

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 8, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Brad Wellman, a fifth-grade student at Clara Byrd Baker Elementary School

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes –
 - a. May 25, 2010, Work Session Meeting
 - b. May 25, 2010, Regular Meeting
2. Bid Award - Scotts Pond Stream Restoration - \$148,950.42
Supports County's Strategic Pathway 4.f - manage stormwater effectively and protect groundwater
3. Bid Award - Ironbound Square Regional Stormwater Management Facility - \$494,227.00
Supports County's Strategic Pathway 4.f - manage stormwater effectively and protect groundwater
4. Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures
 - a. Capital Projects for School Purposes
 - b. Capital Projects for Stormwater Management
Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community

G. PUBLIC HEARINGS

1. Case No. SUP-0024-2010. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower
2. Case No. HW-0002-2010. Busch Gardens Germany Attraction
3. Case No. SUP -0012-2010. Camp Road Tower Development Corporation Wireless Tower
4. Borrow Pit Renewals
 - a. Case No. SUP-0009 2010. USA Waste of SUP 0010-2010 Virginia Landfills, Inc.
 - b. Case No. SUP 0010-2010. Branscome, Inc.
5. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic, Adoption of State Law, Generally

-CONTINUED-

H. BOARD CONSIDERATION

1. Grant Allocation - Energy Efficiency and Conservation Block Grant from the Virginia Department of Mines, Minerals, and Energy - \$498,625
Supports County's Strategic Pathway 1.f - focus on technology and research activities that generate economic growth, 2.c - increase the variety of safe, sanitary and affordable housing, and 4.d - seek partnerships, citizen committees, trusts and donations to protect the environment

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. Colonial Group Home Commission
 - b. Economic Development Authority

M. ADJOURNMENT to 4:00.p.m. on June 22, 2010

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AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF MAY 2010, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

M. Douglas Powell, Assistant County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Community Action Agency

Ms. Reba Bolden, Executive Director of Williamsburg-James City County Community Action Agency (CAA), gave an overview of CAA's Weatherization Program. She reviewed the program and highlighted key components of weatherization funding allocations and stimulus funding for Williamsburg-James City County (W-JCC) CAA. She reviewed the criteria for weatherization services and a breakdown of the homes that have been serviced locally. She reviewed the W-JCC CAA's list of contractors for weatherization services and partnerships within the community to provide services for citizens.

Discussion was held regarding an allocation of \$6,500 per home, including the cost of labor for the services. Discussion was held about W-JCC CAA's partnerships and how candidates were identified for services. Discussion was held about administrative and labor costs for the weatherization program.

2. Emergency Response and Community Emergency Response Team (CERT)

Fire Chief Tal Luton introduced Ms. Judith Davis, CERT Volunteer, and Ms. Kate Hale, Emergency Manager. Fire Chief Tal Luton noted that Virginia was currently holding a State sales tax holiday for items used for emergency preparedness. He reviewed the County's hurricane preparedness plan and emergency operations in the event of an evacuation. He reviewed the State's evacuation timeline and plan. He reviewed lane reversal procedures on Interstate 64 and evacuation routes. Chief Luton reviewed local planning issues with increased travel in the County due to lane reversals and collaboration with other localities to mitigate the impacts. Chief Luton and the Board discussed the availability of shelters for citizens who would be evacuated. Chief Luton reviewed the County's emergency plans, including the Emergency Operations Plan, and requirements for Virginia Department of Emergency Management (VDEM) compliance, the Surry Radiological Plan, Hazard Mitigation Plan, and the Hazardous Materials Plan. He reviewed the citizen alert notification system, JCCAlert, which provides notifications to citizens electronically and the reverse 911

system, and collaborative messaging with State agencies and bordering localities. He noted upcoming emergency exercises that would be taking place in the near future.

Ms. Kate Hale, Emergency Manager, noted that James City County was not a State evacuation locality and staff was focused on providing accurate emergency response information to citizens. She reviewed the Citizen Corps program and participation in the community. She reviewed the Citizen Emergency Response Team (CERT) and the function of the group. She noted that all citizens were able to participate and volunteer. She commented that the volunteers would be able to volunteer in education, Emergency Operations Center (EOC) support, and administrative responsibilities for the program.

Discussion was held about the level of funding for CERT and how the funds were used.

D. BREAK

At 5:11 p.m. the Board took a break.

M. Douglas Powell
Deputy Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH 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

M. Douglas Powell, Assistant County Administrator
Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

Mr. Kennedy noted the recent passing of former Planning Commissioner George Billups.

D. PLEDGE OF ALLEGIANCE – Mia Nesselrodt, a tenth-grade student at Warhill High School, led the Board and citizens in the Pledge of Allegiance.

Mr. Kennedy recognized Planning Commissioners Jack Fraley and Chris Henderson in attendance.

Mr. Kennedy notified the public that the applicant had requested an indefinite deferral for Case No. Z-0003-2008/MP-0003-2008. the Candle Factory. The case would not be heard at this meeting.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on discomfort with the bond rating agencies; numerous foreclosures; and unkempt property at 101 Indian Circle.

2. Mr. Jack Fowler, 109 Wilderness Lane, commented on blight and unkempt properties in the County; road shoulder degradation on Rochambeau Road near Croaker Road; and lack of funding for road repairs.

F. CONSENT CALENDAR

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

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

1. Minutes –
 - a. May 5, 2010, Budget Work Session
 - b. May 11, 2010, Regular Meeting
2. Appointment – 2010 County Fair Committee

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.

3. Request to Change the Name of the Colonial Services Board to Colonial Behavioral Health

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.

4. County/Golf Course Agreement for Inspection and Maintenance of a County Controlled Grade Separation Structure for The Tradition Golf Club at Stonehouse

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.

G. BOARD CONSIDERATION

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

Mr. Kennedy noted that the applicant has requested indefinite deferral for this item.

H. PUBLIC HEARINGS

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

Mr. Kennedy noted that a deferral was requested by the applicant and asked if anyone would like to speak to this matter as the Public Hearing was still open.

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

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

Ms. Sarah Propst, Planner, stated that the application remained unchanged since the last meeting.

Mr. Icenhour asked Mr. Trant, Kaufman and Canoles, attorney for the applicant, about the Candle Factory site and the operation of the property.

Mr. Trant stated that his client was involved with the property that was subject to the Special Use Permit (SUP), so he had no formal relationship with the other parts of the property.

Mr. Icenhour stated he felt this site was a major mixed-use site at an arterial intersection and stated his concern for future projections of use for the site.

Mr. Trant stated he understood the residual Candle Factory property was in active use for various warehousing activities. He noted that he had continued to negotiate with the residual property owner for investment of infrastructure to maintain consistency with his client's development. He stated that he and his client had become comfortable with the potential future of the property.

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. Mr. Goodson stated that though the other part of the property was not able to be considered, he felt that since the application was in compliance with the Comprehensive Plan, the Board should move forward on this item.

Mr. Icenhour asked staff if the CVS and Food Lion were both covered under one SUP.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the requirement for an SUP was because of the CVS drive-through and square footage.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the requirement for an SUP for the Food Lion was due to the square footage and traffic generation.

Ms. Propst stated that was correct.

Mr. Icenhour commented on mixed-use standards for major thoroughfares, designed to maximize the economic development potential for these areas, in relation to the Business Climate Task Force study, which prescribed levels of services provided by businesses. He commented that he was unsure if the businesses in the development would maximize the economic development potential with higher-level jobs and industries. He noted that two grocery stores would be located across the street from each other and expressed his concern about the percentage of impervious cover on the property and inability to internally demonstrate the level of impervious cover. He stated his opposition to this case. He noted his concern about piecemeal development of this property.

Mr. Goodson noted that the idea of higher-level jobs and industries included heavy manufacturing, which he did not believe would be appropriate for this highly visible site. He stated this property allowed for a great deal of frontage and visibility for commercial operations.

Mr. Icenhour stated that he would not suggest heavy manufacturing in this area, but rather other types of businesses that meet similar traits. He stated there was specific reference to mixed-use areas near highway interchanges.

Mr. Kennedy stated that he did not believe a change in usage would reduce the level of impervious cover. He stated concern for the piecemeal development of the property and that he would have preferred to see a master plan for the entire property. He stated he sees this as a revitalization and redevelopment of a piece of property. He stated his concern about whether or not this development was a necessity. He stated he believed there would be more activity on the parcel and highlighted the environmental benefits of the project and his support for the case.

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

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.

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

Ms. Sarah Propst, Planner, stated that Mr. Philip Richardson has applied for a rezoning and an 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. 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.

Staff found the proposed convenience store with fueling stations is consistent with the Comprehensive Plan and compatible with the surrounding zoning and development.

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

Staff recommended approval of the application.

1. Mr. Vernon Geddy, on behalf of the applicant, Whitfield Bacon LLC, gave a brief overview of the site where the convenience store would be located, the specifications of the project, and a site layout of the property. He reviewed the conditions to mitigate the impacts on the community, including buffer landscaping and the design of the architecture. He noted surrounding properties and buildings and illustrated how the convenience center would blend with existing development. He reviewed the traffic study and the traffic improvements to be completed as part of the plan. He noted compliance with the Community Character Corridor (CCC) buffer requirements and environmental concessions. He noted that the applicant has reached out to the community by meeting with various community groups in the area. He requested approval of the application.

Mr. Icenhour commented that the level of service remained unchanged at the intersection.

Mr. Geddy stated that was correct.

Mr. Icenhour commented that there were lower service levels for customers trying to leave the site.

Mr. Geddy stated that was correct.

Mr. Icenhour asked if the pedestal sign would have fuel prices listed.

Mr. Geddy stated he understood the sign would just display the name of the store.

Mr. Icenhour stated his appreciation for the landscaping, but expressed concern that the evergreen trees would provide more immediate screening capacity.

Mr. Geddy stated that plants may take a few years to mature, but he believed it would provide the best effect.

Mr. Icenhour asked about the Virginia Department of Health waiver for monitoring and different types of spills that were of concern.

Mr. Geddy stated he believed that fuel spills would be the only concern.

Mr. Mark Bennett, AES Consulting Engineers, stated that there were provisions in the site plan and other documents to contain any potential fuel spills on the site. He stated that any spill would be collected before it is discharged without being mixed with rainwater. He stated there were monitors on the site already, installed by Exxon several years ago.

2. Mr. Lee Fehrenkamp, 3709 Mulberry Lane, on behalf of Mulberry Place Homeowners Association, stated that he received comments from members of his community about this case and found that over 69 percent were opposed to this case. He commented on the impacts of a convenience center on Freedom Park, the CCC buffers, traffic impacts, and potential traffic accidents. He commented on the rezoning from Limited Business to General Business to allow the project to fit on the site by reducing buffers and the location of a bio-retention pond in the buffer zone on the site. He commented on fuel leaks at gas stations.

3. Mr. Steve Stillwell, 3719 Mulberry Lane, stated that he did not believe this was the best place for this type of project since there were several other fuel stations in the area. He commented that the right-only entrances and exits would negatively affect traffic regardless of other improvements. He stated that Mulberry Place was not contacted by the applicant for input and that the notification sign placed on the property was not very visible. He stated his opposition to the application.

4. Mr. Quintin Brown, 109 Theodore Allen Road, on behalf of Centerville Neighborhood Association, stated his neighborhood met and discussed the project. He stated that his entire neighborhood has expressed its support for the application. He requested approval of the project.

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

Mr. Icenhour asked about the change in the SUP rules that took away the ability for an applicant to request an SUP for Limited Business.

Ms. Propst stated it has been several years.

Mr. Icenhour stated that the reason the parcel had to be rezoned was to allow for fuel pumps on the site.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the convenience store would be allowed by-right.

Ms. Propst stated that was correct.

Mr. Icenhour noted for the benefit of the public that the only reason the case was coming before the Board was to allow for the SUP and rezoning for the fuel pumps.

Mr. Icenhour asked about the changes in buffers.

Ms. Propst stated that there was a provision in the ordinance to allow for reduced buffers for developments on a smaller-scale piece of property.

Mr. Icenhour asked if there was a requirement for enhanced landscaping under this provision.

Ms. Propst stated there was an increase in the requirement.

Mr. Icenhour stated this piece of property was set aside in the Comprehensive Plan for business which could be developed by-right. He stated fuel stations were located in other CCCs.

Mr. McGlennon asked how Mulberry Place was not required to be notified.

Ms. Propst stated that adjacent property owners were notified, a sign was placed on the property, and a notification was placed in the newspaper.

Mr. Geddy stated that he was unaware of the concerns of the citizens of Mulberry Place until this meeting.

Mr. McGlennon stated he was unaware of the objection to this application and asked if the applicant wished to respond to the objections that were raised.

Mr. Geddy stated he believed that this project would not create a negative impact on Freedom Park. He stated that the Virginia Department of Transportation (VDOT) had reviewed the traffic report and that he felt the restrictions put into place had satisfied the traffic requirements.

Mr. Bennett commented on the stormwater management issues on the site. He stated the adjacent property was developed to handle some of the runoff for this site. He stated the bio-retention area which would be stocked with plant material to provide screening as well. He noted that it was not a pond.

Mr. McGlennon asked if it was constructed for the complex nearby.

Mr. Bennett stated that there was a feature constructed at the complex and there was an independent, landscaped feature that was going to be constructed as part of this site. He reviewed the traffic access limitations granted by VDOT to allow access to the site. He also addressed the need to make U-turns due to restricted access and stated that VDOT recognized that those activities would occur at the next public road interchanges at Longhill Road or Centerville Road.

Mr. Kennedy asked if the requirements of the SUP notifications were met.

Mr. Geddy stated that the applicant did.

Ms. Propst stated the requirement was to notify adjacent property owners.

Mr. Kennedy noted that it was advertised for the public.

Mr. McGlennon stated that he felt the applicant has addressed some major concerns, but he believed that the applicant should meet with the residents of Mulberry Place to address some of their questions.

Mr. Goodson made a motion to adopt the resolution. He stated the parcel was zoned for business use and the extra scrutiny for the fuel pumps was to allow for consideration of the landscaping and planning of the parcel. He stated that he felt the applicant has done well in the design and landscape of the property. He stated that he believed that having a small retailer would be a benefit outside Freedom Park because this would be the closest commercial vendor for visitors to the park.

Ms. Jones stated her support for the application. She stated this business would provide convenience for neighbors who could walk to the store and for those visiting Freedom Park. She noted that this was an attractive future business, stated concern for undeveloped parcels in the County and suggested that staff could meet with citizens with questions and encouraged citizens to review the Comprehensive Plan to see what the future plans were for a parcel of property.

Mr. McGlennon stated that he felt the application was of high quality, but he noted that the public needed to be reached in a proactive way to educate citizens about public input opportunities and land uses in the area. He stated citizens should also be active to educate themselves to make an impact on cases such as this.

Mr. Icenhour stated his concern to hear about major issues at such a late time. He asked that in the future, notification could be considered in a broader way to notify citizens in adjacent areas rather than just adjacent property owners. He stated that he would have preferred to learn of the concerns of the neighbors in Mulberry Place prior to the meeting so he could meet with them. He stated that he felt it was a good project and it was supported by the Comprehensive Plan. He stated his support for the project.

Mr. Goodson noted that he would like to make a motion for both resolutions for this application.

Mr. Kennedy stated that he believed the County has been transparent about the application process and that citizens should be proactive and submit comments. He stated that he had only received positive comments until this point. He advised that citizens check the website and review cases that may affect different neighborhoods. He stated his support of this project despite the unfortunate situation. He stated that staff should monitor the SUP signs to ensure they are visible and ensure that nearby neighbors are aware of projects.

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

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.

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.

3. Ordinance to Extend the Cox Cable Franchise to December 31, 2010

Mr. Leo Rogers, County Attorney, stated the ordinance for the Board's consideration would extend the Cox Cable Franchise agreement and certificate to December 31, 2010, in order to synchronize the date of all the agreements with Cox Cable in the ordinance. He stated that a renewal would come before the Board at a later date.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, commented on the Code interpretation on nonpayment of rights-of-way use fee with Cox under the Cable Franchise Agreement. He stated that he understood that if the County had a franchise agreement, the citizens should not pay the fee.

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

Mr. McGlennon 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).

4. Authorization to Execute a Lease for Operation and Management of Little Creek Park

2. Mr. John Carnifax, Parks and Recreation Director, stated that he met previously with the Board at a work session to discuss contracting out facilities at Little Creek Park. He stated that as a result of that discussion, a Request for Proposals (RFP) was issued and the selected firm was Headhunters Headquarters. He stated that would save the County approximately \$46,000 in FY 11. He recommended approval of the resolution.

Mr. McGlennon asked what the primary business was of Headhunters Headquarters.

Mr. Carnifax stated it was a sporting goods business with a focus on archery equipment, particularly through the internet.

Mr. McGlennon stated the retail business would come to the property.

Mr. Carnifax stated that was correct but there would not be any guns or ammunition at the property.

Mr. Kennedy opened the Public Hearing.

1. Mr. Jack Fowler, 109 Wilderness Lane, commented about structural problems at Little Creek Park and drought. He stated that Little Creek Park should be repaired before spending money on other projects.

Mr. Kennedy commented that if the park was not repaired, it would not be financially beneficial. He stated his support for the resolution.

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

Mr. McGlennon asked for a report on the issues of disrepair at the park raised by Mr. Fowler. He asked about the degree of ability to determine hours of operations.

Mr. Carnifax stated the lease requires a minimum number of hours, so the operator could extend the hours. He stated that the County has a right to set the fees and handle the maintenance of the park. He stated that the operator is required to do some minor repairs and inspections of the facilities, cleaning restrooms and routine cleaning and maintenance, but no major improvements. He stated that one of the challenges to addressing the ramp would require placing a barrier and pumping water out to extend the boat ramp. He stated the plan was to wait until the next low water level to make those improvements.

Mr. McGlennon asked if there were any alternative means in the interim.

Mr. Carnifax stated that it would be difficult. He stated it was a steep ramp and certain vehicles may be unable to pull the vehicle out of the water. He stated the long-term plan was to install another ramp when funds were available.

Mr. McGlennon asked if the \$46,000 in savings was primarily staff time.

Mr. Carnifax stated that was correct.

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

**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.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Powell stated that representatives from Senator Mark Warner's staff would be visiting James City County on June 8, 2010, from 10 a.m. to 12 p.m. to address concerns of citizens in dealing with public offices.

He noted that the County received an award from the National Association of County Information Officers (NACIO) for the County's recent Progress Report and thanked staff of the Communications and Information Technology divisions for their efforts.

He stated that a closed session was listed for this evening, but the Board may consider those appointments in open session. He stated that at the conclusion of the Board's business, it should recess to 7:30 a.m. on June 3, 2010, and hold a meeting of the James City Service Authority Board of Directors. He also noted that County offices would be closed on Monday, May 31, 2010, for the Memorial Day holiday.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked if there was a motion to appoint Ms. Heather Cordasco, Mr. Scott Van Voorhees, Ms. Linda Wallace-Cody, and Mr. Mark Wenger to four-year terms on the Parks and Recreation Advisory Commission, terms to expire on April 30, 2014, and to appoint Mr. Arthur Grant to an unexpired term on the Historical Commission, term to expire on August 31, 2011.

Mr. McGlennon made a motion to appoint Ms. Heather Cordasco, Mr. Scott Van Voorhees, Ms. Linda Wallace-Cody, and Mr. Mark Wenger to four-year terms on the Parks and Recreation Advisory Commission,

terms to expire on April 30, 2014, and to appoint Mr. Arthur Grant to an unexpired term on the Historical Commission, term to expire on August 31, 2011.

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

Mr. McGlennon noted the recent passing of Ms. Ann Yankovich, a leader in the public schools as a health coordinator and played a crucial role in the establishment of Olde Towne Medical Center. He recognized Ms. Yankovich for her numerous contributions to the community.

L. RECESS to 7 p.m. on June 8, 2010, at Legacy Hall.

At 8:37 p.m. Mr. Kennedy recessed the Board.

M. Douglas Powell
Deputy Clerk to the Board

052510bos_min

MEMORANDUM

DATE: June 8, 2010
TO: The Board of Supervisors
FROM: Frances C. Geissler, Stormwater Director
SUBJECT: Bid Award – Scott’s Pond Stream Restoration - \$148,950.42

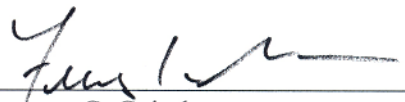
This project is located in the Powhatan District, downstream of Prime Outlets in a common area of the Scott’s Pond neighborhood. The project will restore an actively eroding headwater stream channel that receives stormwater from the retail property upstream. The headwater stream is an unnamed tributary to the Powhatan Creek. Prior to the recent upgrade of the Prime Outlets stormwater system, the project site was subjected to uncontrolled stormwater discharges. To help repair stream damage, Prime Outlets provided a \$200,000 proffer to assist in the restoration. The project is being completed in accordance with the Powhatan Creek Watershed Plan.

Five competitive bids were received from previously pre-qualified bidders on May 21, 2010, for the Scott’s Pond Stream Restoration project. Bids were received as outlined below with the low bidder being Environmental Quality Resources, LLC.

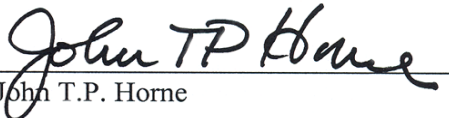
<u>Firm</u>	<u>Amount</u>
Environmental Quality Resources, Arbutus, MD	\$148,950.42
Angler Environmental, Inc, Manassas, VA	170,492.20
Meadville Land Service, Meadville, PA	197,577.85
Shamrock Environmental Corporation, Browns Summit, NC	231,131.00
Riverworks, Inc., Cary, NC	232,201.60

The bid amount of \$148,950.42 is consistent with the estimated costs and funding for this construction project is available in the Water Quality Capital Improvements Program (CIP) and Stormwater Proffer accounts. Investigations by staff show the low bidder, Environmental Quality Resources, LLC, to be a responsible registered contractor with sufficient financial resources to complete a project of this size.

Staff recommends adoption of the attached resolution authorizing the award of the construction bid to Environmental Quality Resources, LLC for construction of the Scott’s Pond Stream Restoration Project in the amount of \$148,950.42.



Frances C. Geissler

CONCUR:


John T.P. Horne

FCG/gb
BA_ScottsPd_mem

Attachments

RESOLUTION

BID AWARD - SCOTT'S POND STREAM RESTORATION - \$148,950.42

WHEREAS, competitive bids were advertised for the Scott's Pond Stream Restoration project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being Environmental Quality Resources, Arbutus, MD with a bid of \$148,950.42; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Scott's Pond Stream Restoration project in the total amount of \$148,950.42.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

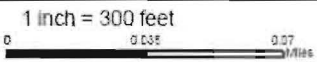
Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June,
2010.

BA_ScottsPd_res

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



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section. Aerial Imagery Copyright 2002 Commonwealth of Virginia.



MEMORANDUM

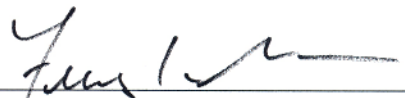
DATE: June 8, 2010
TO: The Board of Supervisors
FROM: Frances C. Geissler, Stormwater Director
SUBJECT: Bid Award - Ironbound Square Regional Stormwater Management Facility - \$494,227

Six competitive bids were received on April 15, 2010, for the Ironbound Square Regional Stormwater Management Facility project in the Berkeley District of James City County. The project will provide stormwater management for the Ironbound Road widening project, the Ironbound Square Subdivision residential development, and existing development along Ironbound Road. Bids were received as outlined below with the low bidder being George Nice and Sons, Inc.

<u>Firm</u>	<u>Amount</u>	
George Nice and Sons, Inc.	\$494,227.00	Williamsburg, VA
Jack L. Massie	570,710.46	Williamsburg, VA
Toano Contractors	577,452.01	Toano, VA
Henry S. Branscome	591,429.89	Williamsburg, VA
EV Williams	640,996.34	Virginia Beach, VA
J. Sanders Const	645,555.00	West Point, VA


The bid amount of \$494,227 is consistent with the estimated costs and funds for this construction project are available in the Water Quality Capital Improvements Program (CIP) account. George Nice and Sons, Inc. has satisfactorily completed projects for both James City County and the James City Service Authority in the recent past.

Staff recommends adoption of the attached resolution authorizing the award of the construction bid to George Nice and Sons, Inc. for construction of the Ironbound Square Regional Stormwater Management Facility Project in the amount of \$494,227.



Frances C. Geissler

CONCUR:



John T.P. Horne

FCG/gb
BA_IronbdSq_mem

Attachments

RESOLUTION

BID AWARD - IRONBOUND SQUARE REGIONAL

STORMWATER MANAGEMENT FACILITY - \$494,227

WHEREAS, competitive bids were advertised for the Ironbound Square Regional Stormwater Management Facility project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being George Nice and Sons, Inc. with a bid of \$494,227; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Ironbound Square Regional Stormwater Facility in the total amount of \$494,227.

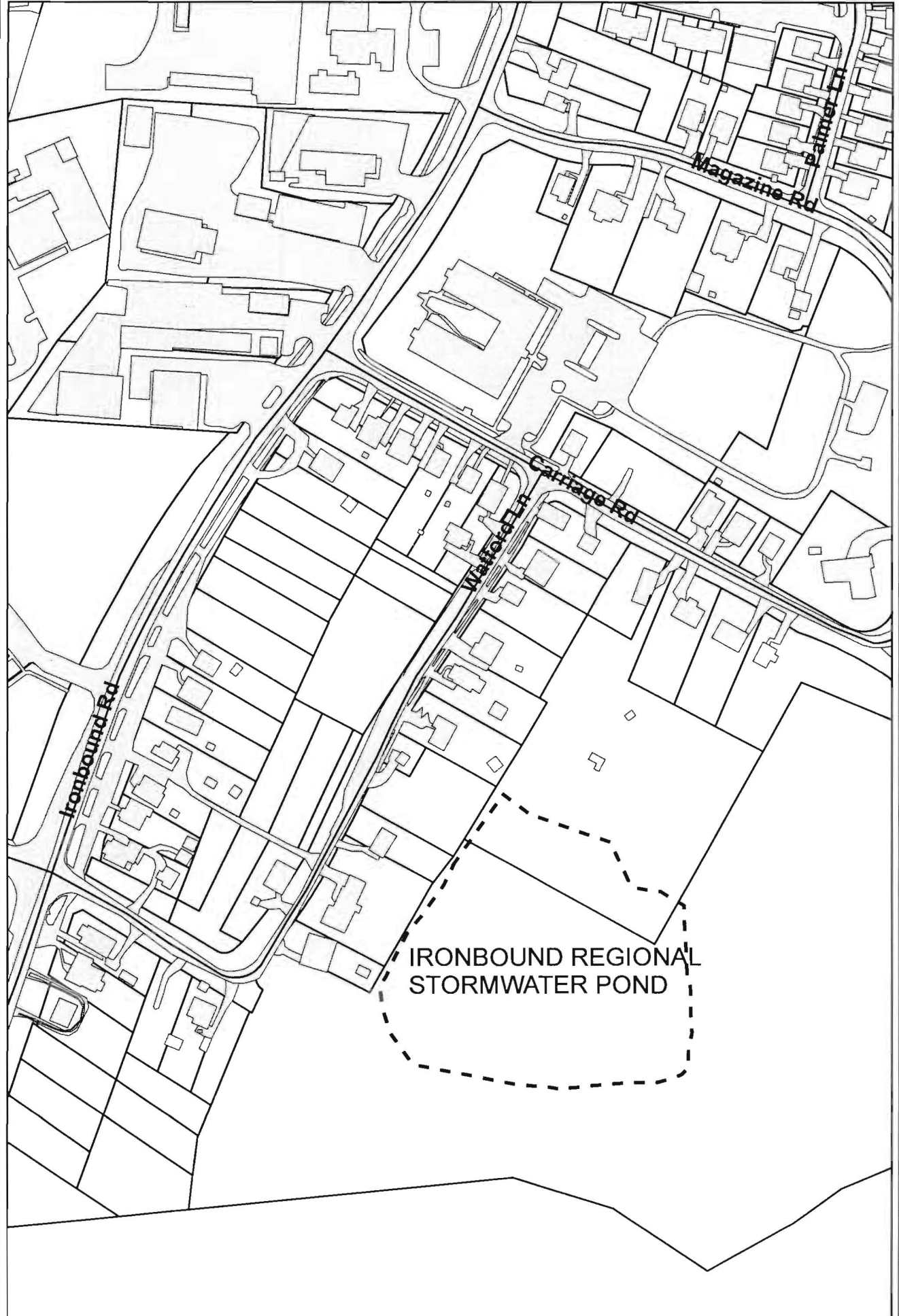
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2010.

BA_IronBdSq_res



This drawing is neither a legally recorded map nor a survey and should not be used as such. The information depicted is a compilation of records, photographs, and other relevant data sources, and James City County is not responsible for its accuracy or completeness. It may be that discrepancies may exist. Please consult the Real Estate Assessment Division of James City County, Mapping/GIS Section.

1 inch = 200 feet
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MEMORANDUM

DATE: June 8, 2010
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Finance and Management Services
SUBJECT: Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures

The Board of Supervisors has adopted a budget for Fiscal Year 2011 that includes a planned borrowing for several school projects, among them a multi-use space at Jamestown High School, HVAC improvements and capital maintenance at DJ Montague, James River Elementary, and Berkeley Middle schools.

City, County, and School staff are working to fine-tune the cost estimates of the several projects and are reviewing previously-approved projects looking for available capital balances. The total costs and the recommended borrowing will most likely be less than what was approved in the FY 2011 capital budget.

The Board of Supervisors also indicated support for debt financing for Stormwater projects. A referendum is anticipated in November 2010 and should it pass, the initial bond issue could include a reimbursement of project spending.

The attached resolutions were crafted by the County's Bond Counsel and, if approved, would allow the Board the option of using bond proceeds to reimburse the County for any project spending incurred prior to the date the bonded debt is sold. It establishes a beginning date for project spending in the event the Board agrees to issue debt for these projects.

Staff recommends approval of the attached resolutions.

John E. McDonald

JEM/nb
ExpendReimb_mem

Attachments

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for school purposes, namely, the construction of a high school multi-use space and capital maintenance, including refurbishments, new HVAC and roofs, at four school buildings (collectively, the "Projects"); and

WHEREAS, the County may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County from the proceeds of one or more tax-exempt obligations to be issued by the County (the "Indebtedness").

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$6,900,000.
3. This resolution shall take effect immediately upon 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 8th day of June, 2010.

ExpendReimb_res

CERTIFICATION

The undersigned Clerk of the Board of Supervisors of James City County, Virginia hereby certifies that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 8th day of June, 2010, and during which a quorum was present and acting throughout, by the vote set forth below, and that such resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
James G. Kennedy, Chair		
Mary Jones, Vice Chair		
John J. McGlennon		
James O. Icenhour, Jr.		
Bruce C. Goodson		

WITNESS, my hand and the seal of the Board of Supervisors of James City County, Virginia, this _____ day of June, 2010.

Clerk, Board of Supervisors
James City County, Virginia

(SEAL)

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RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for Stormwater Management purposes, namely drainage improvements, stream restoration, flood management, and stormwater retention ponds; and

WHEREAS, the County may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County from the proceeds of one or more tax-exempt obligations to be issued by the County (the "Indebtedness").

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$30,000,000.
3. This resolution shall take effect immediately upon 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 8th day of June, 2010.

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CERTIFICATION

The undersigned Clerk of the Board of Supervisors of James City County, Virginia hereby certifies that the foregoing constitutes a true, correct and complete copy of a resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on the 8th day of June, 2010, and during which a quorum was present and acting throughout, by the vote set forth below, and that such resolution has not been repealed, revoked, rescinded, or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
James G. Kennedy, Chair		
Mary Jones, Vice Chair		
John J. McGlennon		
James O. Icenhour, Jr.		
Bruce C. Goodson		

WITNESS, my hand and the seal of the Board of Supervisors of James City County, Virginia, this _____ day of June, 2010.

Clerk, Board of Supervisors
James City County, Virginia

(SEAL)

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**SPECIAL USE PERMIT-0024-2009. Hospice House and Support Care of Williamsburg
Wireless Communication Facility Tower
Staff Report for the June 8, 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

December 2, 2009, 7:00 p.m.
January 12, 2010, 7:00 p.m. (applicant deferral)
February 9, 2010, 7:00 p.m. (applicant deferral)
June 8, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Gloria Freye, McGuire Woods

Land Owner: Hospice House and Support Care of Williamsburg

Proposal: To allow for the construction of a 124-foot-tall (120-foot tower with four-foot lightning rod) monopole wireless communications facility “WCF” on the subject property. Wireless communications facilities are specially permitted uses in the R-8, Rural Residential zoning district.

Location: 4445 Powhatan Parkway

Tax Map Parcel No.: 3830100001a

Parcel Size: .48 acres out of 11.182 acres

Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential and Conservation Area

Primary Service Area: Inside

STAFF RECOMMENDATION

While the applicant has researched a number of potential sites in this part of the County and has demonstrated a need for additional coverage, the proposed tower will have a significant visual impact on the surrounding area. Areas of visual impact include homes along Powhatan Parkway, West Providence Road, East Providence Road, Cold Spring Road, Old Regency Road, Powhatan Secondary, Stylers Mill Crossing, and parts of Pleasant View Drive. The applicant is offering to provide additional buffers to screen the access drive and has proposed to preserve the berm in front of the Hospice House. However, because of the proposed height of the tower, the on-site topography, and the lack of mature trees taller than 70 feet, the proposed tower will be visible to many of the houses in the adjacent residential neighborhood. 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 that the Board of Supervisors deny this SUP application. Should the Board of Supervisors wish to approve this application, staff recommends approving the resolution with the attached conditions.

Staff Contact: Jason Purse, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On December 2, 2009, the Planning Commission voted 6-0, with one abstention, to recommend denial of this application.

Proposed Changes Made Since Planning Commission Meeting

The applicant has not proposed any additional changes to the application or Master Plan since the January meeting. However, the Board of Supervisors had requested the applicant continue investigating possible alternate sites in the area, including the Ford's Colony Continuing Care Retirement Community parcel along News Road. The applicant has had a number of discussions with property owners, but to this point has not identified a different location for the tower. Discussions have taken place with the owner of a property along Route 199. However, this parcel does not have access to a public road at this point and would require a limited access break to gain entry onto Route 199. Gaining access to this parcel represents a long process with the local government, the property owner, and the Virginia Department of Transportation (VDOT) with no guarantee of gaining that access or the approval of the SUP to allow the tower. At this point, the applicant requests the Board of Supervisors vote on the Hospice House tower before they invest additional time and resources into a new site.

PROJECT DESCRIPTION

Ms. Gloria Freye has applied for an SUP to allow for the construction of a 124-foot wireless communications facility (120-foot tower with a four-foot lightning rod) located at 4445 Powhatan Parkway. The parcel is zoned R-8, Rural Residential, and has a Comprehensive Plan designation of Low Density Residential and Conservation Area.

The proposed tower would be located on the same parcel as the Hospice House of Williamsburg, which is located internal to the Powhatan Secondary subdivision. The tower will use the same entry drive as the Hospice House, but will then split off on a separate access drive running back to the tower complex. The applicant is proposing a 100-foot buffer around the tower site that will remain undisturbed, except for the tower and associated equipment and the access drive.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan 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

A publicly advertised balloon test took place on November 9, 2009, and the applicant has provided photo simulations of the proposed tower location from a number of different locations around the vicinity of the site, which have been provided for reference. A meeting with the Powhatan Secondary neighborhood also took place November 12, 2009.

The proposed site of the tower will be located in a low-lying area next to the Hospice House near the Resource Protection Area (RPA). The applicant is proposing a 100-foot buffer around the tower site that will remain undisturbed, except for the tower site and the access road. The trees surrounding the site are in the 60- to 70-foot range. The proposed tower is approximately 200 feet from the Hospice House and approximately 490 feet from the closest home in the Powhatan Secondary Subdivision. The closest home in Ford’s Colony appears to be approximately 550 feet away to the north. The combination of topography, tree cover, and the distance from the site to the neighborhood makes the proposed tower visible from a number of locations in Powhatan Secondary.

The proposed tower will be visible along Powhatan Parkway, West Providence Road, East Providence Road, Cold Spring Road, Old Regency Road, Powhatan Secondary, Stylers Mill Crossing, and parts of Pleasant View Drive. The balloon was not visible from any of the streets in Ford’s Colony, but the applicant was informed by at least two property owners that it was visible from their backyards. The balloon was not apparently visible from any of the other roads or locations in the vicinity. While the balloon was not visible from Jester’s Lane or WindsorMeade Marketplace, should the parcel adjacent to the Hospice House ever be developed some additional locations may be exposed to the tower.

The proposed access drive runs along the base of the berm between Powhatan Secondary residences and the Hospice House. The drive turns north and becomes visible from the existing pathway and dam between two sections of Powhatan Secondary. The applicant has offered to plant additional trees to screen the drive from the path and residences across the bridge. The applicant has also proposed to keep the access drive out of the existing berm area and will replant any landscaping removed due to clearing for the drive.

Federal Aviation Administration (FAA) Requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) must be marked and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and with paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium intensity white strobe lighting during the day. Because this extension would be less than 200 feet, a marking system would not be required by the FAA.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>Low Density Residential and Conservation Area (Page 153 and 158):</i> Recommended uses for Low Density Residential land include very limited commercial establishments, churches, single-family homes, duplexes, and cluster housing with a recommended gross density of one unit per acre up to four units per acre in developments that offer particular public benefits, while lands designated Conservation Area are intended to remain in their natural state.</p> <p>Staff Comment: The inclusion of a WCF on the site is a secondary use. The limited development associated with the WCF will not have an adverse impact on the ability of the Hospice House to continue to meet the goals of the land use designation. The tower is being constructed outside of the RPA on-site, and therefore is also located outside of the area designated as Conservation Area on the plan.</p>
Residential Development Standards	<p><i>4. Use and Character Compatibility (a)-Page 153:</i> Permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed. Particular attention should be given to addressing such impacts as incompatible development intensity and design, building height and scale, land uses, smoke, noise, dust, odor, vibration, light, and traffic.</p>

	<p>Staff Comment: The proposed tower location will not impact the use of the land, but the scale of the tower will make it significantly visible to the adjacent neighborhood. Since the mature trees in the area will only partially obstruct the bottom half, the top half of the tower will be visible to homes directly adjacent to the site, including most of those in the Berkeley section of Powhatan Secondary, as well as most of the homes between Powhatan Secondary Road and Stylers Mill Crossing (see Balloon Test Visibility Map Attachment No. 6).</p> <p>The 100-foot undisturbed buffer around the tower site will help ensure that no additional trees will be cleared in the general area of the tower. Furthermore, the on-site RPA to the northwest of the site will ensure that no development takes place between the tower site and Ford’s Colony. However, the existing trees only partially obstruct view of the 120-foot tower. Up to half of the tower will be visible at all times to many nearby homes.</p> <p>The applicant has worked with adjacent property owners to ensure that the tower is as minimally intrusive as possible. They are offering to provide additional buffers to screen the access drive and have proposed to preserve the berm in front of the Hospice House.</p>
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Community Character

<p>General</p>	<p><i>WCFs-Page 96:</i> In 1998, the increasing need for new WCFs prompted the County to establish Performance Standards for WCFs and a new division in the Zoning Ordinance to address them. Through the use of the performance standards and the ordinance, the County has sought to accomplish the following:</p> <ul style="list-style-type: none"> ◆ Keep the number of WCF sites to a minimum; ◆ Minimize the impacts of newly approved WCFs; and ◆ Expedite the approval process for new WCF applications. <p>The policy and ordinance strive to effectively camouflage new WCFs in many areas of the County in order to reduce their incompatibility with and impact on adjacent development. Many new towers have been either constructed below the surrounding tree line or built as a camouflaged structure to blend in with the surrounding natural and man-made environment.</p> <p>Staff Comment: Co-location options are encouraged in order to mitigate impacts created by clustered, single-use towers. This WCF will provide co-location opportunities for two other servers to accommodate a total of three wireless carriers. The tower is being requested at the 120-foot height to allow for all three carriers to provide service to this area. The carriers have indicated that the service radius of this tower will be approximately one mile.</p> <p>The applicant has provided information demonstrating the need for additional coverage in this area of the County and has also shown that many other sites in the area have been evaluated, but to this point the Hospice House has provided the only opportunity.</p> <p>This proposed tower will not be below the surrounding tree line or built as a camouflaged structure to blend in with the surrounding natural man-made environment.</p>
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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 mature trees taller than 70 feet there is no way to provide additional screening for the neighborhood adjacent to the proposed site. While the applicant has done extensive research of potential sites in the area, and the tower will provide a much greater coverage area for three carriers, the tower will have a prominent visual impact on the surrounding area. Areas of visual impact include, homes along Powhatan Parkway, West Providence Road, East Providence Road, Cold Spring Road, Old Regency Road, Powhatan Secondary, Stylers Mill Crossing, and parts of Pleasant View Drive. Given the developed nature of the area, including Ford’s Colony, Monticello Marketplace, and Powhatan Secondary,

there are limited areas available for carriers to provide additional needed coverage. The applicant is offering to provide additional buffers to screen the access drive and have proposed to preserve the berm in front of the Hospice House.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (see Attachment No.1).

Section 24-124 of the Zoning Ordinance states that “In considering an application for an SUP for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the ‘Performance Standards for Wireless Communications Facilities.’ 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 the required SUP have substantially met these standards, including those pertaining to visibility.

A. Co-Location and Alternative Analysis

Standard A1 encourages co-location. Since this new tower has the ability to accommodate three service providers, this standard has been met.

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. The applicant is proposing a tower which can accommodate three servers. Locating a second tower on the site would make the WCF 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 significantly visible from a majority of houses in the Berkeley section of Powhatan Secondary as well as most of the homes between Powhatan Secondary Road and Stylers Mill Crossing (see Balloon Test Visibility Map Attachment No. 6) in the Powhatan Secondary development and it therefore does not meet this performance standard. Because of the topographical changes between different phases, some of the homes are at a grade near the tops of the trees on the Hospice House property and will therefore be looking directly at the tower. The applicant has worked with property owners to provide additional landscaping along the access drive to help screen that from public view. The applicant is also committed to retaining the existing berm in front of the Hospice House.

Performance Standard B2(a) states that towers should be located in a manner that uses a camouflaged design or has 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 tower has an impact on adjacent residential areas and therefore 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 proposed location of the tower is within a 100-foot-wide tree preservation buffer which has been included as condition for this SUP. Furthermore, the applicant has worked with adjacent property owners to ensure that the access drive will be adequately screened by additional landscape plantings.


RECOMMENDATION

While the applicant has researched a number of potential sites in this part of the County and has demonstrated a need for additional coverage, the proposed tower will have a significant visual impact on the surrounding area. Areas of visual impact include homes along Powhatan Parkway, West Providence Road, East Providence Road, Cold Spring Road, Old Regency Road, Powhatan Secondary, Stylers Mill Crossing, and parts of Pleasant View Drive. The applicant is offering to provide additional buffers to screen the access drive and has proposed to preserve the berm in front of the Hospice House. However, because of the proposed height of the tower, the on-site topography, and the lack of mature trees taller than 70 feet, the proposed tower will be visible to many of the houses in the adjacent residential neighborhood. 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 that the Board of Supervisors deny this SUP application. Should the Board of Supervisors wish to approve this application, staff recommends approving the resolution with the attached conditions.

Jason Purse

CONCUR:



Allen J. Murphy, Director of Planning

JP/nb
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ATTACHMENTS:

1. Unapproved Minutes from December 2, 2009, Planning Commission Meeting (Included in the January 12, 2010, Board of Supervisors Package)
2. Performance Standards for WCFs Policy (Included in the January 12, 2010, Board of Supervisor Package)
3. Preliminary Site Plan (Included in the January 12, 2010, Board of Supervisor Package)
4. Propagation Map Showing Existing Area Coverage (Included in the January 12, 2010, Board of Supervisor Package)
5. Photo Simulations (Included in the January 12, 2010, Board of Supervisor Package)
6. Location Map (Included in the January 12, 2010, Board of Supervisor Package)
7. Balloon Test Visibility Map (Included in the January 12, 2010, Board of Supervisor Package)
8. Citizen Comments (Included in the January 12, 2010, Board of Supervisor Package)

RESOLUTION

CASE NO. SUP-0024-2009. HOSPICE HOUSE AND SUPPORT CARE OF WILLIAMSBURG

WIRELESS COMMUNICATION FACILITY TOWER

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. Gloria Freye of McGuire Woods has applied for an SUP to allow for a 124-foot wireless communications facility; and

WHEREAS, the proposed tower is shown on a preliminary site plan, entitled “Telecommunications Facility Hospice Care of Williamsburg” dated November 23, 2009; and

WHEREAS, the property is located at 4445 Powhatan Parkway on land zoned R-8, Rural Residential, and can be further identified as James City County Real Estate Tax Map No. 3830100001a; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 2, 2009, recommended denial of this application by a vote of 6-0 with one abstention; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0024-2009 as described herein with the following conditions:

1. A maximum of one tower shall be permitted at this site. The tower and supporting equipment shall be located and designed as generally shown on the overall site layout plan, prepared by Johnson, Mirmiran, and Thompson, titled “Telecommunications Facility Hospice Care of Williamsburg,” and dated November 23, 2009 (“Master Plan”).
2. The tower shall be located at 4445 Powhatan Parkway, further identified as James City County Real Estate Tax Map No. 3830100001a (“Property”) in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. The access drive shall be designed and constructed in a manner that protects the existing berm in front of the Hospice House. Supplemental planting shall be installed when landscaping is removed, and additional evergreen landscaping shall be installed near the existing meditation garden at the end of the berm. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.

3. The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning or his designee prior to final site plan approval.
4. The maximum height of the tower, including the lightning rod, shall not exceed 124 feet from existing grade.
5. Within 30 days of the issuance of a final Certificate of Occupancy by the County Code 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 inside 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.
6. No advertising material or signs shall be placed on the tower.
7. 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.
8. A final Certificate of Occupancy shall be obtained from the James City County Code Compliance Division within two years of approval of this SUP, or the permit shall become void.
9. The tower shall be freestanding and shall not use guy wires for support.
10. 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 Director of Planning. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
11. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower as depicted on Sheet C-1 of the Master Plan.
12. 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:

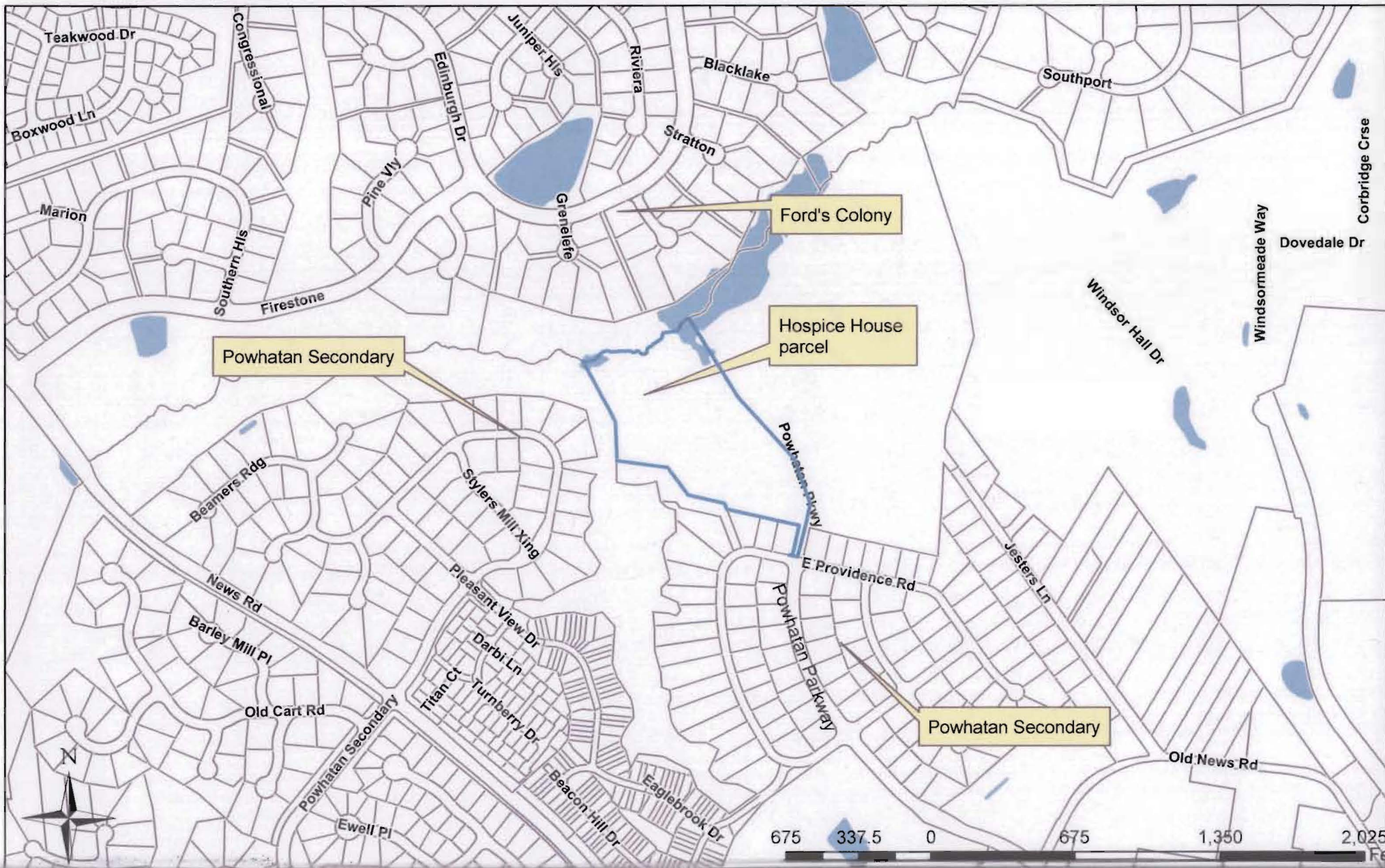
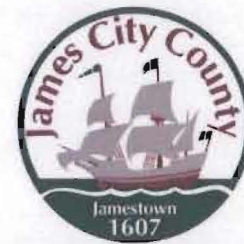
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June,
2010.

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SUP-0024-2009

Hospice House WCF



A. SUP-0024-2009 Hospice House Wireless Communications Facility Tower

Mr. Poole stated that due to his affiliation as a member of the Board of Directors for Hospice House, he will be abstaining from voting on this proposal.

Mr. Purse stated that Ms. Gloria Freye has applied for a Special Use Permit to allow for the construction of a 124 foot wireless communications facility located at 4445 Powhatan Parkway. The parcel is zoned R8, Rural Residential, and has a Comprehensive Plan designation of Low Density Residential and Conservation Area. The proposed tower would be located on the same parcel as the Hospice House of Williamsburg, which is located internal to the Powhatan Secondary subdivision. The proposed site of the tower will be located in a low-lying area near the Resource Protection Area (RPA). The applicant is proposing a 100 foot buffer around the tower site that will remain undisturbed, except for the tower site and the access road. The applicant is offering to provide additional buffers to screen the access drive and has proposed to preserve the berm in front of the Hospice House. The trees surrounding the site are between 60 and 70 feet in height. The proposed tower is approximately 200 feet from the Hospice House and approximately 490 feet from the closest home in the Powhatan Secondary Subdivision. The closest home in Ford's Colony appears to be approximately 550 feet away to the north.

The combination of topography, tree cover, and the distance from the site to the neighborhood makes the proposed tower visible from a number of locations in Powhatan Secondary, including Powhatan Parkway, West Providence Road, East Providence Road, Cold Spring Road, Old Regency Road, Powhatan Secondary, Settlers Mill Crossing, and parts of Pleasant View Drive. The tower is not anticipated to be visible from any of the streets in Ford's Colony, but the applicant was informed by at least two property owners that it was visible from their backyards.

Performance Standards indicate that towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. Because of the topographical changes between different phases, some of the homes are at a grade near the tops of the trees on the Hospice House property and will therefore be looking directly at the tower.

While the applicant has researched a number of potential sites in this part of the County and has demonstrated a need for additional coverage, the proposed tower will have a visual impact on the surrounding area. 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 that the Planning Commission recommend denial of this application to the Board of Supervisors. Mr. Purse stated that should the Planning Commission wish to recommend approval of this application, staff recommends including the conditions attached to the staff report.

Mr. Krapf opened the public hearing

Ms. Gloria Freye of McGuire Woods gave a presentation on behalf of the applicant, Ntelos. Representatives from Ntelos were also present for questions. Ms. Freye showed pictures of the tower, which is a slick stick design. She showed diagrams of the areas that are currently

covered by Ntelos and the area where the proposed tower would cover. She stated that additional coverage is needed due to the fact that there are more cell phone-only users than land line-only users. Individuals use their cell phones for wireless services, internet connections and wireless data. Ms. Freye stated that residents in Powhatan Secondary and Ford's Colony expressed their concerns about getting more reliable wireless coverage. She stated that AT&T and Sprint will be co-locating at this proposed tower and have the same issues regarding gaps in coverage. She stated that research has been done as to what would be the best site with the most coverage and it was determined that the Hospice site was the best location. Ms. Freye noted that there are difficulties in finding a site that is close enough to neighborhoods for service and on a site that is non-residential in use and has adequate buffers. She stated that this site comes the closest to substantially meeting the County's wireless communications goals, guidelines, and standards.

The Hospice House property is approximately eleven acres, heavily wooded, and is separated from the residential neighborhood by RPA and a common stormwater area, neither of which can be developed. This site meets the coverage needs of three providers. The pole would also be located in the woods and the wires would all be self-contained. Ms. Freye stated that the residents who have a view of the pole are in the minority compared to the residents who have no view and are being served by the wireless carriers. The pole will be a stealth design. She stated that Ntelos met with and gave demonstrations to the residents of Powhatan Secondary and Ford's Colony. She also stated that all of the revenues generated by the tower would be going to Hospice House. Ms. Freye requested that the Planning Commission recommend approval of the application to the Board of Supervisors with the attached conditions that staff has provided.

Mr. Fraley expressed his appreciation for the public meetings that the applicant had held. He stated that when discussing towers he felt it was important to discuss service and the level of service as opposed to coverage. He felt it would be helpful to know the service and the level of service that will be provided by the proposed tower. He felt it was important to display the simulations with the leaves off of the trees. Mr. Fraley asked if there were any considerations given to alternative distribution systems that might be less obtrusive.

Ms. Freye answered that those systems such as Distribution Antenna System (DAS), are not designed to take the place of a main facility. They are designed for areas where there may be tall buildings or utility poles where antennas and cells can be attached. These types of systems will not work for Powhatan Secondary or Ford's Colony because there are no poles or structures to which to affix the antennas.

Mr. Fraley suggested a system where the poles would be much smaller and connected through fiber optics.

Ms. Freye stated that it was her understanding that the utilities in Powhatan Secondary and Ford's Colony were underground, and that a system such as this would introduce many poles above ground, as opposed to one pole that is proposed in this application.

Mr. Fraley stated that he believed that Ford's Colony could probably be served by three or four smaller poles that would fit in the tree line and would be less noticeable.

Mr. Henderson stated that he believed that the homeowners' association (HOA) at Ford's Colony had adopted a wireless policy that had identified some sites for antenna locations. He asked whether any of these locations were suggested by Ford's Colony, the HOA, or Realtec.

Ms. Freye stated that all the carriers involved were in discussion with Ford's Colony, but could not come to an agreement for a site that would work.

Ms. Kratter stated that the HOA had looked at some sites, but there were none that were determined as suitable.

Ms. Freye stated that this process has taken four years, but stated that due to topography, the site at the Hospice House was determined to be the best suitable. All three carriers were involved in this process. She further stated that this site meets all of the County's standards.

Mr. Henderson mentioned a prior application that was at the Windsor Meade Marketplace, which was withdrawn. He asked if there was any knowledge of the application since it was to serve the same general area that this proposal is attempting to serve.

Ms. Freye answered that she was aware of that proposal and that a representative from AT&T was present and will speak to that previous application.

Ms. Lisa Murphy spoke on behalf of AT&T. She stated that the proposal at Windsor Meade Marketplace was withdrawn because the original developer placed a restrictive covenant that would have required the developer's approval of anything over a certain height. In this case, the developer was not willing to grant the waiver.

Mr. Henderson noted that it would be helpful to have some of the sites that were investigated as being potential candidates for the cell tower, and the comparisons why the current proposed site was more suitable.

Ms. Freye mentioned the sites that were also reviewed as being potential locations. These included the radio tower site on Monticello Avenue, James City Service Authority water tank on Longhill Road, property on Windsor Meade Way, existing towers at 1118 Ironbound Road, Eastern State Hospital property at 4601 Ironbound Road, Virginia United Methodist Homes on Windsor Meade Way, Ford's Colony sites, Powhatan Enterprises at Powhatan Parkway, Granger property on Centerville Road, property at New Town, property at AIG Baker, property on Casey Boulevard, News Company on Monticello Avenue, James City County Mid-County Park, Monticello Marketplace Associates, property located at 4409 Powhatan Parkway, and property at the Hospice House.

Ms. Lisa Murphy spoke on behalf of AT&T. She displayed maps of existing sites for AT&T. She also displayed maps on coverage areas and how this proposed tower would service AT&T and fill a gap in coverage. She stated that with co-locating on this tower, there was a large area that would now have "in-building" service. Ms. Murphy showed what the tower would look like as a slick stick. She stated that the feedback that AT&T has received from

citizens is that the slick stick design is more preferred over other designs.

Ms. Connie B Reitz, 4048 Powhatan Secondary, stated that her home is one of the ones that will have the most impact should this application be approved. She stated that she prefers the slick stick design if it is approved. She would like to know how many customers this tower will serve if this application is approved.

Mr. John Reitz, 4048 Powhatan Secondary, stated that the Hospice House is a wonderful organization. From his residence, they will be looking directly at the top of the tower. He hopes that the Planning Commission considers the concerns of the residents in the area when making their decision.

Mr. Aaron Small, 108 Ewell Place, stated that he represented the Board of the Powhatan Community Services Association. He stated that approximately 10% of the 850 homeowners would be able to view the tower. He stated that some of the homeowners have concerns regarding the height of the tower, the area around the tower that will be disturbed, potential health concerns relating to a tower, and the ability to view the access road to the tower. He also stated that a petition against the tower has been signed by over 200 residents. He showed pictures of the tower that would be visible from some of the homes. Mr. Small stated that the Board of Directors for the Powhatan Community Services Association unanimously voted in opposition to this proposal.

Ms. Beth Emerson, 4052 Powhatan Secondary, stated that the proposed tower will be visible from every room in the back of their home. She was disappointed that the meeting scheduled between the applicant and the homeowners was scheduled during a storm and most residents were not able to attend, nor was it rescheduled. She expressed her concerns of the destruction of trees, disturbance of wildlife, and the destruction of the view shed.

Mr. Lawrence Beamer, 110 Powhatan Overlook, stated he did not feel that property values would be affected by this cell tower. He suggested that the Hospice House site would be a good site for the tower. He believes that the tower will be visible but that the design lends itself not to be so obtrusive. He would like to see this proposal approved.

Mr. Jim Easton, the Chairman of the Board of Directors for Hospice House, spoke on behalf of this application. He explained the level of consideration, preparation, and research that went into this proposal. He stated that the revenue that would be generated would greatly help their operations. He stated that due to limited resources, revenue such as this would take on a higher level of importance.

Ms. Cathy Chambers, a realtor in the James City County area, stated she is a resident of 4063 Powhatan Secondary. This tower will be visible from her home. She would not purchase a home knowing that a cell tower would be nearby.

Mr. Krapf closed the public hearing.

Mr. Fraley stated his concerns about dealing with cell towers on an individual basis. He

expressed the need for a master plan for cell towers for the County. He stated that in the updated Comprehensive Plan there is an action item that states the need for a master plan. Mr. Fraley would like to explore the options of other types of services, which may be more costly. He stated that there are ways to obtain coverage with unobtrusive towers. He expressed the need to explore other wireless communications needs such as medical and emergency services. He agrees that the slick stick design is less obtrusive than other designs. Mr. Fraley stated that with this particular proposal, he does find that the proposed tower will be intrusive to the surrounding communities. He felt that this proposal is not compatible with the surrounding areas. He expressed his concerns over the disturbance of the land. Mr. Fraley agrees with staff's recommendation for denial.

Mr. Krapf felt that this proposal is not in compliance with the Comprehensive Plan nor does it follow the standards for wireless communication facilities as adopted by the Board of Supervisors. He felt it was intrusive on the viewshed of a number of citizens near the site. He agreed for the need for a master plan for communication towers. He also supports staff's recommendation.

Mr. Billups stated he found this application to be incomplete. He expressed his concerns over the fact that what is proposed might not be what will actually be at the site. He stated he cannot support this application at this time.

Ms. Kratter stated she could support a delay until more concrete standards are established for evaluating these structures. She was concerned that specifically pointing out the tower makes it more noticeable than if it were not highlighted at all. She stated that on the other hand, there were many people who were directly affected by this tower. Ms. Kratter expressed her concerns over consistency in the decisions being made regarding towers.

Mr. Henderson expressed his concern over specific guidelines when reviewing proposals for cell towers. He felt that while there were some negatives to this proposal, there are some positives in providing service to an area that needs coverage. He felt it might be beneficial to provide acceptable sites so that applicants are aware of the options. Mr. Henderson expressed his concerns that a master plan is needed for towers also.

Mr. Reese Peck stated that staff has said that this proposal is not consistent with the Comprehensive Plan and does not meet the performance standards established. It is important to take into consideration the impact to the homeowners in the area. He does agree with the need for a more comprehensive approach to wireless communication facilities.

Mr. Fraley moved to approve staff's recommendation for denial of the application, with a second from Mr. Billups.

In a roll call vote, the Planning Commission approved staff's recommendation for denial. (6-0, AYE: Henderson, Billups, Fraley, Kratter, Peck, Krapf, Abstained: Poole)

**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
MAY 26,1998**

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

A. Collocation and Alternatives Analysis

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

B. Location and Design

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

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

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

Proposed Location of Tower	Impact Criteria
a. Within a residential zone or residential designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
b. Within a historic or scenic resource area or within a scenic resource corridor	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
c. Within a rural lands designation in the Comprehensive Plan	<p>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.</p> <p>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</p>
d. Within a commercial or in an industrial designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.

Notes for the above table:

1. *Exceptions to these criteria may be made on a case by case basis where the impact of the proposed tower is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.*
2. *A tower will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.*
3. *Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.*

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

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

C. Buffering

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

SUP-0024-2009 Hospice House Wireless Tower November 9, 2009 Balloon Test visibility



Balloon visible



**HEIGHT WAIVER-0002-2010. BUSCH GARDENS GERMANY ATTRACTION
Staff Report for the June 8, 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

Not required
June 8, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Ronnie Orsborne, LandMark Design Group

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

Proposal: New attraction consisting of a single tower not to exceed 260 feet above finished grade (finished grade for this application is defined as 80 feet above sea level).

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

Tax Map/Parcel No.: 5140100009

Parcel Size: Project will affect a small area of the park's approximately 400-acre parcel

Zoning: No change in zoning proposed

Comprehensive Plan: Limited Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this height limitation waiver along with the associated conditions found in the resolution.

Staff Contact: Leanne Reidenbach Phone: 253-6685

PROJECT DESCRIPTION

Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment for a height limitation waiver to permit a new single tower attraction in Busch Gardens. The attraction is proposed to reach a height of 260 feet above finished grade and would be located in the Germany area of the park by the current location of the Der Katapult ride. The attraction exceeds the 60-foot height limitation imposed by the M-1 Zoning District.

SURROUNDING ZONING AND DEVELOPMENT ANALYSIS

To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter's Grove County Road, also owned by Busch Properties. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2, General Industrial. To the northeast of the park are the Route 60 and Route 143 roadways, sections of rail line owned by CSX Railroad, and the Williamsburg Country Club and Golf Course. To the east and southeast of the theme park is Grove, which contains residentially zoned properties.

HEIGHT WAIVER

On property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board with the issuance of a height limitation waiver. The Germany attraction is proposed to reach a height of 260 feet above finished grade (approximately 340 feet above sea level). As a point of comparison, the recently constructed Griffon roller coaster reaches a maximum height of 210 feet above grade at its highest point (approximately 280 feet above sea level).

The proposed location of the attraction and projected sight lines are shown on the enclosed aerial photo and map. The applicant conducted an unofficial balloon test in April to help evaluate potential visual impacts of the tower. As a result of that test and the balloon's visibility from the adjacent Kingsmill neighborhood, the applicant adjusted the proposed location of the tower so it would be less visible from Kingsmill and conducted a second balloon test on May 17. Adjacent property owners and the Kingsmill Community Service Association were notified of this test, balloon test photos are included in Attachment No. 2, and simulations are included in Attachment No. 3. The balloon was clearly visible from Route 60 adjacent to the Busch Gardens' parking lot, portions of Route 143 near the parking lot, the I-64 Grove interchange, and Route 60 approaching from Route 199. Existing Busch Gardens attractions and roller coasters are already visible from each of these locations and the location of the tower is more than 2,000 feet from Route 60 and more than 1,500 feet from Wareham's Pond Road in Kingsmill. The majority of the single tower would be about seven feet in diameter with a maximum of 18 feet in diameter for a portion and any lighting higher than 60 feet would be prohibited through a proposed condition. The slenderness of the tower reduces its visual impact when compared to typical scaffolding towers or roller coaster structures. The only exception to the lighting condition is a flashing red or white beacon that the Federal Aviation Administration will likely require to be located at the top of the tower because it exceeds 200 feet in height.

The applicant also held a community meeting on May 26 to discuss the proposal with Kingsmill residents. Noise impacts were noted as a concern and the applicant has conducted a sound projection evaluation for the proposed attraction. Results from decibel tests conducted by an outside consulting firm demonstrated that noise highs from the ride would range between 43 and 53 decibels within the Kingsmill neighborhood with hourly averages between 26 and 36 decibels. As a point of reference, normal conversations range between 50 and 60 decibels. Given the distance of the attraction from the Kingsmill neighborhood, the pre-existing noise from the theme park, and the recent removal of the Big Bad Wolf coaster, staff does not believe the attraction will contribute significant additional noise impacts.

HEIGHT WAIVER ANALYSIS

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

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60 feet;
Staff comment: The attraction is proposed very near the center of the amusement park, in a conscious effort to minimize its audio and visual impacts. The nearest park boundary is roughly 850 feet from the expansion, which is well in excess of what is required by the Zoning Ordinance.
2. Such structure will not obstruct light from adjacent property;
Staff comment: Given the distances to the Busch Gardens property boundary lines and the relatively small mass of the proposed tower in relation to the overall site and operation, Planning staff finds that the tower will not obstruct light from adjacent properties.
3. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
Staff comment: The closest area of historic interest is Carter's Grove Country Road, which is roughly 1,200 feet from the site of the tower. The nearest residential development is Kingsmill, which is roughly 1,600 feet from the tower. Staff drove through areas closest to the theme park during the balloon test. The balloon was not visible (see attached photo) during the test; however, the applicant's photo simulations indicate the tower may be slightly visible from the intersection of Wareham's Pond Road and maintenance road for the Woods Course. The balloon was blocked by the significant distance, existing buffer, and tree cover between Busch Gardens and Kingsmill and the portion of the tower that may be visible based on the photo simulation is below the treeline and does not create an obvious eyesore. Based on these observations, Planning staff finds that the proposed lighting will not impair the enjoyment of nearby historic attractions, areas of significant historic interest, or nearby developments.
4. Such structure will not impair property values in the area;
Staff comment: The Real Estate Assessments department indicated that the region immediately adjacent to the subject site has experienced stable or increasing property values over the last several years, even with the addition of other park attractions. The Director of Real Estate Assessments also indicated that his office had not seen any market changes in adjacent residential areas attributable to the proximity to Busch Gardens. As such, his opinion is that the proposed tower will not negatively affect the property values.
5. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;
Staff comment: The Fire Department indicated that they had no concerns with the proposed tower.
6. Such structure will not be contrary to the public health, safety, and general welfare.
Staff comment: Based on the current proposal and supporting information submitted by the applicant, staff believes the proposed tower attraction will not unduly or adversely affect the public health, safety, or general welfare.

PUBLIC IMPACTS

1. Environmental Impacts, Utilities, and Traffic

Staff Conclusions: The proposed tower will have no or minimal impacts on the environment, utility service, or traffic generation. The tower is proposed to be located in an area that is already largely impervious and is not anticipated to increase the average daily trips to or from the site.

Comprehensive Plan

Land Use Map

Designation	<p><i>Limited Industry (Page 154):</i> Land included in this designation generally are within the Primary Service Area and used for warehousing, office, and service industries. Parcels require access to arterial roads, public water and sewer, nearby police and fire protection, and adequate buffers to residential developments</p> <p>Staff Comment: The proposed attraction is within an existing theme park which meets the general site characteristics contained within the 2009 Comprehensive Plan. Particularly important with this application is the adequate buffer to the nearby Kingsmill residential development.</p>
Development Standards	<p><i>Compatibility (a)-Page 154:</i> For Limited Industry areas, dust, noise, odor, and other adverse environmental effects (but not size) are primary considerations for determining whether land uses are acceptable in these areas.</p> <p><i>Environmental protection (a)-Page 154:</i>Protect environmentally sensitive resources including... historic and archaeological resources, designated Community Character Corridors and Area, and other sensitive resources by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers, and screening to adequately protect the resource.</p> <p>Staff Comment: The location of the proposed attraction internal to the park use the park’s existing buffers to provide screening from Kingsmill and some areas along Route 60 and Route 143. The results of the balloon test and sound projection studies were discussed previously in this report and staff believes the location helps mitigate some of these impacts. The environmental impacts linked to this proposal will be relatively small given the proposed location for the tower is in an area of an existing ride and is already impervious. The tower itself and queuing building will have relatively small footprints.</p>
Goals, strategies and actions	<p><i>Action #1.3.2-Page 164:</i> Communicate with adjacent jurisdictions regarding development plans that have potential impacts on adjacent localities and public facilities. Work with them to coordinate plans and to identify and mitigate areas where there are impacts.</p> <p>Staff Comment: York County was sent a copy of the plan for a courtesy review and notified of the balloon test and the public hearing dates through adjacent property owner notifications. No comments were received as part of any courtesy review or notification.</p>

Community Character

Goals, strategies and actions	<p><i>Strategy #1.1-Page 97:</i> Preserve and enhance entrance corridors and roads that promote the rural, natural, or historic character of the County.</p> <p><i>Action #1.3.1-Page 99:</i> Encourage vistas and other scenic resources to be protected and encourage building, site, and road designs that enhance the natural landscape and preserve valued vistas. These designs should also minimize any potential negative impacts with regard to noise and light pollution and other quality of life concerns.</p> <p>Staff Comment: During the balloon test, the impacts of the proposed attraction were carefully evaluated along the Route 60 Community Character Corridor. Much of Busch Gardens is already visible from Route 60 both approaching from Route 199 and adjacent to the park’s parking lot. The proposed location of the tower is near the center of the park, which reduces it’s visual impact to Route 60 near the parking area and would be less visually intrusive than coasters and attractions that are located closer to the front of the park. Limitations on lighting and paint colors will further help mitigate visual impacts of the proposed tower.</p>
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Economic Development

Goals, strategies and actions	<i>Strategy #1.6-Page 31:</i> Support the tourism industry and promote James City County as an historic and unique destination within the region. Staff Comment: Adding new attractions to Busch Gardens creates additional marketing for the theme park and often results in an increase in visitors to the park to try out the new attraction. By supporting new attractions within the park, the County is in a way encouraging tourism in the area.
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Comprehensive Plan Staff Comments

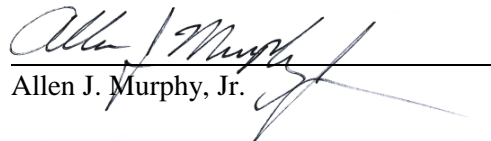
An amusement park is a service industry, albeit not a traditional one. The proposed attraction will not create dust or odor and any noise will not be significant when added to existing noise from the theme park since the attraction will not operate at different hours than the rest of the park’s attractions. Since the attraction is near the center of the park, the visual impacts of the attraction on adjacent properties and the Route 60 Community Character Corridor are relatively minimal.

RECOMMENDATION

Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this height limitation waiver along with the associated conditions found in the attached resolution.

Leanne Reidenbach

CONCUR:



Allen J. Murphy, Jr.

LR/gb
HW-02-10BG-Atrn.doc

ATTACHMENTS:

1. Resolution
2. May 17, 2010, balloon test photographs
3. Bound height waiver submittal

RESOLUTION

CASE NO. HW-0002-2010. BUSCH GARDENS GERMANY ATTRACTION

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, Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment, LLC for a Height Limitation Waiver to allow for the installation of a single tower attraction that is approximately 260 feet above grade (the "Attraction"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0002-2010; and

WHEREAS, the location of the proposed Attraction is depicted on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines" (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, hereby approve Height Limitation Waiver HW-0002-2010 to grant the applicant a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower up to 260 feet tall as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower attraction (the "Attraction") up to 260 feet above finished grade as generally shown on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines." For the purposes of this application, "finished grade" is defined as 80 feet above sea level.
2. **Lighting:** All lighting locations and specifications shall be shown on future development plans. Unless otherwise required by the Federal Aviation Authority, installation of any lights on the Attraction at points above 60 feet in height or installation of lights which direct light upward to illuminate any part of the Attraction or surrounding theme park areas shall be prohibited, with the sole exception being that landscape-shielded "wall-washer" type fixtures may be installed to illuminate vertical (solid) wall surfaces related to the Attraction.

3. **Color Scheme:** The color of the Attraction at any point at or above 60 feet above finished grade shall be muted and designed to minimize visual impacts. A color scheme plan shall be submitted to, and approved by, the Director of Planning for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Attraction.
4. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this Height Limitation Waiver or this Height Limitation Waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
5. **Severance Clause:** This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2010.

HW-02-10BG-Atrn_res

SPECIAL USE PERMIT-0012-2010. Camp Road Tower Development Corporation Wireless Tower

Staff Report for the June 8, 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

May 5, 2010, 7:00 p.m.
June 8, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Byron Scyzgial, Georgia Towers, LLC

Land Owner: Randolph Gulden

Proposal: To allow for the construction of a 199-foot-tall (195-foot tower with a four-foot lightning rod) wireless communications facility "WCF" on the subject property. Wireless communications facilities are specially permitted uses in the A-1, General Agricultural zoning district.

Location: 126 Camp Road

Tax Map Parcel No.: 1020100012

Parcel Size: 1.22 acres out of 87.2 acres

Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands

Primary Service Area: Outside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The visual affect of the tower will be discreet in most locations and should not adversely impact the nearby scenic resources. Because of the existing topography and tree cover in the area, the tower should only be visible from the rear section of Camp Road. This tower will provide needed wireless coverage to an underserved area of the County. Staff recommends the Board of Supervisors approve the Special Use Permit (SUP) application for the Camp Road tower with the attached resolution.

Staff Contact: Jason Purse, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On May 5, 2010, the Planning Commission voted 6-0 to recommend approval of this application.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Byron Scyzgial has applied for an SUP to allow for the construction of a 199-foot wireless communications facility (195-foot tower with a four-foot lightning rod) located at 126 Camp Road. The parcel is zoned A-1, General Agricultural, and has a Comprehensive Plan designation of Rural Lands.

The proposed tower would be located on the same parcel as an active farm, which is currently enrolled in the Mill Creek Agricultural and Forestal District (AFD). The proposed tower will not affect the ability of the property owner to continue farming on the parcel. In the Mill Creek AFD, the ordinance allows for up to five acres of a property to be utilized as a tower site. The proposed tower site is 1.22 acres and therefore in compliance with the AFD requirements.

PUBLIC IMPACTS

Environmental

Watershed: Diascund 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

A publicly advertised balloon test took place on April 13, 2010, and the applicant has provided photo simulations of the proposed tower location from a number of different locations around the vicinity of the site, which have been provided for reference.

The proposed site of the tower will be located in the back rear of the property, along the existing tree line. The applicant is proposing a 100-foot buffer around the tower site that will remain undisturbed, except for the tower site and the access road. Existing trees will be used to buffer the tower from the rear of the property; however, the existing farm is currently located on-site to the North of the tower location. The topography and tree cover between the tower and Richmond Road will adequately screen the tower from the public right-of-way; however, some adjacent property owners along Camp Road will be able to see the tower. During the balloon test, staff did not find the balloon visible from any of the other public rights-of-way in the vicinity of Camp Road. The visual impact of the tower appears to be limited to the rear portion of Camp Road.

Federal Aviation Administration (FAA) requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) must be marked and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and with paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium-intensity white strobe lighting during the day. Because this extension would be less than 200 feet, a marking system would not be required by the FAA.

COMPREHENSIVE PLAN

Land Use Map

Designation	<i>Rural Lands (Page 152):</i> Land uses in this designation are farms, forests and scattered houses, exclusively outside of the Primary Service Area (PSA). Appropriate primary uses are agricultural and forestall activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.
	Staff Comments: The inclusion of a WCF on the site is a secondary use. The limited development associated with the WCF will not have an adverse impact on the ability of the farm to continue to meet the goals of the land use designation.
Development Standards	<i>Rural Land Use Standard No. 1B-Page 152:</i> Site non-agricultural/non-forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/forestal uses, open fields, and important agricultural/forestal soils and resources.
	Staff Comments: The proposed tower location will not impact the use of the land.
Goals, strategies, and actions	<i>Action No.1.6.1.6-Page 168:</i> Protect farming and forestry uses from conflicting activities by encouraging buffers and open space design for developments.
	Staff Comments: The proposal for the new WCF involves minimal land clearing and will not adversely impact farming activities taking place on this land. This application meets the goals, strategies, and actions of the Land Use section of the Comprehensive Plan.

Community Character

General	<p><i>WCFs-Page 96:</i> In 1998, the increasing need for new WCFs prompted the County to establish Performance Standards for WCFs and a new division in the Zoning Ordinance to address them. Through the use of the performance standards and the ordinance, the County has sought to accomplish the following:</p> <ul style="list-style-type: none"> ◆ Keep the number of WCF sites to a minimum; ◆ Minimize the impacts of newly approved WCFs; and ◆ Expedite the approval process for new WCF applications. <p>The policy and ordinance strive to effectively camouflage new WCFs in many areas of the County in order to reduce their incompatibility with and impact on adjacent development. Many new towers have been either constructed below the surrounding tree line or built as a camouflaged structure to blend in with the surrounding natural and man-made environment.</p> <p>Staff Comments: Co-location options are encouraged in order to mitigate impacts created by clustered, single-use towers. This WCF will provide co-location opportunities for three other servers to accommodate a total of four wireless carriers. The tower will have a limited visual impact along a portion of Camp Road, but is screened by the topography and surrounding trees and will provide wireless service in an area that is currently underserved.</p>
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This application, as proposed, is in general compliance with the Comprehensive Plan. While the tower will have a limited visual impact on Camp Road, the impact is minimized by the location. Given the existing tree buffer, topography, the distance from the surrounding residential areas, staff concurs that the applicant has selected an appropriate location for this tower, to provide wireless service to an underserved area.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (see Attachment No. 1).

Section 24-124 of the Zoning Ordinance states that “In considering an application for a special use permit for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the ‘Performance Standards for Wireless Communications Facilities.’ 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 the required SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. Since this new tower has the ability to accommodate four service providers, this standard has been met.

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.

Standard A3 recommends that the site be able to contain at least two towers on site to minimize the need for additional towers elsewhere. The applicant is proposing a tower which can accommodate four servers, but is not proposing a second tower. Locating a second tower on the site would make the WCF 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 tower is located within a 100-foot buffer area on the site, and the parcel is also enrolled in the Mill Creek AFD which further prohibits the development of the property. The existing topography between this parcel and Richmond Road, and the development limitations on this parcel should adequately screen this tower from additional rights-of-way. Therefore, staff finds that this standard is met by the application.

Performance Standard B2(a) states that towers should be located in a manner that uses a camouflaged design or has minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors. The proposed tower should only be visible from the rear section of Camp Road. The visual affect of the tower will be discreet and should not adversely impact the nearby scenic resources.

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 proposed location of the tower is within a 100-foot-wide buffer, however, not all of the buffers contain trees. Given the size of the parcel, the trees on the opposite side of the property help further screen the tower, and staff is comfortable with the location of the tower on the site.

RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The visual affect of the tower will be discreet in most locations and should not adversely impact the nearby scenic resources. Because of the existing topography and tree cover in the area, the tower should only be visible from the rear section of Camp Road. This tower will provide needed wireless coverage to an underserved area of the County.

Staff recommends approval of the SUP application for the Camp Road tower with the attached resolution.

Jason Purse

CONCUR:



Allen J. Murphy, Jr.

JP/nb
CampRdWCF.doc

ATTACHMENTS:

1. Resolution
2. Unapproved minutes from the May 5, 2010, Planning Commission Meeting
3. Performance Standards for WCFs Policy
4. Preliminary Site Plan
5. Propagation Map Showing Existing Area Coverage
6. Photo Simulations
7. Location Map

RESOLUTION

CASE NO. SUP-0012-2010. CAMP ROAD TOWER DEVELOPMENT

CORPORATION WIRELESS TOWER

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. Byron Scyzgial of Georgia Towers LLC has applied for an SUP to allow for a 199-foot wireless communications facility; and

WHEREAS, the proposed tower is shown on a preliminary site plan, entitled "Kings Corner" dated March 8, 2010; and

WHEREAS, the property is located at 126 Camp Road on land zoned A-1, General Agricultural, and can be further identified as James City County Real Estate Tax Map/Parcel No. 1020100012; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 5, 2010, recommended approval of this application by a vote of 6-0; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0012-2010 as described herein with the following conditions:

1. A maximum of one wireless communications tower shall be permitted at the property located at 126 Camp Road, further identified as James City County Real Estate Tax Map No. 1020100012 ("Property"). The tower and supporting equipment shall be located and designed as generally shown on the overall site layout plan, prepared by BC Architects Engineers, titled "Kings Corner" and dated March 8, 2010 ("Master Plan").
2. The tower shall be located on the Property in a manner that maximizes the buffering effects of existing trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
3. The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning or his designee prior to final site plan approval.
4. The maximum height of the tower, including the lightning rod, shall not exceed 199 feet from existing grade.

5. Within 30 days of the issuance of a final Certificate of Occupancy (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 inside 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.
6. No advertising material or signs shall be placed on the tower.
7. The tower shall be designed and constructed for at least four users and shall be certified to that effect by an engineering report prior to the site plan approval.
8. A final 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.
9. The tower shall be freestanding and shall not use guy wires for support.
10. 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 Director of Planning. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
11. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower as depicted on Sheet C-1 of the Master Plan.
12. 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 8th day of June, 2010.

CampRdWCF_res

**SPECIAL USE PERMIT-0009-2010. USA Waste of Virginia Landfills, Inc. Renewal
(Amendment to SUP-0020-2005)**

**SPECIAL USE PERMIT-0010-2010. Branscome, Inc. Borrow Pit Renewal
(Amendment to SUP-0019-2005)**

Staff Report for the June 8, 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 Center

May 5, 2010, 7:00 p.m.
June 8, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III

Land Owner: USA Waste of Virginia Landfills, Inc. (SUP-0009-2010) and Branscome, Inc. (SUP-0010-2010)

Proposed Use: Continued operation of a borrow pit (i.e., a surface mine for sand and clay)

Location: 700 and 750 Blow Flats Road

Tax Map/Parcel Nos.: (60-3) (1-2) is the Branscome-owned property
(60-3) (1-3) is the USA Waste of Virginia, Inc. property

Parcel Size: Approximately 281 acres (Branscome property) and approximately 139 acres (USA Waste of Virginia property), for a total of approximately 420 acres

Zoning: M-2, General Industrial

Comprehensive Plan: General Industrial

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends the James City County Board of Supervisors approve the Special Use Permit (SUP) renewals for both parcels, with the attached conditions.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on May 5, 2010, by a vote of 6-0, the Planning Commission recommended approval of these applications to the Board of Supervisors.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

PROJECT HISTORY

For over 40 years, Henry S. Branscome Inc. has operated a borrow pit in the southernmost portion of the County. Branscome utilizes the borrow pit as an area where sand and clay are mined for use as fill material in off-site building and roadway construction. USA Waste of Virginia Landfills, Inc. uses the borrow pit to mine clay material for use at a local landfill. In the M-2, General Industrial, Zoning District, “crushed stone, sand, gravel, or mineral mining; storage and distribution of same” is a specially permitted use. Two SUPs (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. At that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the permits as a condition of approval. In 1997, the SUPs were reevaluated and renewed for a subsequent three years. In 2000 and again in 2005, the SUPs were once again renewed with a five-year time limit as a condition of the approval. The two existing SUPs will expire on September 13, 2010. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two SUPs without any time limit.

PROJECT DESCRIPTION

The facility currently operates up to six days a week during daylight hours. The total size of the parcels is approximately 420 acres; however, previous SUP conditions limit the amount of area that can be disturbed at any given time to 40 acres per parcel. The accompanying exhibit indicates the following:

- 213 acres are covered by the State Mining Permit (58 + 155)
- 41 acres are currently disturbed (9 + 32)
- 5.2 acres are currently being mined (all on the Branscome parcel)
- 15.7 acres are to be mined in the next 12 months (9.2 + 6.5)
- 13.8 acres have been mined since the last SUP renewal (6.9 + 6.9)
- 26.5 acres have been reclaimed and associated bonds have been released since the last SUP renewal (all on the Branscome parcel)

The applicant had previously proposed to create tidal wetlands on the three western peninsulas on the USA Waste of Virginia Landfills, Inc. property. The process of creating tidal wetlands would involve mining to an elevation of 15 feet to mean sea level on portions of the peninsulas that would become inundated by water during high tide. The Environmental Division is receptive to the idea and will oversee and provide guidance set forth by conditions of the SUP. The largest peninsula to the south has not been previously mined and is set aside for future mining operations. The two other peninsulas have been previously mined and were both reclaimed and were released of their bonds by the State in 2001. In order to re-mine the two smallest peninsulas, the mine operators would have to apply for and be approved for an amendment to their current State mining permit. Per an existing SUP condition, the Office of Economic Development will aid the Environmental Division in delineating the limits of the tidal wetlands to ensure that there will be viable land for future economic development. The limits of the tidal wetlands will be delineated over time to meet the demands of the market and possible changing environmental regulations.

Access

Access to the site is provided by a private road to the southwest of the Wal-Mart Distribution Center addition. This road, which is approximately 5,300 feet in length, has a 30-foot easement and a travel surface of 21B stone built to Virginia Department of Transportation (VDOT) specifications. Trucks access this gravel road from an existing commercial entrance located at the end of Blow Flats Road. The applicant estimates that the site generates 70 truck trips on an average day and approximately 120 truck

trips on a peak day. Historical data from the company has shown the busiest month generated approximately 4,000 total trips and an average 160 daily trips. The north side of Blow Flats Road contains approximately 20 residences and is characterized by front yards with shallow setbacks. The south side of the road is primarily vacant and is part of the Greenmount tract.

During the 1992 public hearing process, homeowners along Blow Flats Road were very concerned over the amount of truck traffic that uses the road. As a result of those concerns, the Board requested the applicant to look at different access alternatives. These included using the adjacent BASF property and Greenmount property as additional means of ingress and egress to the site. Those property owners, however, did not agree to such a proposal. At the request of the neighborhood, alternatives such as constructing a separate pedestrian trail and bike path, and making roadway and intersection improvements were also analyzed. However, according to VDOT, Blow Flats Road is substandard in that there is insufficient right-of-way and pavement width to accommodate such improvements (the right-of-way is currently 30 feet while VDOT standards now require 50 feet and the pavement width is 20 feet while VDOT requires a minimum of 22 feet). Consequently, access was not substantially improved. The one improvement that did result from the 1992 public hearing process was that VDOT established a 25 m.p.h speed limit on Blow Flats Road. The speed limit for the road was previously unposted and therefore had a default limit of 55 m.p.h. No further public interest has been expressed to staff since the original public notification of the current request for renewal. As part of the notification process, letters were sent to all property owners along Blow Flats Road.

As part of this renewal application, the applicant expressed an interest in using the Greenmount property and future Greenmount Parkway for future access. While no formal request has been made, County staff expressed no objection and has encouraged the applicant to revisit discussions with the property owner. Initial discussions with VDOT staff indicate no objections, but noted a revised CE-7 would be required and access into the property may have to be modified when the proposed roadway is expanded from two lanes into four. Additionally, VDOT may request or require the removal of the existing access from Blow Flats Road.

Surrounding Development and Zoning

The site is bordered on the east and south by Skiffe's Creek while Wood Creek is located to the west of the site. Property to the north of the site is zoned M-2, General Industrial, and is the site of the Wal-Mart Distribution Center. There are several residences along Blow Flats Road as previously described; however, these homes are on property zoned M-2 as well. During the 1992 public hearings, the homeowners were very concerned over the potential negative effects the truck traffic would have on the area. As stated above, these concerns involved pedestrian safety, noise, and dust. Examples of currently permitted uses in the M-2 district include breweries, drop-forge industries, industries that manufacture metals, glass, automobiles, machinery, electronic devices, etc. Any of these proposed uses, including a borrow pit, have the potential to generate various levels of noise, truck traffic, dust, and noxious emissions. Since the last SUPs were issued, Wal-Mart has completed construction on an additional one-million-square-foot bulk distribution facility. Given the industrial nature of this use, the heavy truck traffic generation and the distance from the borrow pits, staff believes the two uses are compatible. Staff feels that, with a feasible land reclamation plan, a borrow pit has no more of a negative impact on adjacent land than other permitted M-2 uses. Therefore, staff feels the proposal, with the proposed conditions, is compatible with the surrounding zoning.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Skiffe's Creek

Staff Comments: Condition No.7 (SUP-0009-2010). The Environmental Division supports the idea of creating tidal wetlands on the USA Waste of Virginia Landfills, Inc. property.

Condition No.12. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two SUPs without any time limit in order to reduce administrative tasks for the businesses. The Environmental Division prefers to include a time limit on the SUP. The regulations regarding environmental protection change constantly and having an opportunity periodically to review the conditions of the operation allows the County to address these changes, which is critical for the potential future redevelopment of the property for economic development purposes. The sunset provision has been set at five years from the date of approval. Staff is comfortable with extending the time period from five years to eight years and is now proposing the expiration date be set at December 31 of the renewal year (2018).

Public Utilities

The site is served by public water and sewer.

JCSA Staff Comments: JCSA has reviewed the proposals and has no comments.

Traffic

Staff Comments: Condition No. 10. VDOT has noted that there is an active VDOT Land Use Permit covering the use of the existing entrance and any maintenance of Blow Flats Road required due to the permitted hauling activities. This permit expires October 24, 2010. VDOT staff has recommended a condition of the renewal be the requirement of the applicant to apply for an extension of their existing VDOT Land Use Permit for a time period equal to the duration of the permitted use granted by the County.

COMPREHENSIVE PLAN

Land Use

Designation	<p>General Industry (Page 154): Areas located within the Primary Service Area (PSA) that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses.</p> <p>Staff Comments: A borrow pit can create noise and dust and, if not properly regulated, can prove to be an environmental hazard. A borrow pit also generates substantial heavy truck traffic. Staff believes that this property is well suited to accommodate this type of use because it is located in a relatively undeveloped portion of the County which is planned for industrial uses that would generate similar impacts. The residential properties on Blow Flats Road are also designated for Mixed Use and General Industrial. Additionally, proximity to an arterial road which is also a primary highway should minimize adverse traffic impacts. Furthermore, a condition is included requiring transitional screening along the perimeter of the site.</p>
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Economic Development

Goals, Strategies, and Actions	<p>Strategy No. 1.1 (Page 28): Encourage a balanced mixture of commercial, industrial, and residential land uses in a pattern and at a pace of growth supportive of the County’s overall quality-of-life, fiscal health, and environmental quality.</p> <p>Action No. 1.1.1 (Page 28): Maintain an active and effective Economic Development strategy, which includes existing business retention and expansion, the formation of and assistance to new business, and new core business recruitment.</p> <p>Strategy No. 1.5 (Page 30): Encourage infill development, the redevelopment of existing parcels, and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.</p>
	<p>Staff Comments: This project supports the continuation of an established County business in an existing industrial park. Additionally, Condition Nos. 7 and 8 are intended to preserve opportunities for future development.</p>

Environment

Goals, Strategies, and Actions	<p>Action No. 1.1.1 (Page 76): Promote development and land use decisions that protect and improve the function of wetlands and the quality of water bodies.</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 and landward of other RPA components.</p>
	<p>Staff Comments: Retaining the condition that requires renewal of this SUP allows staff the opportunity to monitor environmental impacts, including water quality, and erosion.</p>

Staff Comments:

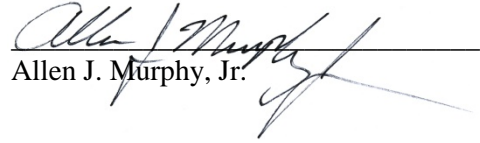
Staff has drafted proposed SUP conditions that are designed to keep the property above the floodplain level except in specific areas where tidal wetlands are to be created, prevent erosion and sedimentation damage, keep the property screened and wooded, protect sensitive environmental areas, and prohibit unusable fill. Staff believes that for these reasons, use of this site as a borrow pit, with the proposed conditions, would not prohibit the future use for conventional industrial development.

RECOMMENDATION

Staff finds the proposal consistent with the Comprehensive Plan Land Use Designation and compatible with surrounding properties and zoning. For these reasons, staff recommends the James City County Board of Supervisors approve the SUP renewals for both parcels, with the attached conditions.

Kathryn Sipes

CONCUR:



Allen J. Murphy, Jr.

KS/nb
SUPs09_10_2010.doc

ATTACHMENTS:

1. Planning Commission Minutes
2. Location Map
3. Sup Conditions for Sup-0009-2010
4. Sup Conditions for Sup-0010-2010
5. Map of Both Parcels Delineating Mining Areas Dated April 2005 (Under Separate Cover)

RESOLUTION

CASE NO. SUP-0010-2010. BRANSCOME, INC. BORROW PIT RENEWAL

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same, is an SUP in the M-2, General Industrial, Zoning District; and
- WHEREAS, the applicant has requested to amend existing SUP-0019-2005 to allow for the continued operation of a borrow pit; and
- WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and
- WHEREAS, the property is located at 750 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100002; and
- WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0010-2010 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on-site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals, and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled, "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.

7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only “inert material” shall be used as fill during the reclamation of the property. For the purposes of the SUP “inert material” shall be defined as “clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe.” Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - A. The extent and depth of the area mined over the previous calendar year.
 - B. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - C. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - E. A certification as to the amount of disturbed acreage on-site.
 - F. A certification that all fill used after the date of issuance of this permit is “inert material,” as defined above.
 - G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - H. A delineation of the extent of the areas covered by the State Mining Permit.
10. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
12. This SUP shall be valid until December 31, 2018.

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 8th day of June,
2010.

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RESOLUTION

CASE NO. SUP-0009-2010. USA WASTE OF VIRGINIA LANDFILLS, INC.,

BORROW PIT RENEWAL

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

WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same is an SUP in the M-2, General Industrial Zoning District; and

WHEREAS, the applicant has requested to amend existing SUP-0020-2005 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 700 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100003; and

WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0009-2010 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.

6. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.
7. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development. Encroachment into the Resource Protection Area (RPA) will be allowed only after obtaining expressed written consent by the Environmental Division Director and only for the sole purpose of creating tidal wetlands.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the SUP, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - A. The extent and depth of the area mined over the previous calendar year.
 - B. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - C. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - E. A certification as to the amount of disturbed acreage on-site.
 - F. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - H. A delineation of the extent of the areas covered by the State Mining Permit.
10. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.

11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
12. This SUP shall be valid until December 31, 2018.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

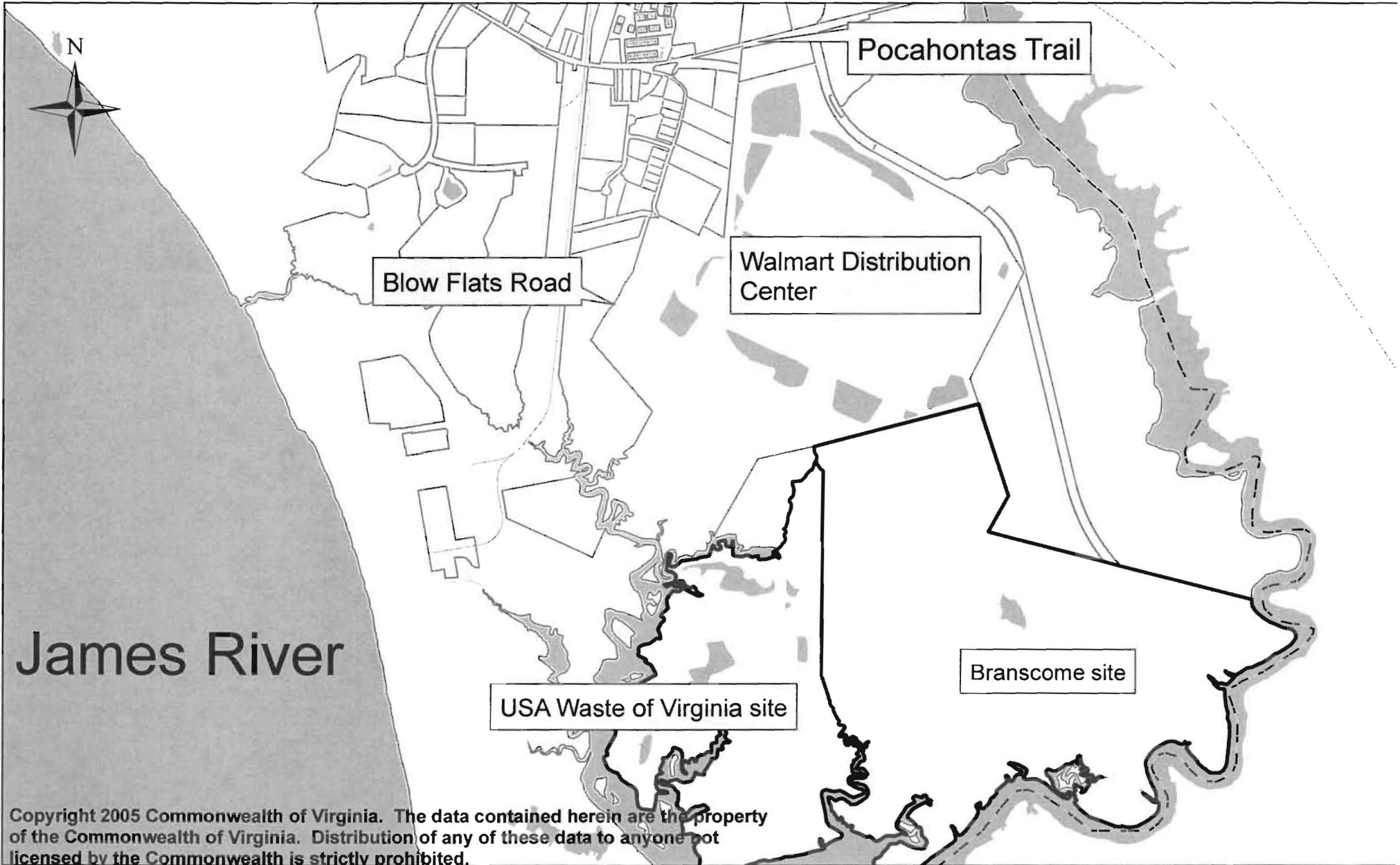
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June,
2010.

SUPs09_10_2010_2_res

JCC SUP-0009-2010: USA Waste of Virginia Renewal

JCC SUP-0010-2010: Branscome Renewal



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UNAPPROVED MINUTES FROM THE MAY 5, 2010 PLANNING
COMMISSION MEETING

SUP-0009-2010 – USA Waste of Virginia Borrow Pit Renewal

SUP-0010-2000 – Branscome Borrow Pit Renewal

Ms. Kate Sipes stated that Mr. Vernon Geddy has applied on behalf of Branscome Incorporated and USA Waste of Virginia Landfills Incorporated to renew their special use permits to continue borrow pit operations at 700 & 750 Blow Flats Road. An SUP renewal has been filed for both sites. Separate applications were submitted but were prepared under a single staff report. Both parcels are zoned M-2, General Industrial and designated General Industry on the Comprehensive Plan. A borrow pit creates noise, dust, truck traffic, and can be an environmental hazard if not regulated. Staff feels the area is well suited to accommodate the use. The original borrow pits were approved by the Board in 1992, with continued sunset provisions. The applicant has requested renewal without any time limit. Staff recommends a time limit due to constantly evolving environmental regulation, and is comfortable extending the limit from 5 to 8 years. Staff recommends approval of both SUP renewals subject to the attached conditions.

Mr. Poole asked if the applicant was comfortable with the 8-year renewal term.

Ms. Sipes stated the applicant was happier with 8 years than 5 years.

Mr. Vernon Geddy, representing the applicant, stated that the 8-year period allows the companies better long-term business planning. The firms know over longer terms what projects are available to them and on what terms.

Mr. Peck opened the public hearing.

Mr. Henderson asked Mr. Geddy to describe the operation's on-site activities.

Mr. Geddy stated that gravel and clay were mined at the sites. He stated the USA Waste site has investigated mining the pits down to below sea level, and then creating tidal wetlands for mitigation purposes.

Mr. Peck closed the public hearing.

Mr. Fraley moved for approval of the USA Waste of Virginia Landfill SUP renewal.

In a unanimous roll call vote, the Commission recommended approval (6-0; Yes: Maddocks, Poole, Krapf, Fraley, Henderson, Peck; Absent: Woods).

Mr. Fraley moved for approval of the Branscome Inc. SUP renewal.

In a unanimous roll call vote, the Commission recommended approval (6-0; Yes: Maddocks, Poole, Krapf, Fraley, Henderson, Peck; Absent: Woods).

MEMORANDUM

DATE: June 8, 2010


TO: The Board of Supervisors

FROM: Angela M. King, Assistant County Attorney

SUBJECT: Ordinance to Amend and Reordain Chapter13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law, Generally.

The attached Ordinance incorporates by reference into the James City County Code (County Code) the 2010 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County Police officers are charging traffic offenders under the County Code, which must be amended to reflect the State's changes to the applicable D.U.I and traffic laws. The State's changes shall become effective July 1, 2010. It is necessary that the County Code be amended in order to be in compliance with the State's changes.

Staff recommends adoption of the attached Ordinance.



Angela M. King

CONCUR:



Leo P. Rogers

AMK/nb
Ch13Amend10_mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE 1, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

Sec. 13-7. Adoption of state law.

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2009~~2010, except those provisions and requirements the violation of which constitutes a felony, and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without formal amendment of this article by the board of supervisors.

State law reference-Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

Article II. Driving Automobiles, Etc., While Intoxicated or
Under the Influence of any Drug*

Sec. 13-28. Adoption of state law generally.

Article 9 (section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2009~~2010, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

***State law reference** - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2010.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2010.

MEMORANDUM

DATE: June 8, 2010

TO: The Board of Supervisors

FROM: Stephanie Luton, Purchasing/Management Service Director

SUBJECT: Grant Allocation – Energy Efficiency and Conservation Block Grant from the Virginia Department of Mines, Minerals, and Energy – \$498,625

As part of its mission to investigate green building funding, incentives, legislation, and economic development opportunities, the Finance Subcommittee of the Green Building Roundtable applied for and received a \$498,625 Energy Efficiency and Conservation Block Grant (EECBG) from the Virginia Department of Mines, Minerals and Energy. The EECBG program helps local governments create jobs and drive economic development by implementing strategies that encourage energy efficiency and renewable energy initiatives. The program emphasizes a community-based approach to help meet these goals. This grant was competitive with 148 applications from across the Commonwealth resulting in 26 awards. The County's grant program will focus on removing the three main barriers to an effective energy-efficient building retrofit market: poor access to information, financing, and skilled workers.

The grant consists of \$258,625 for the program's staff and operating budget through April 2012, \$210,000 to capitalize a revolving loan fund for audits and energy-efficient building retrofits, and \$30,000 for a training program for local contractors interested in performing the audits and retrofits.

One full-time limited-term Building Energy Conservation Coordinator position will develop and implement a strategy for transforming the energy efficiency and conservation performance of buildings in our community. Successful implementation of the strategy will require specialized knowledge in a number of fields including construction, financing, and marketing. To meet these needs, the program plan includes up to 4,160 temporary staff hours and professional consultant contractual services as required.

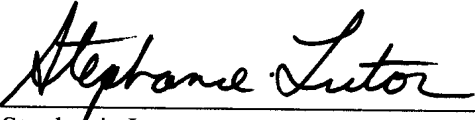
The County's in-kind match will be primarily staff time for grant administration and office space for the Building Energy Conservation Coordinator. No cash match is required.

Staff recommends approval of the attached resolution establishing the full-time limited-term Building Energy Conservation Coordinator position and temporary hours within the Office of Housing and Community Development, authorizing the County Administrator to execute the Grant Agreement, and appropriating the grant funds to the Community Development Fund.

Grant Allocation – Energy Efficiency and Conservation Block Grant from the Virginia Department of
Mines, Minerals, and Energy – \$498,625

June 8, 2010

Page 2



Stephanie Luton

CONCUR:

John E. McDonald

SL/nb
GA_EnergyBG_mem

Attachment

RESOLUTION

GRANT ALLOCATION – ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT

FROM THE VIRGINIA DEPARTMENT OF MINES, MINERALS, AND ENERGY – \$498,625

WHEREAS, the Virginia Department of Mines, Minerals, and Energy awarded James City County a \$498,625 Energy Efficiency and Conservation Block Grant to implement a strategy to transform the energy efficiency and conservation performance of buildings in our community; and

WHEREAS, the grant program funds the salary and fringe benefits for a full-time limited-term Building Energy Conservation Coordinator position through April 2012, capitalizes a revolving loan fund for audits and energy-efficient building retrofits, and facilitates the development of a training program for local contractors interested in performing these retrofits.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes a full-time limited-term position and temporary hours within the Office of Housing and Community Development, authorizes the County Administrator to execute the Grant Agreement, and authorizes the following appropriation to the Community Development fund:

Revenue:

Energy Efficiency and Conservation Block Grant	<u>\$498,625</u>
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Expenditure:

Energy Efficiency and Conservation Block Grant	<u>\$498,625</u>
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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 8th day of June, 2010.