the master plan and the date indicated on the resolution prior to consideration of the case.

2. Case No. Z-0003-2009/SUP-0017-2009. Freedom Market

Mr. Kennedy stated that staff has recommended a deferral for this case.

Mr. Goodson noted that he did not need to receive duplicate materials for the deferred cases if none of the materials have changed.

Mr. Murphy stated that in consultation with the County Administrator, staff has asked the applicant to defer this case and the applicant has agreed to defer consideration until May 25, 2010.

Mr. McGlennon clarified that the applicant has not requested deferral in this case.

Mr. Wanner stated that was correct. He stated that due to the length of the May 11, 2010 agenda, he reviewed the cases that would be reasonable to defer and the applicants were contacted with a request to defer.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

3. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communication Facility

Mr. Wanner stated this was a similar deferral request from staff.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

4. Case No. HW-0001-2010/SUP-0008-2010. Busch Gardens Griffon Theatrical Lighting

Ms. Leanne Reidenbach, Senior Planner, stated Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC, has applied to amend Condition No. 3 of the existing SUP and Height Waiver (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. Ms. Reidenbach stated that 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. Ms. Reidenbach stated that 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 Alpenggeist roller coaster 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.

Staff found the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

Staff recommended approval of the resolution.

Mr. Goodson stated he viewed the lighting and was unable to see the lights from Kingsmill. He stated he did not hear any complaints from neighbors.

Mr. Kennedy opened the Public Hearing.

1. Ms. Suzy Cheely, on behalf of SeaWorld Parks and Entertainment, LLC, stated she was available for questions as needed.

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

Mr. Goodson made a motion to adopt the resolution.

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

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.

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.

5. Case No. SUP-0005-2010. Hogge Family Subdivision

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Thomas Hogge has applied for an 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.

Staff found the proposal to be consistent with the surrounding development and Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the resolution.

Mr. Icenhour asked if the location of the house would be considered at a later time.

Mr. Ribeiro stated that was correct.

Mr. Kennedy opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the resolution.

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

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.

I. PUBLIC COMMENT

1. Mr. Jack Fraley, 104 Thorpe’s Parish, on behalf of the Planning Commission, commented on the Board discussion about the Zoning and Subdivision Ordinance Methodology. He noted that the Planning

Commission had similar concerns about citizen input opportunities and stated that the methodology was designed to extend those opportunities.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Tewning Road Convenience Center has moved 200 feet down Tewning Road from its previous location. He noted the AAA rating by Fitch was extraordinary and reflected excellent fiscal stewardship by the Board and attention to duty by Financial and Management Services staff. He stated that the Board had a Closed Session scheduled for appointments to the Williamsburg Regional Library Board of Trustees.

Mr. Wanner recommend that the Chairman announce during Board Requests and Directives that the Board will be meeting in Closed Session over the next 15 days to interview candidates for the County Administrator's position. Mr. Wanner noted that no disclosure of date, time or location for the interviews was required. He stated that when the Board completed its business, it should adjourn.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon made a motion to reappoint Ms. D. Jean Van Tol and Ms. Mary Norment.

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

Mr. Wanner noted that the American Planning Association Virginia Chapter has awarded James City County the 2010 Public Outreach and Engagement Award in recognition of citizen input for the Comprehensive Plan update process.

Mr. Kennedy announced that the Board would be meeting in Closed Session within the next 15 days to interview candidates for the County Administrator position.

Mr. Goodson noted that a citizen commented on a COW Tower that is located in Kingsmill for high-profile events. He stated that the owner of the tower was allowed to stay until a permanent tower was located there. He stated the Zoning Administrator has determined that it would be allowed to stay there until October 31, 2010, to provide service until the permanent solution was in place. He stated the COW has been in place for a long enough time that residents and guests have a reasonable expectation of service. He stated that he felt the determination was appropriate.

L. ADJOURNMENT

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 8:35 p.m. Mr. Kennedy adjourned the Board.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: May 25, 2010
TO: The Board of Supervisors
FROM: Doug Powell, Assistant County Administrator
SUBJECT: Appointment – 2010 County Fair Committee

For insurance purposes, the Board of Supervisors annually appoints the James City County Fair Committee. The term of the appointments is the length of the County Fair. This year the Fair will be held Thursday, June 24 through Saturday, June 26. Attached are a resolution and a list of the volunteers that make up the 2010 James City County Fair Committee.

Staff recommends adoption of the attached resolution appointing the 2010 Fair Committee.



Doug Powell

DP/nb
CFairComm10_mem

Attachments

RESOLUTION

APPOINTMENT – 2010 COUNTY FAIR COMMITTEE

WHEREAS, annually the Board of Supervisors appoints the James City County Fair Committee; and

WHEREAS, the 2010 County Fair will be held Thursday, June 24 through Saturday, June 26.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2010 James City County Fair Committee for the term of June 24, 2010, through June 26, 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 25th day of May, 2010.

CFairComm10_res

2010 James City County Fair Committee

Mr. Dwight Beamon
Mr. Andy Bradshaw
Mr. Richard Bradshaw
Ms. Nancy Bradshaw
Mr. Jim Bradsher
Mr. Tony Dallman
Mr. Rob Davis
Ms. Ann Davis
Ms. Amy Fiedor
Ms. Loretta B. Garrett
Mr. Mike Garrett
Ms. Sylvia Hazelwood
Ms. Doris Heath
Mr. Alex Holloway
Mr. Ken Jacovelli
Mr. Jeremy Johnson
Ms. Katie Jones
Ms. Sandra Kee
Mr. Tal Luton
Ms. Lynn Miller
Mr. Craig Nordeman
Ms. Diana Perkins
Mr. Doug Powell
Mr. John Richardson
Ms. Mary Rupe
Mr. Charlie Rupe
Ms. Angie Sims
Mr. Sandy Wanner
Ms. Shirley Webster

MEMORANDUM

DATE: May 25, 2010
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Finance and Management Services
SUBJECT: Request to Change the Name of the Colonial Services Board (CSB) to Colonial Behavioral Health

The Colonial Services Board (CSB) Board of Directors has requested the approval of the governing bodies of the Cities of Poquoson and Williamsburg and the Counties of James City and York to change the name of the agency to Colonial Behavioral Health.

There are three reasons that suggested the need for the change:

1. The recent change in the name of the State agency that oversees local community services boards from the Department of Mental Health, Mental Retardation and Substance Abuse Services to the Department of Behavioral Health and Developmental Services is a trend to more clearly communicate that services are available for a broader array of intellectual disabilities.
2. While the agency is the community services board created by State statute, and always will be, the phrase "community services" has never been descriptive enough to communicate even the basic services provided.
3. The agency has used the name Colonial Services Board for more than 30 years, but that is not its official name. Officially the name is the Colonial Mental Health and Mental Retardation Services Board for Williamsburg, York County, James City County, and Poquoson. A formal change to Colonial Behavioral Health will resolve that inconsistency.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gb
CSB_mem

Attachment

RESOLUTION

REQUEST TO CHANGE THE NAME OF THE COLONIAL SERVICES BOARD (CSB) TO

COLONIAL BEHAVIORAL HEALTH

WHEREAS, pursuant to Chapter 10 of Title 37.1 of the Code of Virginia of 1950, as amended, subsequently repealed and replaced by Chapter 6 of Title 37.2 of the Code of Virginia of 1950, as amended, James City County, York County, and the Cities of Poquoson and Williamsburg jointly formed a community services board to provide mental health, mental retardation and substance abuse services within the aforesaid Cities and Counties, which community services board, pursuant to the resolutions of the founding localities establishing the community services board and the subsequent resolutions of such localities reaffirming its existence, is variously known as both “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James City County and Poquoson;” and

WHEREAS, the community services board thus established has determined that there is confusion concerning its name and further, that neither name used in the establishing or reaffirming resolutions of the localities adequately describes to the public the services the community services board currently provides and accordingly, has requested that the name of the community services board be changed from “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James City County and Poquoson” to a single name, “Colonial Behavioral Health,” effective July 1, 2010, in order to provide a single legal name and more accurately describe to the public the services the community services board provides.

NOW, THEREFORE, BE IT RESOLVED that upon passing of a resolution of the Councils of the Cities of Poquoson and Williamsburg and the Boards of Supervisors of the Counties of James City and York approving such name change, the name of such community services board shall be changed from “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James City County and Poquoson” to “Colonial Behavioral Health.”

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County hereby approves the change of the name of the community services board to Colonial Behavioral Health as of 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 25th day of May,
2010.

CSB_res

MEMORANDUM

DATE: May 25, 2010
TO: The Board of Supervisors
FROM: Adam R. Kinsman, Deputy County Attorney
SUBJECT: County/Golf Course Agreement for Inspection and Maintenance of a County
Controlled Grade Separation Structure for The Tradition Golf Club at Stonehouse

Attached for your consideration is a resolution to allow the County to enter into an inspection and maintenance agreement with the Virginia Department of Transportation (VDOT) and The Tradition Golf Club at Stonehouse ("Club"). The agreement is required to address the legal requirements of VDOT to accept the maintenance responsibility for a County-controlled grade separation structure, specifically a golf cart path tunnel under a secondary road in the Stonehouse subdivision.

The agreement with the Club protects the interest of the County concerning liability for the controlled grade separation structure.

Staff recommends adoption of the attached resolution.



Adam R. Kinsman

CONCUR:



Leo P. Rogers

ARK/gb
GolfAgr_mem

Attachment

RESOLUTION

COUNTY/GOLF COURSE AGREEMENT FOR INSPECTION AND MAINTENANCE

OF A COUNTY CONTROLLED GRADE SEPARATION STRUCTURE

FOR THE TRADITION GOLF CLUB AT STONEHOUSE

WHEREAS, an agreement is required to address the legal requirements of the Virginia Department of Transportation (VDOT) to accept the maintenance responsibility for a County-controlled grade separation structure, specifically a golf cart path tunnel under a secondary road in the Stonehouse subdivision; and

WHEREAS, in order to induce the County to enter into an inspection and maintenance agreement with VDOT, The Tradition Golf Club at Stonehouse, LLC (“Club”), the owner of the property served by the controlled grade separation structure, is willing to enter into an agreement with the County to assume any maintenance liability the County may have for the controlled grade separation structure; and

WHEREAS, the agreement with the Club protects the interest of the County concerning liability for the controlled grade separation structure.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute an agreement on behalf of the County with the Club for the inspection and maintenance of a controlled grade separation structure, specifically a golf cart path tunnel in the Stonehouse subdivision.

BE IF FURTHER RESOLVED that the County Administrator is hereby authorized and directed to enter into an agreement on behalf of the County with VDOT for the inspection and maintenance of a controlled grade separation structure, a golf cart path tunnel in the Stonehouse subdivision.

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 25th day of May, 2010.

GolfAgr_res

**REZONING-Z-0003-2008/MASTER PLAN-0003-2008. The Candle Factory
Staff Report for the May 25, 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	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) 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. (deferred by applicant) May 25, 2010, 7:00 p.m.
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SUMMARY FACTS

Applicant: Land Owner: Proposal: Location: Tax Map/Parcel Nos.: Parcel Size: Existing Zoning: Comprehensive Plan: Primary Service Area:	Mr. Vernon Geddy, III, of Geddy, Harris, Franck and Hickman, L.L.P on behalf of Candle Development, LLC Candle Development, LLC 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. 7551, 7567, and 7559 Richmond Road Approximately 64.45 acres A-1, General Agricultural District; M-1, Limited Business/Industrial, District; and MU, Mixed-Use, District Low Density Residential and Mixed-Use Inside
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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).

Staff Contact:

Jose-Ricardo L. Ribeiro

Phone: 253-6685

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 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).
- May 11, 2010 – Board of Supervisors Meeting
The applicant requested deferral of this application until the next Board meeting on May 25, 2010, in order to allow the applicant time to create a proffer addressing the timing of the construction of the assisted living facility (refer to pages 3 and 4 of this report for discussion on all changes made to this application by the applicant since the May 11 Board meeting).

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

	2009 Application	2010 Application
Scope of Project	Rezoning application: To rezone 64.45 acres from A-1, MU, and M-1, to MU, with proffers. SUP application: Removed from application.	Rezoning application: To rezone 64.45 acres from A-1, MU, and M-1, to MU, with proffers.
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 May 11, 2010 Applicant’s Deferral Request

Proffer No. 21 Right-of-Way Reservation has been deleted from this application. The language of this proffer reserved an area for future vehicular and pedestrian connectivity between the proposed Candle Factory development and adjacent parcel at 341 Farmville Lane. A note identifying the location of this proposed connectivity has been deleted from the revised Master Plan. Staff is not opposed to the deletion of this proffer as the proposed connectivity is not a requirement based on VDOT’s regulations. Staff notes that a pedestrian/vehicular connection with adjacent parcel located at 7521 Richmond Road is proffered (Proffer No. 7) and shown on the Master Plan.

A new proffer establishing commencement of construction for the assisted living facility has been added to this application. Proffer No. 21 – Phasing of Assisted Living Facility reads:

“The County shall not be obligated to issue building permits for more than 125 residential units on the Property until construction of the assisted living units in Area 1A of the Master Plan has commenced and footings and/or foundations for a building have been installed and inspected.”

Staff supports this new proffer as it establishes a connection between construction of the proposed assisted living facility with construction of residential units. However, as currently written, this proffer does not offer a construction phasing plan/timeline for the assisted living facility (similarly to existing Proffer No. 17 – Development phasing for the 175 residential units.) This proffer does not establish when build-out beyond the foundation for the assisted living facility will occur.

Staff notes that the applicant has revised the maximum commercial square footage of the 30,000 square feet commercial/office buildings (four buildings located along the property’s frontage) from 10,000 square feet to a maximum of 20,000 square feet. The applicant has indicated that this change has been driven by their belief that there is a greater demand for neighborhood commercial types than office in the current economic environment. A note establishing the maximum commercial square footage can be found on page 3 of the revised Master Plan.

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 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

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

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

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>
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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).</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

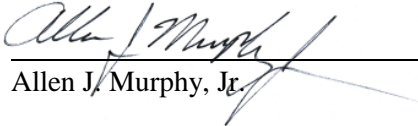
Section 24-528 (b) of the Zoning Ordinance states that: *'Private streets may be permitted upon approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall 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.

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ATTACHMENTS:

1. Resolution
2. Revised Proffers
3. Revised Master Plan
4. The following documents have been submitted to the Board of Supervisors prior to the May 25 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. Fiscal Impact Study Supplement (April 27, 2010)
 - h. Phase IA Cultural Resources Assessment
 - i. Mitigation of Traffic Impacts at the Richmond/Croaker Road Intersection Exhibit (prepared by staff)

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 25th day of May,
2010.

THE CANDLE FACTORY

PROFFERS

THESE PROFFERS are made this 31st day of March, 2010 by CANDLE DEVELOPMENT, LLC (together with its successors in title and assigns, the "Owner") and JOHN B. BARNETT, JR. and JUDITH BARNETT (the "Barnetts").

RECITALS

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

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

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

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

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

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

CONDITIONS

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

(b) All assisted living units developed on the Property shall be occupied by persons eighteen (18) years of age or older in accordance with applicable federal and state laws and regulations, including but not limited to: the Fair Housing Act, 42 U.S.C. 3601 et seq. and the exemption therefrom provided by 42 U.S.C. 3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. 3601 et seq.; the Virginia Fair Housing Law Va. Code 36-96.1 et seq.; any regulations adopted pursuant to the foregoing;

any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a recorded document which shall be subject to the review and approval of the County Attorney prior to issuance of the first building permit for construction in Area 1A.

2. **Owners Association.** There shall be organized a master owner's association for the Candle Factory development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual neighborhoods and for commercial uses within the Property in which all owners in the neighborhood or commercial area, by virtue of their property ownership, also shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, if any, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing

Documents. The Governing Documents shall authorize the Association to develop, implement and enforce a water conservation plan and nutrient management plan as provided herein.

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

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

4. **Affordable and Mixed Costs Housing.** A minimum of 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 maximum prices set forth herein shall include any adjustments as included in the Marshall and Swift Building Costs Index (the "Index") annually beginning January 1, 2011 until January 1 of the year in question. The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index of the adjusting year. Owner shall consult with and accept referrals of, and sell to, potential buyers qualified for the Affordable Housing Incentive Program (“AHIP”) from the James City County Office of Housing and Community Development on a non-commission basis. At the request of the Office of Housing and Community Development, Owner shall provide downpayment assistance second deed of trust notes and second deeds of trust for the Affordable Units for the difference between the appraised value of the Affordable Unit and its net sale price to the purchaser in accordance with AHIP using the approved AHIP form of note and deed of trust. The Director of Planning shall be provided with a copy of the settlement statement for each sale of an Affordable Unit and a spreadsheet prepared by Owner showing the prices of all of the Affordable Unit that have been sold for use by the County in tracking compliance with the price restrictions applicable to the Affordable Units. Affordable Units shall not be constructed all in the same location.

5. Cash Contributions for Community Impacts. (a) A contribution of \$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.

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

(c) A contribution of \$1,239.00 for each single family detached dwelling unit, of \$934.00 for each single family attached dwelling unit and of \$467.00 for each assisted living unit, in each case other than an Affordable Unit, on the Property shall be made to the JCSA for water system improvements.

(d) A contribution of (i) \$650.00 for each single family detached dwelling unit each single family attached dwelling unit other than an Affordable Unit and (ii) \$575.00 for each assisted living unit and (iii) an amount equal to \$2.10 per gallon per day of average daily sanitary sewage flow as determined by JCSA for each non-residential building based on the use of the building(s) shall be made to the JCSA to defray the costs of the Colonial Heritage Pump Station and Sewer System Improvements or any project related to improvements to the JCSA sewer system.

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

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

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

(h) The contribution(s) paid in each year pursuant to this Section and Section 6(e) shall be adjusted annually beginning January 1, 2011 to reflect any increase or decrease for the preceding year in the Index. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (e) of this Section and Section 6(c). The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

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

section (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. 2331100001C warrants such through/left turn lane) and a right turn lane.

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

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

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

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

(f) Subject to the prior approval of VDOT and when sidewalk has been constructed on the north side of Route 60 at the Croaker Road/Route 60 intersection to receive pedestrians, Owner shall install or pay the costs of installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection (“Pedestrian Improvements”). The County shall not be obligated to issue building permits for more than 100 residential units on the Property until either (i) the Pedestrian Improvements have been installed, or (ii) Owner shall have paid the costs of such improvements to the County or posted a bond in form satisfactory to the County Attorney for the installation of such Pedestrian Improvements.

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

8. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County’s Streetscape Guidelines policy or, with the permission of VDOT, the plantings (meeting County standards for plant size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the subdivision or site plan approval process. Street trees shall be located no farther than 10 feet from the edge of pavement, subject

to VDOT approval. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential or non-residential units adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential or non-residential units in adjacent structures.

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

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Parks and Recreation Master Plan as determined by the Director of Planning

10. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A

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

11. Design Guidelines and Review; Sustainable Building. Owner shall prepare and submit design review guidelines to the Director of Planning for his review and approval setting forth design and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on

file with the Planning Department and the general intent of the design standards outlined in Comprehensive Plan for the Norge Community Character Area 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.

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

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

14. **Master Stormwater Management Plan.** (a) Owner shall submit to the County a master stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated September 24, 2008

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

15. Nutrient Management Plan. The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual single family lot shown on each

subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 25% of the units shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants. The County shall be provided evidence of the seminars taking place by submitting to the Planning Director a seminar agenda and or minutes no later than 10 days after each seminar.

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

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

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

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

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

20. **Crosswalks**. Subject to VDOT approval, Owner shall provide a crosswalk across Croaker Road from Tax Parcel 2321100001B to Tax Parcel 2321100001C and crosswalks providing access to the two internal parks on the Property both in the locations generally as

shown on the Master Plan at the time the final layer of pavement is placed on the segment of Croaker Road where the crosswalks are located.

21. Phasing of Assisted Living Facility. The County shall not be obligated to issue building permits for more than 125 residential units on the Property until construction of the assisted living units in Area 1A of the Master Plan has commenced and footings and/or foundations for a building have been installed and inspected.

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

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

WITNESS the following signatures.

CANDLE DEVELOPMENT, LLC

By: _____

John B. Barnett Jr.
John B. Barnett, Jr.

Judith Barnett
Judith Barnett

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

The foregoing instrument was acknowledged this 5th day of April, 2010, by Peter V. Henderson, as Manager of Candle Development, LLC on behalf of the company.

Vern W. Kelly III
NOTARY PUBLIC

My commission expires: 12/31/2014.
Registration No.: 183270.

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

The foregoing instrument was acknowledged this 6th day of April, 2010, John B. Barnett, Jr. and Judith Barnett, husband and wife.

Vern W. Kelly III
NOTARY PUBLIC

My commission expires: 12/31/2014.
Registration No.: 183270.

Exhibit A
Property Description

Parcel D1

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

and

Parcel E

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

And

Portion of Parcel A

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

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

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

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

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

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

SPECIAL USE PERMIT-0002-2010. CVS and Food Lion, Soap and Candle Factory Site Staff Report for the May 25, 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. (deferred)
May 25, 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>

	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.
Goals, Strategies, and Actions	<i>Action No. 1.1.2- Page 77:</i> Promote the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs). 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.

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.

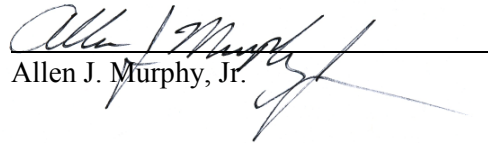
RECOMMENDATION

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-FL2

ATTACHMENTS:

1. Resolution
2. Location Map
3. Landscape Modification Request
4. Master Plan
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 March 16., 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. **LEED Certification:** The property owner shall achieve LEED (Leadership in Energy and Environmental Design) certification for the Food Lion, as set forth in the U.S. Green Building Councils (USGBC) Rating System for the LEED certification program. Alternatively, the property owner shall use "green building" techniques consistent with the USGBC or a similar organization's guidelines, as approved by the Director of Planning. Green building techniques may include recycling waste material from the demolition of the existing strip development, using Certified Wood from renewable sources for all new construction, recycling groundwater for irrigation of landscaping, and requiring the use of environmentally preferable cleaning products. Documentation of such practices shall be provided to the Director of Planning prior to receipt of final Certificate of Occupancy upon his request.
21. **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.
22. **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 25th day of May, 2010.

**REZONING-0003-2009/SPECIAL USE PERMIT-0017-2009. Freedom Market
Staff Report for the May 25, 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: April 7, 2010, 7:00 p.m.
Board of Supervisors: May 11, 2010, 7:00 p.m. (deferred)
May 25, 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 approve the applications and accept the voluntary proffers. Staff finds that, with the attached conditions and proffers, the proposed convenience store with fueling stations is consistent with the Comprehensive Plan and compatible with the surrounding zoning and development.

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

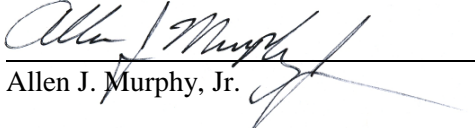
This proposal is generally consistent with the Comprehensive Plan. Staff finds that the conditions attached to the Special Use Permit and proffers will assure orderly development of the site and provide a development which complements the surrounding community.

RECOMMENDATION

Staff recommends the Board approve the applications and accept the voluntary proffers. Staff finds that, with the attached conditions and proffers, the proposed convenience store with fueling stations is consistent with the Comprehensive Plan and compatible with the surrounding zoning and development. At the April 7, 2010, meeting, the Planning Commission recommended approval of the application by a vote of 7-0.

Luke Vinciguerra

CONCUR:


Allen J. Murphy, Jr.

LV/gb

z03-09FreedomMkt2.doc

ATTACHMENTS:

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

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") and developed as shown on drawings 1, 2, and 3 of 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 25th day of May, 2010.

Sup17-09FreedomMkt2_res

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 25th day of May,
2010.

Z03-09FreedomMkt2_res

SPECIAL USE PERMIT-0028-2009. Ingram Road Pegasus Wireless Communications Facility Staff Report for the May 25, 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. (deferred)

May 25, 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

Due to the proposed height of the tower, the onsite topography, and the lack of adequate tree cover, the proposed tower will be highly visible from 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. The proposed WCF 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. Because of this, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities. Staff recommends the Board deny the application. Should the Board approve the application, staff suggests such approval be contingent upon the conditions listed in the attached resolution.

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.

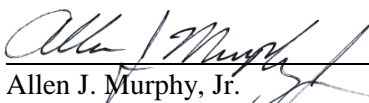
The tower site is situated among a small area of trees roughly 200 feet back from Route 5 adjacent to the front parking area within an office/warehouse development. These mature trees may partially screen the proposed tower from a distance; however, there are few understory plantings that would screen 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

Due to the proposed height of the tower, the onsite topography, and the lack of adequate tree cover, the proposed tower will be highly visible from 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. The proposed WCF 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. Because of this, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities. Staff recommends the Board deny the application. At the April 7, 2010 meeting, the Planning Commission voted 5-2 recommending denial of the application. Should the Board approve the application, staff suggests such approval be contingent upon the conditions listed in the attached resolution.

Luke Vinciguerra

CONCUR:


Allen J. Murphy, Jr.

LV/nb
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ATTACHMENTS:

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

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 25th day of May, 2010.

SUP28_2009WCF2_res

MEMORANDUM

DATE: May 25, 2010
TO: The Board of Supervisors
FROM: Leo P. Rogers, County Attorney
SUBJECT: Ordinance to Extend the Cox Cable Franchise to December 31, 2010

Attached for your consideration is an ordinance which would clarify, confirm, and extend the cable franchise for Cox Communications of Hampton Roads, LLC (“Cox”) to December 31, 2010. On December 4, 1995, the Board of Supervisors adopted an ordinance extending the cable franchise to Continental Cablevision of Virginia, Inc. (“Continental”) until December 4, 2010. At the same time, the Board of Supervisors approved the Second Amendment to the Franchise Certificate, dated December 4, 1995, for 29 years from the original Franchise Certificate which was June 8, 1981. In 1996, the Board of Supervisors consented to the transfer of the Franchise Certificate from Continental to Cox. In addition, the County and Cox are also parties to an I-Net agreement which expires on December 31, 2010.

Adoption of the attached ordinance would coordinate the expiration dates for the ordinance, certificate, and agreement; all of which would then expire on December 31, 2010. The ordinance also directs the County Administrator to sign the Third Amendment to Franchise Certificate extending that expiration date, as well. Cox and County staff are in active negotiations to renew the cable franchise beyond December 31, 2010.

Staff recommends adoption of the attached ordinance.


Leo P. Rogers

LPR/nb
ExtndCoxCbl_mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO CLARIFY, CONFIRM, AND EXTEND THE TERM OF COX

COMMUNICATIONS FOR HAMPTON ROADS, LLC'S FRANCHISE CERTIFICATE TO

DECEMBER 31, 2010

WHEREAS, by Resolution dated January 26, 1996, the Board of Supervisors consented to the transfer and assignment of the Franchise Certificate issued to Continental Cablevision of Virginia, Inc. ("Initial Grantee") to Cox Communications of Hampton Roads, LLC ("Cox"); and

WHEREAS, by Ordinance No. 141A-7, adopted on December 4, 1995, the Board of Supervisors extended the Franchise Certificate to the Initial Grantee for 15 years from the date of the Ordinance; and

WHEREAS, the Second Amendment to Franchise Certificate, dated December 4, 1995, extended the Franchise Certificate to the Initial Grantee for a term of 29 years from the effective date of the original Franchise Certificate, June 8, 1981; and

WHEREAS, the County and Cox are parties to an agreement to provide an institutional network until December 31, 2010; and

WHEREAS, the County and Cox desire to clarify, confirm and extend the expiration date of the Franchise Certificate to December 31, 2010.

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

1. The term of the County's Franchise Certificate, as amended, with Cox Communications of Hampton Roads, LLC shall run through December 31, 2010.
2. The County Administrator is hereby authorized and directed to execute the Third Amendment to Franchise Certificate with Cox Communications of Hampton Roads, LLC.

This Ordinance shall be in full force and effect from the date of its adoption.

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 25th day of May,
2010.

ExtndCoxCbl_res

MEMORANDUM

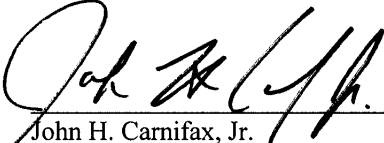
DATE: May 25, 2010
TO: The Board of Supervisors
FROM: John H. Carnifax, Jr., Director, Division of Parks and Recreation
SUBJECT: Authorization to Execute a Lease for Operation and Management of Little Creek Park

A Request for Proposals (RFP) was issued to obtain management and operational services for Little Creek Park under a lease agreement. One proposal was received and the Evaluation Committee determined that Headhunters Headquarters was qualified and suited the County's needs as defined in the RFP. A lease was negotiated with Headhunters Headquarters, a James City County business, to provide management and operational services.

Normal park operations, boat rentals, and concession/equipment sales consistent with the Park's current use shall be permitted. The lessee shall be responsible for developing an annual operational plan, employing sufficient staff to manage daily operations, collecting all fees, maintaining financial records, and providing routine maintenance. This lease will save James City County \$46,000 in FY 2011.

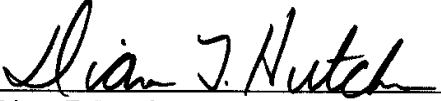
The attached resolution authorizes execution of a lease for the operation and management of Little Creek Park after the Board of Supervisors conducts a public hearing.

Staff recommends approval of the attached resolution.



John H. Carnifax, Jr.

CONCUR:



Diana F. Hutchens

JHC/nb
LeaseAppLCP_mem

Attachment

RESOLUTION

AUTHORIZATION TO EXECUTE A LEASE FOR OPERATION AND

MANAGEMENT OF LITTLE CREEK PARK

WHEREAS, a Request for Proposals (RFP) for the operation and management of Little Creek Park was advertised; one interested firm submitted a proposal; and

WHEREAS, staff reviewed the proposal, determined Headhunters Headquarters was qualified and suited the County's needs as defined in the RFP, and negotiated a lease for the operation and management of Little Creek Park; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the operation and management of Little Creek Park to Headhunters Headquarters under the terms and conditions of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a lease with Headhunters Headquarters for the operation and management of Little Creek Park.

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 25th day of May, 2010.

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