

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 28, 2010

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE - Ysabel Dieguez, a first- grade student at Rawls Byrd Elementary School

E. PUBLIC COMMENT

F. BOARD REQUESTS AND DIRECTIVES

G. CONSENT CALENDAR

1. Minutes – September 14, 2010
2. Grant Award – Virginia Department of Health – \$21,762
Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community; 4.c - ensure private development and government operations are environmentally sensitive; and 4.e - prevent/ minimize environmental impact of wastewater spills
3. Contract Award – Construction of Ironbound Square Revitalization Road Improvements, Phase II – \$589,535
Supports County's Strategic Pathway 2.c - increase the variety of safe, sanitary and affordable housing; 3.d - invest in the capital project needs of the community; and 4.f - manage stormwater effectively and protect groundwater
4. Declaration of a Local Emergency
Supports County's Strategic Pathway 4.g - preserve greenspace

H. PUBLIC HEARINGS

1. Agricultural and Forestal District (AFD) 2010 Renewals
 - a. Case No. AFD-1-89. Armistead 2010 Renewal
 - b. Case No. AFD-5-86. Barnes Swamp 2010 Renewal
 - c. Case No. AFD-1-02. Carter's Grove 2010 Renewal
 - d. Case No. AFD-10-86. Christenson's Corner 2010 Renewal
 - e. Case No. AFD-6-86. Cranston's Pond 2010 Renewal
 - f. Case No. AFD-2-86. Croaker 2010 Renewal
 - g. Case No. AFD-9-86. Gordon Creek 2010 Renewal
 - h. Case No. AFD-12-86. Gospel Spreading Church Farm 2010 Renewal
 - i. Case No. AFD-3-86. Hill Pleasant Farm 2010 Renewal
 - j. Case No. AFD-7-86. Mill Creek 2010 Renewal
 - k. Case No. AFD-1-93. Williamsburg Farms 2010 Renewal
 - l. Case No. AFD-11-86. Yarmouth Island 2010 Renewal

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2. Case No. SUP-0019-2010. Harmonious Hardscapes
3. Reductions in the FY 2011 Capital Budget
Supports County's Strategic Pathway 1.a - evaluate service delivery costs

I. BOARD CONSIDERATIONS

1. Refunding of General Obligation Bonds
Supports County's Strategic Pathway 1.a - evaluate service delivery costs
2. Policy Governing the Withdrawal of Property from Agricultural and Forestal Districts (AFDs)
Supports County's Strategic Pathway 4.g - preserve greenspace

J. PUBLIC COMMENT

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. BOARD REQUESTS AND DIRECTIVES

M. 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. Clean County Commission

N. ADJOURNMENT to 7:00 p.m. on October 12, 2010

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Nakeisha Johnson, a twelfth-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on unkempt property at 101 Indian Circle and falling education standards in relation to increased education spending.

F. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy noted that this was an opportunity being offered earlier in the meeting for Board members to comment on items brought forward by citizens.

1. Mr. Kennedy – Discuss Specificity of Development Approvals

Mr. Kennedy requested Mr. Chris Johnson, Principal Planner, to come forward to discuss the Noland property which was reviewed by the Design Review Committee. He stated that the financial impact information has changed significantly on this case and the Board was not able to review it again. He asked that in the future similar cases be reviewed again in the event that there are changes that result in a significant negative fiscal impact.

Mr. Johnson stated that the property came forward for rezoning. He stated that there was an anticipated negative fiscal impact at buildout. Mr. Johnson reviewed the structures of the property and stated there was no specificity of the tenants of the property, but only the layout of the retail spaces. He stated that the original

occupant of the property resulted in a trigger which halted construction until a Certificate of Occupancy was obtained. He stated there was no further phasing which would inhibit development on the property. He stated that staff works with the applicant to achieve as much specificity as possible on the master plans, but often these factors are unknown. He stated that the fiscal impact statements correlate to the proposed uses of the property, but there was no requirement to come back before the Board if any of the uses result in a negative fiscal impact. He stated that a change in the use on this property was approved by the Development of Review Committee (DRC).

Mr. Kennedy asked what could be done to solidify the fiscal impact of this case, the Candle Factory case, as well as other developments.

Mr. Johnson stated that this case was adopted when the cash proffer policy for schools was still unknown. He stated that in order to achieve specificity, it would be to use the proffers to require phasing so the development maintains a positive cash flow.

Mr. Kennedy asked if self-storage qualifies as commercial use.

Mr. Johnson stated that use does qualify as commercial use which was what the DRC was examining.

Mr. Kennedy asked if the Board wished to look at this matter in a work session.

Mr. McGlennon stated he could support looking into this matter. He stated it may be worthwhile to examine the mixed-use ordinance to identify what uses could be located in this type of zoning. He stated that when the Board makes the decision to accept a proposal, there is a risk that the case will not meet expectations. He stated that the Board should examine the cases carefully and consider the worst-case scenarios.

Mr. Johnson stated that current requirements only require fiscal impact statements when residential units are proposed, but not for commercial properties. He stated that staff would be examining the ordinance during the zoning ordinance update for specificity, predictability, and flexibility.

Mr. Kennedy stated he wished to maintain the fiscal balance of mixed-use properties.

Mr. Icenhour stated he would support examining this. He stated he was concerned with the differences that could occur between the master plan during legislative approval and built-out project. He stated the approval should be phased and designed to ensure that what is built is what was proposed.

Ms. Jones stated that uncertainty exists, but the ordinance provides an idea of what uses are allowed and would be most beneficial in a particular zoning.

Mr. Kennedy expressed frustration with receiving a significant deficit in the fiscal impact since the statement that was proposed with the project. He stated that another fiscal impact statement should be required if the impacts are not equal to or greater than what was originally approved.

Mr. Goodson stated he would support discussing this matter. He stated that he did not feel this would contradict the request for flexibility. He stated that in this case, the applicant gave up flexibility with the B-1 zoning and must comply with the expectations of the Mixed Use zoning. He stated he did not generally support rezoning business property to allow residential use.

Mr. Kennedy stated that the Board has agreed to discuss a "housekeeping" ordinance to address unkempt properties in the County.

Mr. Goodson asked if the Board could apply any new ordinances to 101 Indian Circle to enforce grass-cutting and other measures.

Mr. Rogers stated that since the property is occupied, the Trash and Grass issues cannot be addressed, but there could be other zoning issues.

Mr. Goodson asked that the Board be briefed on a sensitive issue that could involve land acquisition in a closed session.

Mr. Middaugh asked if staff should meet with the development community to see how the housekeeping issues could assist those people.

The Board agreed that was acceptable.

G. CONSENT CALENDAR

Mr. Goodson asked to pull Item No. 7 for clarification.

Mr. Goodson made a motion to adopt the remaining 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. August 10, 2010, Work Session
 - b. August 10, 2010, Regular Meeting
2. Budget Transfer – Curbside Leaf Collection - \$29,000

RESOLUTION

BUDGET TRANSFER – CURBSIDE LEAF COLLECTION – \$29,000

WHEREAS, the Board of Supervisors desires to conduct a curbside leaf collection program in Fiscal Year 2011 consisting of one round of collection; and

WHEREAS, funds for the program need to be transferred from the Operating Contingency budget to the Refuse Collection budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers funds for this program as follows:

From:

Operating Contingency	<u>\$29,000</u>
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To:

Refuse Collection	<u>\$29,000</u>
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3. Grant Award – Radiological Emergency Preparedness Funds – \$25,000

RESOLUTION

GRANT AWARD – RADIOLOGICAL EMERGENCY PREPAREDNESS FUNDS – \$25,000

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded James City County pass-down funds for Radiological Emergency Preparedness in the amount of \$25,000; and

WHEREAS, the funds are to be used for planning and response for public protective actions related to the Surry Nuclear Power Plant; and

WHEREAS, the grant requires no match.

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

Revenue:

Radiological Emergency Preparedness Funds – FY 11	<u>\$25,000</u>
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Expenditure:

Radiological Emergency Preparedness Funds – FY 11	<u>\$25,000</u>
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4. Grant Award – Virginia Department of Motor Vehicles – \$34,569

RESOLUTION

GRANT AWARD – VIRGINIA DEPARTMENT OF MOTOR VEHICLES – \$34,569

WHEREAS, the James City County Police Department has been awarded a highway safety grant award from the Virginia Department of Motor Vehicles for \$34,569; and

WHEREAS, the grant requires an in-kind match; and

WHEREAS, the funds are to be used toward traffic enforcement overtime and related training and equipment.

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

Revenue:

DMV FY 11 – Highway Safety	<u>\$34,569</u>
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Expenditure:

DMV FY 11 – Highway Safety	<u>\$34,569</u>
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5. Grant Amendment – Virginia Recreational Trails Fund – \$283,976

RESOLUTION

ACCEPTANCE OF A GRANT AMENDMENT –

VIRGINIA RECREATIONAL TRAILS FUND – \$283,976

WHEREAS, the Department of Conservation and Recreation, in cooperation with the Federal Highway Administration, has underrun matching funds available for the development of trails; and

WHEREAS, funds are needed for the construction of the multi-use Powhatan Creek Trail to connect neighborhoods, historic sites, schools, and the Virginia Capital Trail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$283,976 grant amendment awarded by the Department of Conservation and Recreation in cooperation with the Federal Highway Administration to help with the construction of the Powhatan Creek Trail.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Capital Projects Fund:

Revenue:

From the Federal Government	<u>\$283,976</u>
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Expenditure:

Powhatan Creek Trail Grant	<u>\$283,976</u>
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6. Code Violation Lien – Trash and Grass Lien – 3232 Reade’s Way

RESOLUTION

CODE VIOLATION LIEN – TRASH AND GRASS LIEN – 3232 READE’S WAY

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Barbara A. Bullock and Janice Hillman
3232 Reade's Way
Williamsburg, VA 23185-2421

DESCRIPTION: 3232 Reade's Way

TAX MAP/PARCEL NOS.: (46-1)(07-0-0101)
James City County, Virginia

FILING FEE: \$10.00

TOTAL AMOUNT DUE: \$260.00

8. Colonial Community Criminal Justice Board Appointment

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD (CCCJB) APPOINTMENT

WHEREAS, Police Chief Emmett Harmon's term on the Colonial Community Criminal Justice Board (CCCJB) expired on August 31, 2010; and

WHEREAS, Chief Harmon has agreed to reappointment to the CCCJB.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby reappoints Chief Emmett Harmon to a full three-year term on the CCCJB, set to expire on August 31, 2013.

9. Resolution Opposing the Proposed Closure of United States Joint Forces Command

RESOLUTION

RESOLUTION PROTESTING THE PROPOSED CLOSURE OF

UNITED STATES JOINT FORCES COMMAND

WHEREAS, the mission of the United States Joint Forces Command (JFCOM) is to provide ready capable joint forces to support the development and integration of joint, interagency, and multi-national capabilities to meet the present and future operational needs of the military, as well as to anticipate and prepare for the future demands of the National Defense Strategy; and

WHEREAS, JFCOM directly employs 5,650 people with an estimated 5,150 additional jobs generated in the Hampton Roads region through both direct and indirect effects; and

WHEREAS, the Defense Business Board, a Pentagon Advisory Board, presented a report making many recommendations including the elimination of JFCOM; and

WHEREAS, the Defense Business Board Report also stated a need to do more in-depth study which has not been done on the JFCOM issue; and

WHEREAS, Secretary of Defense Gates on August 9, 2010, officially recommended that JFCOM be closed; and

WHEREAS, the closure of JFCOM would have an immediate and continuing severe detrimental effect on the military's ability to jointly address threats to national security and would greatly weaken the effectiveness and efficiency of the individual uniformed services to function as one cohesive and joint military force to counter, among other things, worldwide terrorism; and

WHEREAS, the proposed closure of JFCOM is not being done in accordance with Federal Law, particularly Title 10 of the U.S. Code, § 2687 which was established to ensure that Congress has sufficient time and opportunity to review the DOD proposal that resulted in the closure realignment of significant military facilities which JFCOM surely is; and

WHEREAS, James City County is united with the Hampton Roads region in this effort to maintain JFCOM and the preparedness of our military.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby protests the proposed closure of JFCOM and requests that the Congressional Delegation and State Government urgently do all things necessary to maintain the current level of JFCOM activities.

7. Request for Disaster Designation and Federal Assistance for James City County

Mr. Goodson explained that he mistakenly pulled this item and needed clarification on a different item. He 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

REQUEST FOR DISASTER DESIGNATION AND FEDERAL ASSISTANCE FOR

JAMES CITY COUNTY

WHEREAS, drought conditions in the County of James City have adversely affected farmers and their production yields; and

WHEREAS, during critical periods of the growing season of 2010, certain areas of the County of James City received considerably less than normal rainfall while experiencing higher than normal temperatures; and

WHEREAS, the loss of production for James City farmers due to these adverse conditions has been reported by the Farm Service Agency, the Natural Resources Conservation Service, and Virginia Cooperative Extension to be at a minimum of 50 percent to soybeans (1,837 acres planted, value of loss estimated at \$279,224) and a minimum of 75 percent to corn (1,378 acres planted, value of loss estimated at \$457,496); and

WHEREAS, James City County farmers need State and Federal assistance in responding to their losses.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby instructs the County Administrator to submit to the Governor of Virginia a certified copy of this resolution and request assistance in obtaining Federal disaster designation for James City County and Federal assistance from the United States Department of Agriculture for James City County farmers who have experienced agricultural damages and losses due to excessive heat and drought.

Mr. Goodson asked for clarification on Item No. 3, Grant Award – Radiological Emergency Preparedness Funds - \$25,000. He stated he did not oppose spending the money on a new generator for the Emergency Operations Center, but he asked Fire Chief Tal Luton if these funds would normally go toward supplies of iodine pills that would be distributed in the event of a radiological emergency.

Chief Luton responded that those pills were supplied and distributed by the Virginia Department of Health and would not need to be purchased with these funds.

H. PUBLIC HEARINGS

1. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communications Facility (WCF)

Mr. Luke Vinciguerra, Planner, stated that Mr. Stephen Romine has applied for a Special Use Permit (SUP) to allow the construction of a 124-foot Wireless Communications Facility (WCF) at 108 Ingram Road between an existing building and John Tyler Commercial Park (exact location best viewed on page A-0 of the site plan). Tower-mounted communication facilities higher than 60 feet in the B-1, General Business, district require an SUP. The proposed WCF would be a “slick stick” with no visible external antennas.

Staff found the proposal to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, the Comprehensive Plan Land Use Map Designation, and the Wireless Communications Performance Standards policy.

At its meeting on August 4, 2010, the Planning Commission recommended approval of the application by a vote of 5-0.

Staff recommended approval of the resolution with the proposed conditions.

Mr. Goodson clarified that without buffers, the buildings surrounding the tower site would block visibility of the base of the tower. Mr. Vinciguerra stated that was correct, but the buffer would be consistent with the WCF standards for buffer along the front of the location.

Mr. Goodson stated that the buffer would screen the whole development, rather than just the tower. He asked if there was a reason to upgrade the current buffer to 100 feet because he did not see the buffer as applying directly to the tower for screening.

Mr. McGlennon stated he believed that the buffer was explicit in the adopted standards.

Mr. Vinciguerra stated that there was a buffer requirement in the standards to screen the base of the tower.

Mr. Goodson stated the buffer would not screen the base since the existing structures already served that purpose.

Mr. Vinciguerra stated the additional buffer would not surround the base, but would screen the rest of the tower.

Mr. Goodson stated that the trees in the front of the property provide screening for the tower and noted that the 100-foot buffer would prevent additional economic development on the property. He stated that he believed the standards did not apply in this case and he wished to consider a buffer less than 100 feet.

Mr. Icenhour commented that this parcel was located within the Route 5 Community Character Corridor (CCC), which requires a buffer.

Mr. Vinciguerra stated that the CCC would require a 50-foot buffer for buildings.

Mr. Icenhour clarified that anything built on the property in the future would require a 50-foot buffer.

Mr. Vinciguerra stated that was correct.

Mr. Kennedy opened the Public Hearing.

1. Mr. Dan Qualls, LeClair Ryan, on behalf of the applicant, gave a brief history of the property and reviewed the site plan. He reviewed the results of the balloon test results and the wireless coverage issues the tower would address. He asked for the Board's consideration of a reduced buffer to allow for an additional building to be built on the property as reflected on an old master plan. He stated that the applicant had requested the 50-foot reduced buffer at the Planning Commission and there did not seem to be opposition; rather, the Planning Commission recommended approval unanimously of the staff recommendation. He requested approval of the application.

2. Mr. Allen Murphy, Planning Director, came forward to clarify some of the applicant's points. He stated the previous site plan mentioned was from the late 1980s and has expired. He stated the wireless tower policy does not refer to a buffer around the base of the tower, but rather to a buffer intended to screen the entire tower. He stated that the applicant requested that staff consider the 50-foot buffer, but due to the CCC, staff opted to recommend the 100-foot buffer.

Ms. Jones clarified that the 50-foot buffer requirement was for buildings within the CCC.

Mr. Murphy stated that was correct, but staff believed that a 120-foot tower was significantly different from a normal building structure and would require a more substantial buffer.

Ms. Jones asked if the tower was far enough away from John Tyler Highway to allow for the reduced buffers.

Mr. Murphy responded that the distance would allow for consideration of the decreased buffer.

Ms. Jones asked Mr. Fraley about the applicant's request for a decreased buffer at the Planning Commission and asked for additional information about the discussion.

Mr. Fraley stated that the Planning Commission considered the request for the decreased buffer, but still supported the staff recommendation for the 100-foot buffer. He noted that the policy recommends a wooded buffer around the site.

Mr. Icenhour asked about the percentage of impervious cover on the site.

Mr. Vinciguerra stated he did not have that information at the time.

Mr. Icenhour asked if any new development would have to meet the requirements for maximum impervious cover.

Mr. Vinciguerra stated that was correct; the new development would have to meet current standards.

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

Ms. Jones made a motion to adopt the resolution with the revisions provided by staff.

Mr. Goodson made a motion to amend to decrease the buffer requirement to 50 feet.

On the motion to amend, the vote was AYE: Goodson, (1). NAY: McGlennon, Icenhour, Jones, Kennedy (4).

The motion to amend failed.

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

RESOLUTION

SPECIAL USE PERMIT-0028-2009. INGRAM ROAD

PEGASUS WIRELESS COMMUNICATIONS FACILITY

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

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

WHEREAS, the proposed development is shown on a plan prepared by BC Architects Engineers, PLC, dated July 7, 2010, (the "Master Plan"), with the Site No. listed as NF496; and

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

WHEREAS, the Planning Commission, following its public hearing on August 4, 2010, voted 5-0 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 site.

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

1. Term of Validity: This SUP shall be valid for a total of one wireless communications facility at a total height of 124 feet including all appurtenances on the property as depicted in the Special Use Permit application site plan titled "*Pegasustower A New 120' Stealth Pole in a New Tower Compound*" prepared by Christopher D. Morin of BC Architects Engineers dated July 7, 2010.
 2. Time Limit: A final Certificate of Occupancy (CO) shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
 3. Structural and Safety Requirements: Within 30 days of the issuance of a final CO by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations, set forth in the 2000 International Building Code, or any amendment thereof, have been met.
 4. Tower Color: The tower color shall be gray. Any alternative color used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
 5. Advertisements: No advertising material or signs shall be placed on the tower.
 6. Additional User Accommodations: The tower shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to the site plan approval.
 7. Guy Wires: The tower shall be freestanding and shall not use guy wires for support.
 8. Enclosure: The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.
 9. Tree Buffer: A minimum buffer of 100 feet in width of existing mature trees shall be maintained at the front of the property abutting Ingram Road/John Tyler Highway.
 10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
2. Case No. Z-0001-2010. Fast Food Restaurant at 8953 Pocahontas Trail (Continued from August 10, 2010)

Ms. Sarah Propst, Planner, stated that Mr. John Rogers has applied to rezone a one-acre parcel located at 8953 Pocahontas Trail from M-2, General Industrial, to B-1, General Business, with proffers. The application proposes redevelopment of the existing property to include a 1,680-square-foot drive-through barbeque restaurant. The property formerly operated as a truck wash facility and the existing structure on-site

will be demolished. The site is identified as Mixed-Use on the 2009 Comprehensive Plan Land Use Map. Ms. Propst explained that following the Planning Commission approval on July 7, 2010, staff received a letter dated July 13, 2010, from a representative of Ball Metal Beverage Container, an adjacent property owner. That afternoon, staff arranged a meeting between the applicant and the adjacent property owner to discuss Ball Metal's concerns regarding the proposed development. The following day, Mr. Rogers provided Ball Metal's counsel with an insurance policy, on which Ball would be named as additionally insured, with specification for an air filtration system, and provided oven specifications upon a later request. She stated that an amicable solution was reached between the parties and amended proffers were placed at the dais for the Board's consideration.

Staff found the application to be a positive redevelopment project for the site, and with the Master Plan and proffers, is in conformance with the goals of the Comprehensive Plan. Considering the design limitations of the parcel shape and size, staff found that the applicant was providing a design that maximizes the development potential of the site and the proposed landscaping would be a significant aesthetic improvement over existing site conditions

At its meeting on July 7, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

Staff recommended approval of the resolution with the amended proffers.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, commented that this was a redevelopment project. He gave a history of the property and commented on the assistance of the County's Business Facilitator. He noted that the Planning Commission recommended approval unanimously and after receiving concerns from Ball Metal, the applicant requested a one-month deferral in order to address those problems. He stated during that time, the applicant has agreed to proffers that both entities find suitable. He requested approval of the application.

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 with the revised proffers and thanked the parties for working toward a suitable solution for everyone.

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

RESOLUTION

CASE NO. Z-0001-2010. FAST FOOD RESTAURANT AT 8953 POCAHONTAS TRAIL

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0001-2010; and

WHEREAS, Mr. John Rogers has applied to rezone his property located at 8953 Pocahontas Trail and further identified as James City County Real Estate Tax Map No. 5920100019 (the "Property") from M-2, General Industrial, to B-1, General Business, with proffers to redevelop the former Spray King Truck Wash property into a drive-through fast food restaurant; and

WHEREAS, the Property is designated Mixed Use on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, on July 7, 2010, the Planning Commission of James City County recommended approval of the application by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0001-2010 as described herein and accept the voluntary proffers.

3. Ordinance to Designate Dream Catchers and the Cori Sikich Foundation as Tax Exempt

Mr. John McDonald, Financial and Management Services Manager, stated that State Code allows the Board to consider exemptions for charitable organizations. He stated that the Cori Sikich Foundation and Dream Catchers were being considered in this case for exemption from property taxes. He reviewed the qualifications for exemption based on State Code and explained how the Cori Sikich Foundation and Dream Catches met each of the criteria. He stated the Board has the option to grant the exemption which would be in effect until the use of the property changed or until the Board revoked the exemption. He requested approval of the ordinance granting the exemption.

Mr. Icenhour asked if this would be a permanent exemption.

Mr. McDonald stated that the exemption would stay with the property until the use changed or until the Board voted to revoke the exemption.

Mr. Kennedy opened the Public Hearing.

1. Ms. Nancy Paschall, Executive Director of Dream Catchers, 10120 Fire Tower Road, stated the long-term plans for the property were to continue the current use as a therapeutic riding center.

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

Mr. Icenhour made a motion to adopt the ordinance.

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

4. Ordinance to Amend Chapter 10, Garbage and Refuse, by Amending Section 10-5, Same-Recourse of County upon Failure of Owner or Occupant, and Section 10-7, Penalty

Mr. Rogers stated that the ordinance would create an easier process for recordation of liens to allow the County Administrator to sign liens rather than bringing the cases before the Board of Supervisors. He stated the changes would also add civil penalties for offenses, which are easier to collect than criminal charges. He stated the civil fines would be \$50 for a first offense and \$250 for subsequent offenses. He stated that criminal penalties would be assessed for habitual offenders.

Mr. Kennedy stated he supported criminal charges for those properties of habitual offenders.

Mr. Kennedy commented on the Epstein property and requested that Mr. Rogers contact Mr. Ware.

Mr. Rogers stated he was aware of this concern and he would follow up on the matter.

Mr. McGlennon stated he supported this ordinance amendment, but he believed there was a value of showing the seriousness of these offenses in the County. He requested that a list of offenders be regularly distributed and provided to the public.

Mr. Kennedy asked that the information be posted on the County website.

Mr. Kennedy opened the Public Hearing.

1. Mr. Jack Fowler, 109 Wilderness Lane, commented on a potential housekeeping ordinance.

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.

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

5. Conveyance of Utility Easements to Verizon Virginia, Inc.

Mr. McDonald stated the purpose of the resolution was to authorize the County Administrator to enter into an agreement to convey two easements at the County Government Complex to Verizon Wireless in order to link the existing cellular towers on the property and provide additional wireless coverage in the area. He stated that the towers currently were outfitted with ALLTEL components, and under this agreement, Verizon Wireless would refit the towers to make them functional. He stated the easements would go to the towers on the complex and then run to an existing conduit at Building D. He stated the coverage would improve wireless access in the area surrounding the Government Complex and much of Kingsmill, expected to be completed by the end of the calendar year. He requested approval of the resolution.

Mr. Kennedy opened the Public Hearing.

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

Mr. Goodson made a motion to approve the resolution.

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

RESOLUTION

VERIZON EASEMENT – WARHILL TRAIL

WHEREAS, James City County owns a parcel of property located at 5700 Warhill Trail and further identified as James City County Real Estate Tax Parcel No. 3210100012 (the “Property”); and

WHEREAS, the James City Service Authority (the “JCSA”) has entered into a lease with AT&T for the location of a cellular array and related support equipment on the Warhill water tank site located at 5900 Warhill Trail; and

WHEREAS, the cellular support equipment requires telephone service and the closest telephone line is situated along Opportunity Way; and

WHEREAS, the extension of a telephone line from Opportunity Way to the Warhill water tank will provide improved telephone service on adjacent County-owned property at the Warhill site.

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 sign and execute those documents necessary to grant a 20-foot-wide, approximately 4,200-foot-long easement, on property located on the northeast side of the Warhill property and further identified as James City County Real Estate Tax Parcel No. 3210100012 to Verizon to extend telephone service from Opportunity Way to JCSA's Warhill water tank.

I. PUBLIC COMMENT

1. Mr. Jack Fower, 109 Wilderness Lane, commented on illegal businesses and properties with over five cars in the County. He asked the Board to consider a housekeeping ordinance in order to preserve aesthetics, protect property values, and address blight.

2. Mr. Adam Geissler, 111 Cooley Road, commented on the resolution in opposition to the closure of the US Joint Forces Command (USJFCOM). He asked the Board to reconsider this action since he believed this was a way to reduce bureaucracy and help balance the national budget.

3. Mr. Ed Oyer, 139 Indian Circle, commented that he did not believe the County should involve itself in matters such as the action opposing the closure of the USJFCOM.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh commented that there was going to be a series of meetings in each district for him to meet with constituents and discuss issues, including the upcoming Stormwater referendum question. He noted that the public information regarding the referendum was being developed and citizens could get more information on the County's website or by contacting the County's Civic Engagement Coordinator, Tressell Carter, at 757-259-4986. He noted that the third and final Zoning Ordinance Update forum would be held on September 27, 2010, at 6:30 p.m. in Building F. He encouraged citizens to contact Planning or check the County website to sign up to speak. He stated that when the Board completes its business, it should go into Closed Session pursuant to Section 2.2-3711(A)(5) of the Code of Virginia for the discussion of matters related to a business in which an announcement has not yet been made; and Section 2.2-3711(A)(3) of the Code of Virginia for discussion about acquisition of parcels of property for public use.

K. BOARD REQUESTS AND DIRECTIVES

Ms. Jones commented that at the intersection of Route 199 and John Tyler Highway, there is a large pothole that should be reported to the Virginia Department of Transportation (VDOT).

Mr. Goodson stated that the next meeting of the Hampton Roads Mayors and Chairs would occur the next day and asked if it would be appropriate for him to sign the resolution in opposition of the closure of USJFCOM on behalf of the County.

Mr. Kennedy stated it would be appropriate.

Mr. McGlennon made a motion to reappoint Mr. Timothy Mills and Mr. Robert Cowling to the Board of Building Code Adjustments and Appeals.

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

L. CLOSED SESSION

Mr. Goodson made a motion to go into Closed Session pursuant to section 2.2-3711(A)(5) of the Code of Virginia, for the discussion of matters related to a business in which an announcement has not yet been made; and section 2.2-3711(A)(3) of the Code of Virginia, for discussion about acquisition of parcels of property for public use.

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

At 8:40 p.m., Mr. Kennedy recessed the Board into Closed Session.

At 9:27 p.m., Mr. Kennedy reconvened the Board.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(5) of the Code of Virginia, to discuss the expansion of an existing business where no previous announcement has been made; and Section 2.2-3711(A)(3) of the Code of Virginia to consider the acquisition of parcels of property for public use.

M. ADJOURNMENT to 4:00 p.m. on September 28, 2010.

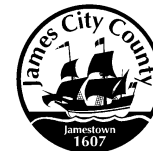
Mr. Goodson made a motion to adjourn.

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

At 9:28 p.m., Mr. Kennedy adjourned the Board to 4 p.m. on September 28, 2010.

Robert C. Middaugh
Clerk to the Board

091410bos_min



MEMORANDUM COVER

Subject: Grant Award - Virginia Department of Health - \$21,762

Strategic Management Plan Pathway: 3.d - invest in the capital project needs of the community,
4.c - ensure private development and government operations are environmentally sensitive, and
4.e - prevent/minimize environmental impact of wastewater spills

Action Requested: Shall the Board approve the resolution to appropriate grant funds?

Summary: James City County was awarded a grant from the Virginia Department of Health under the Clean Vessel Act in the amount of \$21,762 (\$16,322 grant, \$5,440 local match). The funds are to be used to purchase and install a sewage system at the County's Jamestown Yacht Basin facility. The current system has reached the end of its useful life and is not easily accessible. The new system includes modern equipment that will better protect the County's waterways, decrease pump-out time and increase accessibility to the system. Installation of the system will also assist the County in obtaining the Virginia Clean Marina designation for the Yacht Basin.

Staff recommends approval of the resolution.

Fiscal Impact: Match funded from General Fund Grants Match Account

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: G-2

Date: September 28, 2010

MEMORANDUM

DATE: September 28, 2010

TO: The Board of Supervisors

FROM: Stephanie Luton, Purchasing/Management Services Director

SUBJECT: Grant Award - Virginia Department of Health - \$21,762

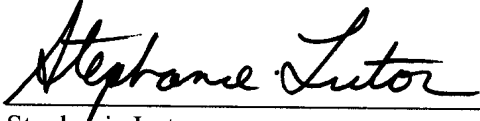
James City County was awarded a grant from the Virginia Department of Health under the Clean Vessel Act in the amount of \$21,762 (\$16,322 grant, \$5,440 local match). The funds are to be used to purchase and install a pump-out and dump station designed to safely remove sewage from boats docked at the County's Jamestown Yacht Basin facility. The grant covers the entire cost of implementing the new system with the exception of limited electrical work that will be provided by the County's General Services Department.

The current system is very labor intensive to operate and is not easily accessible. It is approximately 15 years old, has frequent equipment failures, and has reached the end of its useful life. The current pump-out fee is \$20 due to the amount of time and labor required for system operation. The system gets minimal use.

The new system includes modern equipment that will better protect the County's waterways, decrease pump-out time, and increase accessibility to the system. The pump-out fee will be \$5 as required by the grant conditions and the process will take less time. Estimated annual revenue is \$750. Installation of the system will also assist the County in obtaining the Virginia Clean Marina designation for the Yacht Basin. The Virginia Clean Marina Program is a joint venture of the Virginia Departments of Health, Conservation, and Recreation and Environmental Quality that promotes the voluntary adoption of measures that prevent or reduce pollution. The benefits include increased environmental quality, technical assistance in meeting legal and regulatory standards, and implementing best management practices, public recognition, and attracting new customers with safer and cleaner infrastructure.

The grant requires a match of \$5,440 which is available in the General Fund Grants Match.

Staff recommends approval of the attached resolution to appropriate funds.


Stephanie Luton

SL/nb
GA_DeptHealth_mem

Attachment

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF HEALTH - \$21,762

WHEREAS, James City County was awarded a grant from the Virginia Department of Health under the Clean Vessel Act in the amount of \$21,762 (\$16,322 grant, \$5,440 local match); and

WHEREAS, the grant requires a match of \$5,440 which is available in the Grants Match Account; and

WHEREAS, the funds are to be used to purchase and install a sewage system at the County's Jamestown Yacht Basin facility.

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

Revenues:

VDH-Clean Vessel Act	\$16,322
General Fund Grants Match	<u>5,440</u>
Total	<u>\$21,762</u>

Expenditure:

VDH-Clean Vessel Act	<u>\$21,762</u>
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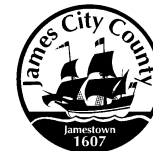
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

GA_DeptHealth_res



MEMORANDUM COVER

Subject: Contract Award – Construction of Ironbound Square Revitalization Road Improvements - Phase II - \$589,535.

Strategic Management Plan Pathway: 2.c. - Increase the variety of safe, sanitary, and affordable housing; 3.d. - Invest in capital project needs of the community; and 4.f. - Manage stormwater effectively and protect groundwater

Action Requested: Shall the Board approve the resolution to award the contract in the amount of \$589,535 for Ironbound Square Revitalization Road Improvements to David A. Nice Builders, Inc.?

Summary: On July 24, 2007, the Board of Supervisors approved the rezoning of Ironbound Square Redevelopment – Phase II. In September 2010, the James City County Planning Division approved the construction plans for the Ironbound Square Revitalization Road Improvements - Phase II and an Invitation for Bids was publicly advertised.

The Ironbound Square-Phase II road and associated improvements are required to enable the planned widening of Ironbound Road by the Virginia Department of Transportation (VDOT) and to construct 33 single-family homes within the Ironbound Square Redevelopment Area.

Capital Improvement Program funds allocated to the Ironbound Square Roads Project will be used to pay for this construction contract. The revenue for the project is proceeds from sales of lots in Ironbound Square Subdivision Phases I and II.

Staff requests award of the contract to the lowest responsive and responsible bidder David A. Nice Builders, Inc. in the amount of \$589,535.

Staff recommends approval of the resolution.

Fiscal Impact: Staff anticipates sales of lots in the Ironbound Square Subdivision (and other program income from the Redevelopment Project) will fund the cost of improvements to be made pursuant to this contract resulting in no fiscal impact.

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Map

Agenda Item No.: G-3

Date: September 28, 2010

MEMORANDUM

DATE: September 28, 2010

TO: The Board of Supervisors

FROM: Richard B. Hanson, Housing and Community Development Administrator

SUBJECT: Contract Award – Construction of Ironbound Square Revitalization Road Improvements – Phase II – \$589,535

In July 2007, the Board of Supervisors approved the rezoning of Ironbound Square Redevelopment – Phase II. In September 2010, the James City County Planning Division approved the construction plans for the Ironbound Square Revitalization Road Improvements - Phase II, and an Invitation for Bids was publicly advertised. The following bids were considered for award:

<u>Firm</u>	<u>Amount</u>
David A. Nice Builders, Inc.	\$589,535.00
Walter C. Via Enterprises	719,785.00
Perkinson Construction, LLC	769,980.90
Henry S. Branscome, LLC	815,134.56
George Nice and Sons	322,372.30
Howard Brothers Contractors	867,338.00
Branscome, Inc.	889,000.00
J. Sanders Construction	984,379.00

The work to be performed under the contract includes reconstruction of a portion of Watford Lane and construction of three new cul-de-sac streets, paved shared drives, stormwater management structures, water and sewer line extensions, and associated subdivision improvements. The location of the roads and associated improvements are shown on the attached map. The improvements are required to enable the planned widening of Ironbound Road by the Virginia Department of Transportation (VDOT) and to construct 33 single-family homes within the Ironbound Square Redevelopment Area. Construction under this contract is scheduled to begin by October 21, 2010, and to be substantially completed by August 2011. All residents to be directly affected by the construction activities will be notified before work begins and will be encouraged to contact the Office of Housing and Community Development with any questions or concerns.

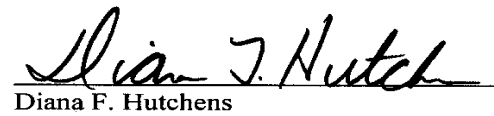
Capital Improvement Program funds allocated to the Ironbound Square Roads Project will be used to pay for this construction contract. The revenue for the project is proceeds from sales of lots in Ironbound Square Subdivision Phases I and II. Estimated revenue from the sale of these 33 lots in addition to 13 previously sold lots is \$1.5 million. Staff anticipates sales of lots in the Ironbound Square Subdivision (and other program income from the Redevelopment Project) will fund the cost of improvements to be made pursuant to the contract resulting in no fiscal impact.

Staff recommends approved of the attached resolution authorizing the County Administrator to execute a contract up to the amount of \$589,535 with David A. Nice Builders, Inc. for the Ironbound Square Revitalization Road Improvements - Phase II.

Contract Award – Construction of Ironbound Square Revitalization Road Improvements –
Phase II – \$589,535
September 28, 2010
Page 2


Richard B. Hanson

CONCUR:


Diana F. Hutchens

RBH/nb
CA_IBSRoadImp_mem

Attachments

RESOLUTION

CONTRACT AWARD – CONSTRUCTION OF IRONBOUND SQUARE REVITALIZATION

ROAD IMPROVEMENTS – PHASE II - \$589,535

WHEREAS, bids were publicly advertised for the construction of Ironbound Square Revitalization Road Improvements - Phase II; and

WHEREAS, eight bids were considered for award and David A. Nice Builders, Inc. was the lowest responsive and responsible bidder; and

WHEREAS, sufficient funds are available to award the bid amount of \$589,535 from the Ironbound Square Roads Project in the Capital Improvement Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract up to the amount of \$596,115 with David A. Nice Builders, Inc. for the Construction of Ironbound Square Revitalization Road Improvements - Phase II.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

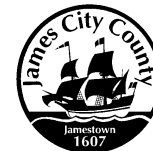
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

CA_IBSRoadImp_res

IRONBOUND SQUARE REVITALIZATION ROAD IMPROVEMENTS – PHASE II





MEMORANDUM COVER

Subject: Declaration of a Local Emergency

Strategic Management Plan Pathway: 4.g - preserve greenspace

Action Requested: Shall the Board approve the resolution that declares a local emergency?

Summary: The prolonged dry weather conditions that exist have created dangerous circumstances for fire outbreaks throughout the County. By adopting a local emergency resolution, the Board will bring to the citizens' attention the critical nature that currently exists and the need to be proactive in preventing fires.

Staff recommends adoption of the resolution declaring a local emergency.

Fiscal Impact: A fire on any County-owned land or property could have significant monetary damage. The same for private property owners.

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: G-4

Date: September 28, 2010

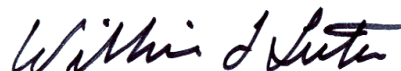
MEMORANDUM

DATE: September 28, 2010
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Declaration of a Local Emergency

On September 17, 2010, the County's Director of Emergency Management, Robert C. Middaugh, Jr., declared a local emergency due to the imminent threat of fire. Because there has been very little rain over the past few months, the vegetation and leaves on the ground have become very dry. When coupled with the recent low humidity, the conditions for a dangerously large fire are present. These conditions resulted in a brush fire that consumed approximately five acres of brush and forest at Freedom Park on September 17, 2010.

The Director's declaration of a local emergency was necessary to immediately prohibit all open burning in the County and to enable the Emergency Operations Division to take all necessary steps to address this danger. The Code of Virginia requires that the Board confirm the Director's declaration within 14 days of its issuance. A resolution confirming that declaration is attached.

When the conditions improve and the threat of fire is reduced, staff will advise the Board and prepare a resolution declaring an end to the local emergency.



William T. Luton

CONCUR:

Robert C. Middaugh

WTL/gb
EmergDecl_mem

Attachment

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the recent lack of rain coupled with low humidity, the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby, including an immediate prohibition on open burning; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, due to exigent circumstances, the Board of Supervisors was unable to convene to consent to the declaration of a local emergency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, the Declaration of a Local Emergency dated September 17, 2010, by Robert C. Middaugh, Jr., Director of Emergency Management for James City County, be, and the same hereby, is confirmed.

BE IT FURTHER RESOLVED that the Director of Emergency Management and the Emergency Operations Division of the James City County Fire Department shall exercise those powers, functions, and duties as prescribed by State law and the ordinances, resolutions, and approved plans of James City County in order to mitigate the effects of said emergency.

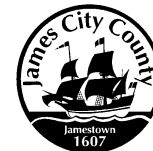
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

EmergDecl_res



MEMORANDUM COVER

Subject: 2010 Renewals for 12 Agricultural and Forestal Districts (AFDs)

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the ordinances renewing the 12 districts for four-year terms, with expiration dates of October 31, 2014, subject to the proposed conditions?

Summary: Per State Code, a public hearing must be held to consider the renewal of an AFD for an additional term. There are currently 14 AFDs in the County. Twelve are currently in the renewal process: Armistead, Barnes Swamp, Carter's Grove, Christenson's Corner, Cranston's Pond, Croaker, Gordon Creek, Gospel Spreading Church Farm, Hill Pleasant Farm, Mill Creek, Williamsburg Farms, and Yarmouth Island. All have four-year terms, expiring between September and November 2010. Wright's Island AFD was renewed by the Board of Supervisors in July with an eight-year term; the remaining district, Pate's Neck, has a six-year term which expires in 2012.

The applicants for these 12 AFD renewals all desired four-year terms. The applicant for the Wright's Island AFD, renewed by the Board in July, desired an eight-year term, which is generally preferred by the County.

Staff recommends adoption of the ordinances.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

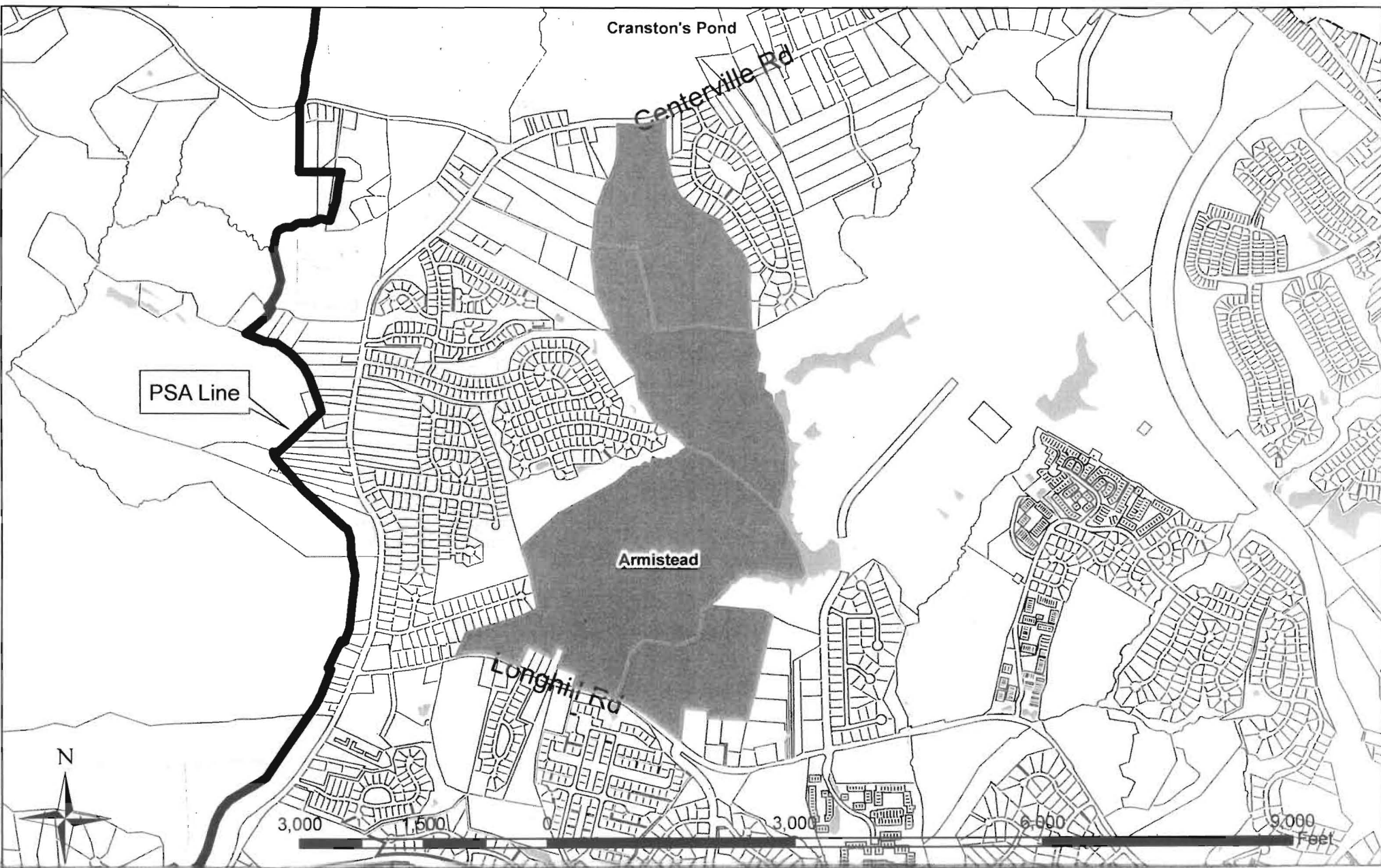
1. 12 Staff Reports
2. Ordinances
3. Location Maps
4. Minutes - AFD Advisory Committee
5. Minutes - Planning Commission)

Agenda Item No.: H-1a-H-11

Date: September 28, 2010

AFD-1-89

Armistead AFD 2010 Renewal



UNAPPROVED MINUTES OF THE AGRICULTURAL AND FORESTAL
ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD
ON THE 24th DAY OF AUGUST, TWO THOUSAND AND TEN, AT 4:00 P.M. AT
THE HUMAN SERVICES BUILDING, 5249 OLDE TOWNE ROAD,
WILLIAMSBURG, VIRGINIA.

1. Roll Call:

Members Present

Mr. Harcum
Mr. Bradshaw
Ms. Smith
Mr. Icenhour
Mr. Abbott
Ms. Garrett
Mr. Meadows
Mr. Hitchens
Mr. Richardson
Mr. Ford

Also Present

Mr. Purse (Planning)
Ms. Kate Sipes (Planning)
Ms. Terry Costello (Planning)

2. New Business:

Approval of the June 28, 2010 Meeting Minutes

Mr. Ford moved for approval of the minutes with a second from Ms. Garrett. The Committee unanimously approved.

Renewal of the following districts for four year terms until October 2014:

Armistead, AFD-1-89
Barnes Swamp, AFD-5-86
Carter's Grove, AFD-1-02
Christenson's Corner, AFD-10-86
Cranston's Pond, AFD-6-86
Croaker, AFD-2-86
Gordon Creek, AFD-9-86
Gospel Spreading Church Farm, AFD-12-86
Hill Pleasant Farm, AFD-3-86
Mill Creek, AFD-7-86
Williamsburg Farms, AFD-1-93
Yarmouth Island, AFD-11-86

Mr. Purse stated that there is a request to withdraw 3 acres from a 32 acre parcel in the Gordon Creek AFD. Mr. Bradshaw stated he will need an accurate survey in order to apply rollback taxes.

Ms. Sipes gave a brief staff report stating that the above 12 districts are proposed to be renewed until October 2014. The approximate total acreage for these districts is 16,800 acres.

Mr. Purse stated that approximately 15% of all County land is currently in an AFD.

Mr. Ford moved to approve the renewal of the districts with a second from Ms. Garrett.

In a roll call vote the motion was approved. (9-0)

Gordon Creek AFD (3889 News Road) Addition

Mr. Purse stated that this property was part of the Ford's Colony CCRC Proposal. Staff does not recommend approval of this addition due to the fact that there is an existing master plan and rezoning on the property. Mr. Purse stated he has spoken with the owners about other alternatives that may be available such as downzoning. He also stated that if the property was downzoned the approved master plan would be invalid.

Mr. Ford asked if the time period has passed where a property is removed from the AFD before requesting to be added back.

Mr. Bradshaw stated that the time period has passed.

Mr. Hitchens asked how difficult would it be to have the property downzoned.

Mr. Purse explained the process and that it would involve a public hearing. There is a fee associated with the public hearing. The case would be heard by the Planning Commission and the Board of Supervisors. A case to add the property to the AFD could run concurrently. Mr. Purse stated that owners have not made any decisions concerning alternatives.

Mr. Bradshaw moved to recommend denial of the request to add, with a second from Mr. Ford.

In a roll call vote the motion was approved. (9-0)

Hankins Property Croaker AFD Addition

Mr. George Hankins explained that the property has no public water and sewer. This addition involves three properties and in total are approximately 308 acres. The uses on the properties involve timbering, agriculture and some non-qualifying uses such as mining and stockpiling.

Mr. Purse stated that the land was in an AFD but was removed in 1989. The property is part of a master plan and a rezoning. Staff is recommending not to add these three properties into the AFD.

Ms. Garrett stated that the pond in the center of the property was converted to the golf course. There is some farming done, 43 acres are forestal, and a small part has a mining operation on it.

Mr. Purse stated that the mining and stockpiling are non-qualifying uses for property to be in an AFD.

Mr. Icenhour asked how much of the property was part of the master plan.

Mr. Purse answered that the majority of the property was included in the master plan. The majority of the property has a R5 and M1 zoning with a small portion R8 zoning.

Mr Bradshaw stated that the property is in the Primary Service Area (PSA) and water and sewer are available.

Mr. Purse mentioned that during the Comprehensive Plan update, these properties were targeted as a mixed use area, where development would be encouraged.

Mr. Ford stated he would like to see the property in the AFD.

Mr. George Hankins would agree to have the land with the qualifying uses placed in the AFD.

Mr. Harcum agreed that the property that is used for agriculture should be included in the AFD.

Mr. Bradshaw stated that the land used for agriculture could get land use valuation based on the use and not have to be placed in the AFD. The land use for timbering would need to be in the AFD to get land use valuation.

Mr. Ford moved to have all three properties added into the AFD.

There was no second.

Mr. Howard Hankins stated that the property has been part of a master plan for twenty years and there has been offers made to purchase it.

Mr. Icenhour stated he was uncomfortable putting all three properties into the AFD.

Mr. Purse suggested determining what portion of the three parcels is currently being used for agriculture and timbering, and having that acreage part of the AFD. Mr. Purse stated he would work with the applicants in determining boundaries for the qualifying and non-qualifying uses.

Mr. Bradshaw moved to defer the application to allow for a modified proposal. Mr. Ford seconded the motion.

In a roll call vote the motion was approved. (9-0)

Board of Supervisors Work Session Items

Mr. Purse stated that Mr John McDonald of FMS has suggested four changes to the AFD program:

1. All land must be in an AFD to be eligible for land use valuation. The minimum parcel size would be 5 acres instead of 20.
2. There would be one withdrawal policy regardless if the property was inside or outside the PSA.
3. Request State approval to reduce the size of an AFD from 200 acres to 20 acres.

4. Establish term lengths for members of the AFD Committee.

Mr. Hitchens stated that it would benefit the County to have as much land as possible in an AFD.

Mr. Icenhour stated that changing the legislation should take a year or less.

Mr. Purse suggested having the first and third recommendations tied together. It was decided that if item #3 was approved, then proceed with item #1.

Mr. Icenhour moved for approval of items #1 and #3 with a second from Mr. Ford.

In a roll call vote the motion was approved. (10-0)

Mr. Ford moved for approval of item #2 with a second from Mr. Hitchens.

In a roll call vote the motion was approved. (10-0)

Mr. Bradshaw suggested working on a more detailed proposal for item #4. Ms. Garrett read the policy as to what the Committee should consist of, and it was determined that some of it was not valid anymore. Staff agreed to develop a more detail recommendation.

Mr. Bradshaw motioned to defer #4, with a second from Mr. Abbott.

In a roll call vote the motion was approved. (10-0)

Mr. Abbott moved for adjournment, with a second from Ms. Smith.

The meeting was adjourned at 5:15 p.m.

Ms. Loretta Garrett, Chair

Jason Purse, Senior Planner

UNAPPROVED MINUTES FROM THE SEPTEMBER 1, 2010 PLANNING COMMISSION MEETING

AFD-1-89, AFD-2-86, AFD-3-86, AFD-5-86, AFD-6-86, AFD-7-86, AFD-9-86, AFD-10-86, AFD-11-86, AFD-12-86, AFD-1-93, AFD-1-02 Agricultural and Forestral District Renewals

Mr. Krapf requested that AFD-7-86 Mill Creek be voted on separately from the remainder. He stated his property was a part of the Mill Creek AFD and he recused himself from reviewing that case.

Mr. Poole stated he may have a conflict due his employer, Colonial Williamsburg's, partial ownership of AFD-1-02 Carter's Grove.

Mr. Kinsman stated there was no conflict according to state and local laws. He stated the application could be voted separately in the interest of extreme prudence.

Mr. Poole requested that AFD-1-02 Carter's Grove be voted on separately from the remainder. He stated his employer was a part owner of the AFD. He recused himself from reviewing that case. Mr. Krapf indicated he was also employed by Colonial Williamsburg and would recuse himself from reviewing AFD-1-02 as well.

Mr. Jason Purse stated that 12 of the County's 14 AFDs are currently going through the renewal process. The Armistead, Carter's Grove, Barnes Swamp, Christenson's Corner, Cranston's Pond, Croaker, Gordon Creek, Gospel Spreading Church Farm, Hill Pleasant Farm, Mill Creek, Williamsburg Farms, and Yarmouth Island all have 4-year terms expiring between September and November 2010. Wright's Island was renewed by the Board in July 2010 for 8 years. Pate's Neck 6 year term expires in 2012. AFD renewal, additions, and withdrawals require public hearings. Out of all the renewals, only one withdrawal was requested – a 3 acre parcel from the Gordon Creek AFD. AFDs are consistent with surrounding land uses and the Comprehensive Plan. Staff recommends renewal of the AFDs with expiration set for October 2014 and subject to proposed conditions. The AFD Advisory Committee unanimously recommended renewal of all AFDs.

Mr. Peck opened the public hearing.

Mr. Peck closed the public hearing.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a unanimous roll call vote, the Commission recommended approval of all cases presented with the exception of AFD-7-86 and AFD-1-02, and with amended conditions (7-0).

AFD-7-86 Mill Creek

Mr. Krapf left the dias.

Mr. Peck opened the public comment period.

Mr. Peck closed the public comment period.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a unanimous roll call vote, the Commission recommended renewal with amended conditions (6-0; Abstain: Krapf).

AFD-1-02 Carter's Grove

Mr. Peck opened the public comment period.

Mr. Peck closed the public comment period.

Mr. Fraley moved to recommend renewal with proposed conditions.

In a unanimous roll call vote, the Commission recommended renewal with amended conditions (5-0; Abstain: Krapf, Poole).

**AGRICULTURAL & FORESTAL DISTRICT-1-89. Armistead 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 pm

SUMMARY FACTS

Owner	Parcel No.	Acres
Sarah H. Armistead	3120100017	84.50
Sarah H. Armistead	3120100014	53.78
Sarah H. Armistead	3130100029	132.08
Sarah H. Armistead	3140100001	<u>41.17</u>
	Total	<u>311.5</u>

Zoning: A-1, General Agriculture and R-8, Rural Residential

Comprehensive Plan: Low-Density Residential and Conservation Area

Primary Service Area: Inside

STAFF RECOMMENDATION

This Agricultural and Forestal District (AFD) is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Armistead AFD for a period of four years, one month and three days, in order to have all of the districts expire on October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Armistead AFD.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established AFDs prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-1-89, Armistead, which is scheduled to expire November 27, 2010.

Staff is endeavoring to synchronize the expiration dates of all districts. As part of the 2010 renewal process, staff is recommending a term of four years, one month and three days, making the expiration date October 31, 2014.

District History

The Armistead AFD was created in 1989 for a term of four years and originally consisted of five parcels totaling 403 acres. The District was renewed in 1994 and 1998 for four year periods with no addition or withdrawal of acreage. On February 9, 1999, the Board of Supervisors approved the withdrawal of approximately 90 acres (Elizabeth Carter Tract) as part of a rezoning for Ford's Colony on the south side of Longhill Road. Following this action the District contained approximately 311.54 acres. The District was renewed in both 2002 and 2006 for four-year periods with no addition or withdrawal of acreage.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Armistead AFD consists of approximately 311.5 acres located between Longhill Road and Centerville Road and is bounded by the County's Warhill Sports Complex, Ford's Colony, Forest Glen, Fox Ridge, Longhill Station, and Adam's Hunt subdivisions.

Analysis

The bulk of the District is woodland with the majority of the property zoned R-8, Rural Residential, with one parcel zoned A-1, General Agricultural. The parcels in District are designated as Low Density Residential by the Comprehensive Plan and all are within the Primary Service Area (PSA). The Comprehensive Plan's Community Character goal is to enhance and preserve the County's scenic, cultural, rural, farm, forestal, natural, and historic resources. The AFD program helps satisfy this goal and therefore this renewal is consistent with the 2009 Comprehensive Plan.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

No property owner has requested land be added to the District during this renewal period.

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the PSA, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from AFDs Inside the PSA, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District,

may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

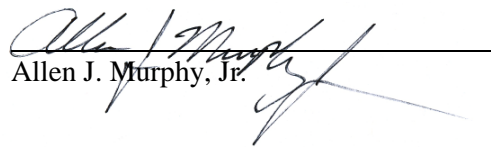
STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Armistead AFD for a period of four years, one month and three days, in order to have all of the districts expire on October 31, 2014, subject to the enclosed conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Jason Purse

CONCUR:


Allen J. Murphy, Jr.

JP/nb
AFD1-89Armistead.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes of the September 1, 2010, Planning Commission Meeting
4. Unapproved Minutes from the August 23, 2010, AFD Advisory Committee Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-1-89

ARMISTEAD 2010 RENEWAL

WHEREAS, James City County has completed a review of the Armistead Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Armistead AFD; and

WHEREAS, the AFD Advisory Committee at its meeting on August 23, 2010, voted 9-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the district with the conditions listed below.

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

1. The Armistead AFD is hereby continued from its current date of expiration (January 10, 2006) for a period of four years, one month and three days to October 31, 2010, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The district shall include the following parcels provided, however, that all land within 25 feet of road rights-of-way is excluded from the district:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Sarah H. Armistead	3120100017	84.50
Sarah H. Armistead	3120100014	53.78
Sarah H. Armistead	3130100029	132.08
Sarah H. Armistead	3140100001	<u>41.17</u>
	Total:	<u>311.5</u>

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Armistead AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by

members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD1-89Armistead_res

**AGRICULTURAL & FORESTAL DISTRICT-5-86. Barnes Swamp 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

SD and SKI, LLC
Jane B. Farmer and Betty B. Rady
Katherine L. Hockaday
Alvin Beahm
Alvin Beahm
Arline H. Bowmer
Arline H. Bowmer
Martha W. McMurrin and SWR-Misc, LLC
Charles Douglas Harwood
Estate of Mick Zuzma
Estate of Mick Zuzma
Betty L. Johnson and Lynne J. Fischer
Betty L. Johnson and Lynne J. Fischer
Robert Michael Dzula
John A. Richardson
John A. Richardson
H.P. and Mary Hazelwood
Cherri U. Spellmeyer
Pamaka, LLC
Pamaka, LLC
Frances Isabell Woodard
Alex Lamar Penland
Donald A. Hazelwood
Donald A. Hazelwood
Donald A. Hazelwood
John P. Latoski Trustee
Dennis Wayne Leonituk, Jr.
Pamaka, LLC

Parcel No.	Acres
0310100001	108.47
0310100002	64.00
0310100003	65.26
0330100003	70.00
0330100004	70.00
0330100006	96.75
0240100012	62.19
1010100001	61.61
0320100001	43.52
0320100002	13.85
0320100002A	17.20
0320100003	19.07
0320100003A	93.98
0320100004	28.07
0410100005	42.00
0410100006	10.00
0420100008	227.98
0420100014	134.00
0430100015	21.99
0430100016	52.00
0920100001	114.58
0240100029	55.90
0420100020	112.44
0420100018	3.46
0440100001	6.11
0310100001B.....	10.23
0310100001A	10.00
0430100014A	<u>1.34</u>
 Total	 <u>1,616.1</u>

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Barnes Swamp Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

Staff Contact: Kathryn Sipes, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Barnes Swamp Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFD's) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-5-86, Barnes Swamp, which is scheduled to expire October 25, 2010.

District History

The District was approved on December 1, 1986, for a term of four years. One 114-acre parcel, (9-2)(1-1), was added in 1987. It was renewed for a period of four years by the Board in October 1990. One addition to the District of 60.7 acres was approved by the Board in February 1991. The AFD was renewed again on October 19, 1994. The Board of Supervisors approved an addition of 127.36 acres on July 8, 1997. It was renewed for a period of four years by the Board in September 1998, with the withdrawal of a 58.6 acre parcel (2-4)(1-61) owned by R.E. and Mary Mountcastle. On January 26, 1999, the Board approved the addition of the 58.6 acre parcel (2-4)(1-61) owned by R.E. and Mary Mountcastle. When the District was renewed in 2002, the same 58.6 acre R.E. and Mary Mountcastle parcel was withdrawn. In 2006, during the renewal process, 271.51 acres were removed from Barnes Swamp, comprised of the following parcels: (4-1)(5-1), (4-1)(5-2), (4-1)(5-3), (4-1)(5-4), (4-1)(5-5), and (4-3)(1-17). In 2008, 1.34 acres was added with (4-3)(1-14A).

The District includes all the land on the previously listed properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Barnes Swamp AFD currently consists of approximately 1,616.1 acres and adjoins the New Kent County border, extending from a point approximately 5,000 feet east of Holly Forks Road west to Diascund Reservoir and south to Richmond Road.

Analysis

The District consists mainly of forested land. Records indicate that approximately 80 percent of the District is used for forestry purposes and the balance of the District is used for agriculture. All of the land within the District is zoned A-1, General Agricultural. Most of the surrounding land is agricultural in nature, although two parcels located on Fire Tower Road are adjacent to the Stonehouse PUD-R

Development. The entire District is located outside the PSA and designated Rural Lands and Conservation Area by the Comprehensive Plan.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

No property owner has requested land be added to the District during this renewal period.

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

STAFF RECOMMENDATION

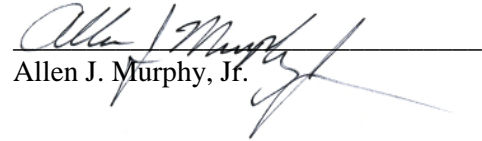
This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Barnes Swamp AFD for a period of four years, one month, and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the sitting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the

policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:



Allen J. Murphy, Jr.

KS/nb
AFD5-86BarnesSwamp.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes of the Planning Commission Meeting
4. Unapproved Minutes of the AFD Advisory Committee Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT 5-86

BARNES SWAMP 2010 RENEWAL

WHEREAS, James City County has completed a review of the Barnes Swamp Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Barnes Swamp AFD; and

WHEREAS, the AFD Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to renew this district with the conditions listed below.

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

1. The Barnes Swamp AFD is hereby continued for a period of four years, one month, and three days to October 31, 2014, in accordance with the provisions of the Virginia AFD Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels provided, however, that all land within 25 feet of the road rights-of-way be excluded from the District to allow for possible road improvements:

<u>Owners</u>	<u>Parcel No.</u>	<u>Acres</u>
SD and SKI, LLC	0310100001	108.47
Jane B. Farmer and Betty B. Rady	0310100002	64.00
Katherine L. Hockaday	0310100003	65.26
Alvin Beahm	0330100003	70.00
Alvin Beahm	0330100004	70.00
Arline H. Bowmer	0330100006	96.75
Arline H. Bowmer	0240100012	62.19
Martha W. McMurrin and SWR-Misc, LLC	1010100001	61.61
Charles Douglas Harwood	0320100001	43.52
Estate of Mick Zuzma	0320100002	13.85
Estate of Mick Zuzma	0320100002A	17.20
Betty L. Johnson and Lynne J. Fischer	0320100003	19.07
Betty L. Johnson and Lynne J. Fischer	0320100003A	93.98
Robert Michael Dzula	0320100004	28.07

John A. Richardson	0410100005	42.00
John A. Richardson	0410100006	10.00
H.P. and Mary Hazelwood	0420100008	227.98
Cherri U. Spellmeyer	0420100014	134.00
Pamaka, LLC	0430100015	21.99
Pamaka, LLC	0430100016	52.00
Frances Isabell Woodard	0920100001	114.58
Alex Lamar Penland	0240100029	55.90
Donald A. Hazelwood	0420100020	112.44
Donald A. Hazelwood	0420100018	3.46
Donald A. Hazelwood	0440100001	6.11
John P. Latoski Trustee	0310100001B	10.23
Dennis Wayne Leonituk, Jr.	0310100001A	10.00
Pamaka, LLC	0430100014A	1.34
Total.....		<u>1,616.1</u>

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Barnes Swamp AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communication Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from AFDs Outside the PSA, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

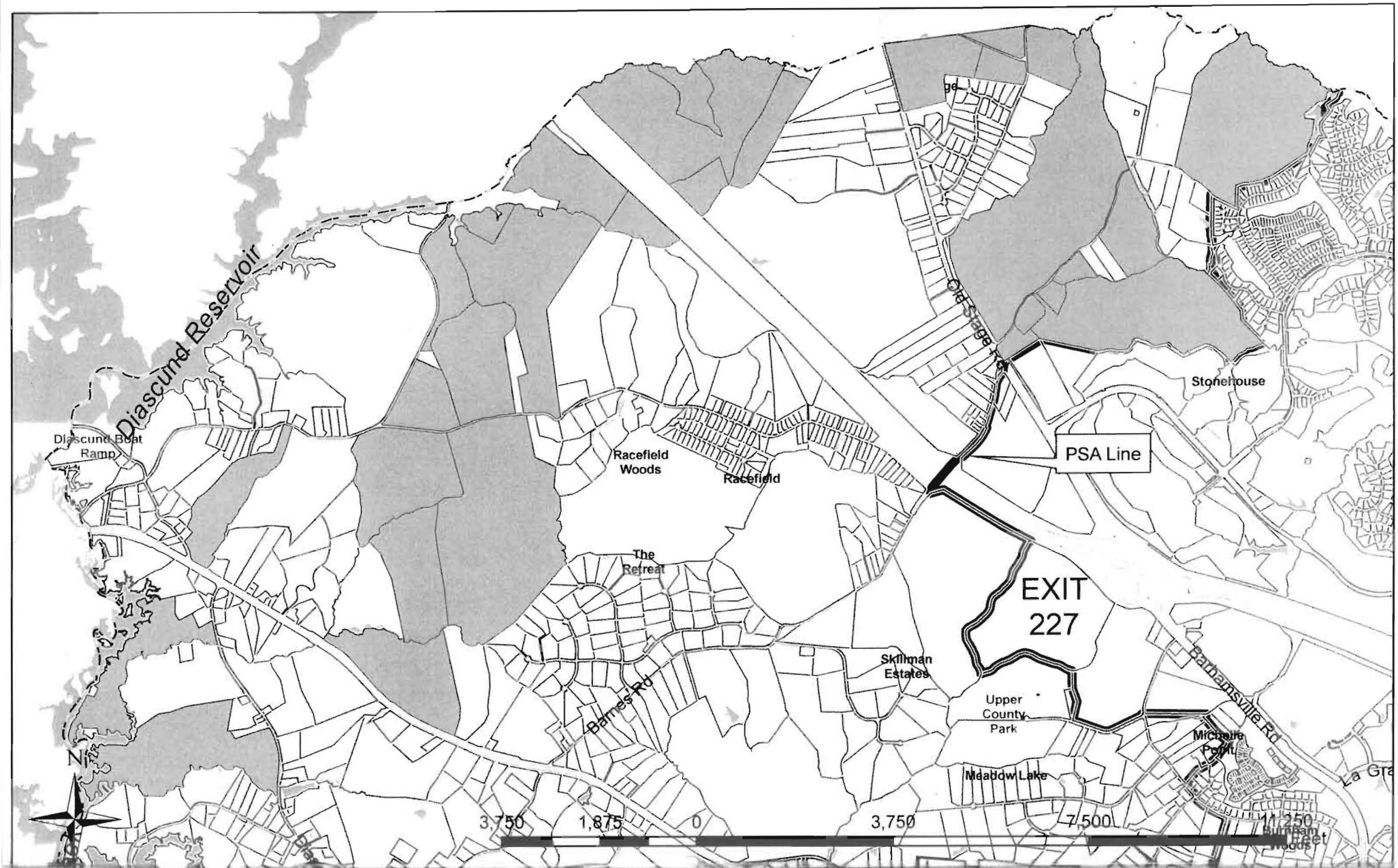
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of
September, 2010.

AFD5-86BarnesSwamp_res

AFD-5-86

Barnes Swamp AFD 2010 Renewal



**AGRICULTURAL & FORESTAL DISTRICT-1-02. Carter's Grove 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

Carter's Grove, LLC
Carter's Grove, LLC
Colonial Williamsburg Foundation

Parcel No.

Acres

582010000276.10
5910100030240.04
59101000211.56

Total317.7

Zoning: R-8, Rural Residential, R-2, General Residential, and LB, Limited Business

Comprehensive Plan: Park, Public, Semi-Public Open Space; Federal, State, County Land; Conservation Area; and Neighborhood Commercial

Primary Service Area: Inside

STAFF RECOMMENDATION

This Agricultural and Forestal Districts (AFD) is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Carter's Grove AFD for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 5-0 with two abstentions, the Planning Commission recommended renewal of the Carter's Grove AFD.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established AFDs prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-1-02, Carter's Grove, which is scheduled to expire October 26, 2010.

District History

The Carter's Grove AFD was created by the Board of Supervisors on October 8, 2002, for a term of four years. In 2006, during the renewal process, Colonial Williamsburg removed a portion of land totaling approximately 2.26 acres. The area encompasses the 1,650-foot-long entrance road to Carter's Grove Mansion and would allow the flexibility for future widening. In 2007, the parcel that the mansion is located on was combined with the surrounding parcel, Tax Map No. (59-1)(1-30). The entire area of the previously delineated parcel, along with the aforementioned entrance road, is not included in the Carter's Grove AFD.

The District includes land on the above properties as previously described with the exception of all land within 25 feet of arterial road rights-of-way, land within the Colonial Pipeline and Hampton Roads Sanitation District (HRSD) easements, and land within ten feet adjacent to both sides of the HRSD easement. That property has been excluded from the District to allow for possible road and/or drainage improvements and expansion.

The Carter's Grove AFD consists of approximately 317.7 acres located generally between the James River, Ron Springs Road, and south of Pocahontas Trail (Route 60). One parcel containing 1.5 acres is north of Pocahontas Trail. The main two parcels surround the Carter's Grove Plantation and the HRSD sewer station and are west of the James River Commerce Center.

Analysis

The property included in this District is wooded or cleared pasture and does not include the Carter's Grove Plantation House and Visitor Center. The District also has direct frontage on the James River and contains some marshland that drains directly into the James River.

The entire District lies within the Primary Service Area (PSA) and property within the District is zoned R-2, General Residential, R-8, Rural Residential and LB, Limited Business. The majority of the property is designated Park, Public, Semi-Public Open Space; Federal, State, County Land; or as a Conservation Area on the 2009 James City County Comprehensive Plan Land Use Map. Parcel No. (58-2)(1-21) is designated Neighborhood Commercial. The locations of parcels within the District provide natural buffers surrounding the HRSD sewer station and the Carter's Grove Plantation historical site and help to preserve the natural, wooded, and rural character of that area of the County. The perpetuation of this AFD will help to ensure that some property in the predominantly urban southern end of the County remains in forestal and/or agricultural uses for the duration of the District.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

No property owner has requested land be added to the District during this renewal period.

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references

future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

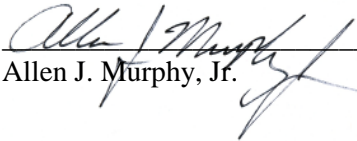
STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Carter’s Grove AFD for a period of four years, one month, and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the sitting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:


Allen J. Murphy, Jr.

KS/nb
CartersGrve.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes of the Planning Commission Meeting
4. Unapproved Minutes of the AFD Advisory Committee Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT 1-02

CARTER'S GROVE 2010 RENEWAL

WHEREAS, James City County has completed a review of the Carter's Grove Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Carter's Grove Agricultural and Forestal District; and

WHEREAS, the AFD Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 5-0 with two abstentions to renew this district with the conditions listed below.

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

1. The Carter's Grove AFD is hereby continued for a period of four years, one month, and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels provided, however, that all land within 25 feet of the road rights-of-way be excluded from the District to allow for possible road improvements:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Carter's Grove, LLC	5820100002	76.10
Carter's Grove, LLC	5910100030	240.04
Colonial Williamsburg Foundation	5910100021	<u>1.56</u>
	Total:	<u>317.7</u>

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Carter's Grove AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access

roads, may be subdivided for the sitting of Wireless Communication Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

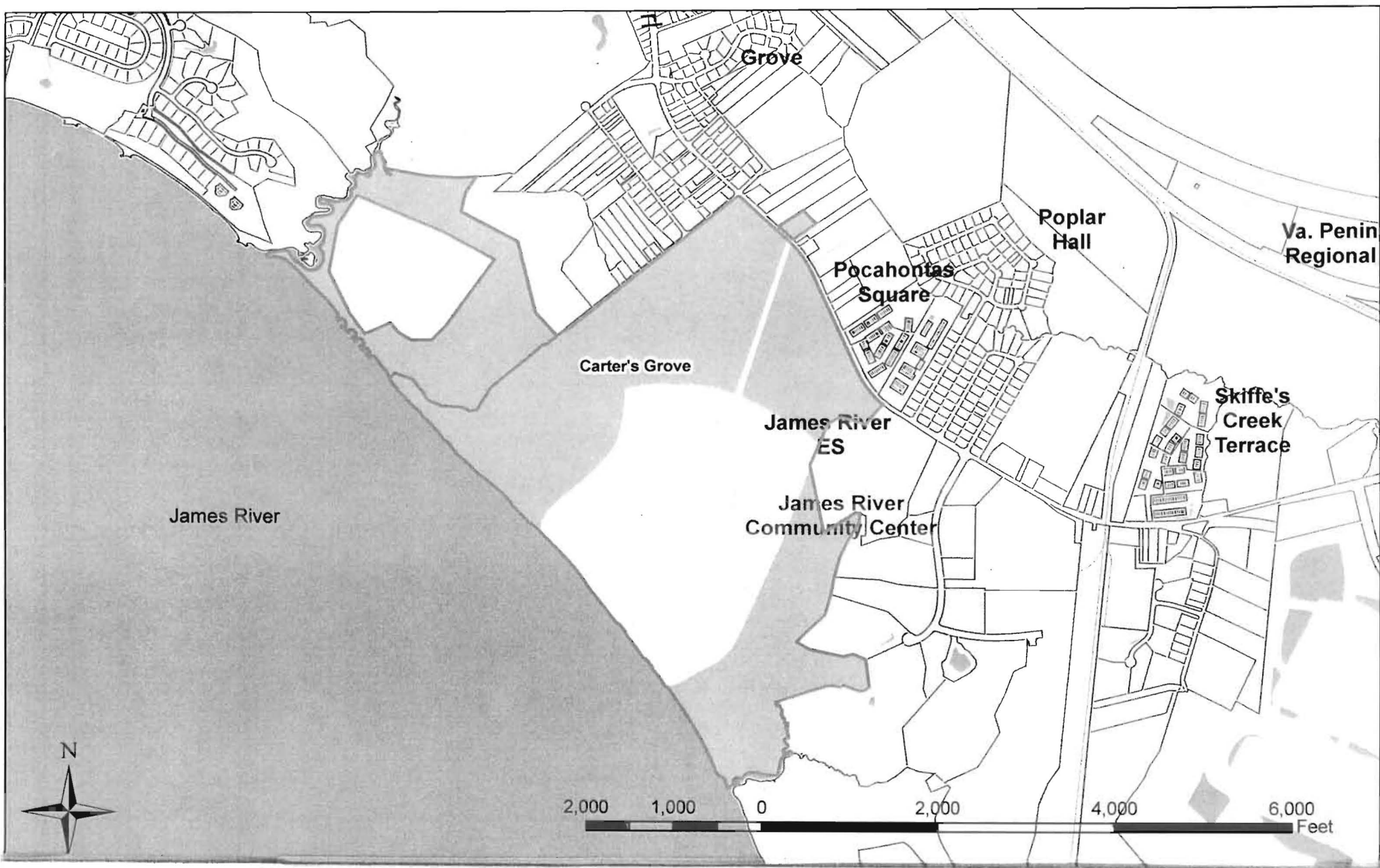
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD1-02CartersGrve_res

AFD-1-02

Carter's Grove AFD 2010 Renewal



AGRICULTURAL & FORESTAL DISTRICT-10-86. Christenson's Corner 2010 Renewal Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners	Parcel No.	Acres
C.M. Chandler	1540100011	151.25
C.M. Chandler	1630100001	8.01
Stieffen Co, LLC & Stieffen, B. P.	1640100003	<u>402.89</u>
	Total	<u>562.2</u>

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Christenson's Corner AFD for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Christenson's Corner Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-10-86, Christenson's Corner, which is scheduled to expire October 25, 2010.

District History

The District was approved on December 1, 1986, for a term of four years, and the Board of Supervisors approved four-year renewals in 1990, 1994, 1998, and 2002. The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road improvements.

The Christenson's Corner AFD consists of approximately 562.2 acres located south of Riverview Road between Newman Road and Riverview Plantation.

Analysis

The bulk of the District contains woodland. The remainder of the property in the District is in open land and swamp or low lying land. All of the land within this District is zoned A-1, General Agricultural, and a major portion of the surrounding property is zoned A-1 and is forested. Most of the District is designated Rural Lands by the Comprehensive Plan. A very small portion of the District is designated Conservation Area by the Comprehensive Plan.

The entire District is located outside of the Primary Service Area (PSA) and the area remains relatively rural in nature.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

No property owner has requested land be added to the District during this renewal period.

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

STAFF RECOMMENDATION

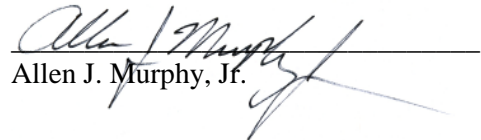
This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Christenson's Corner Agricultural and Forestal District for a period

of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:



Allen J. Murphy, Jr.

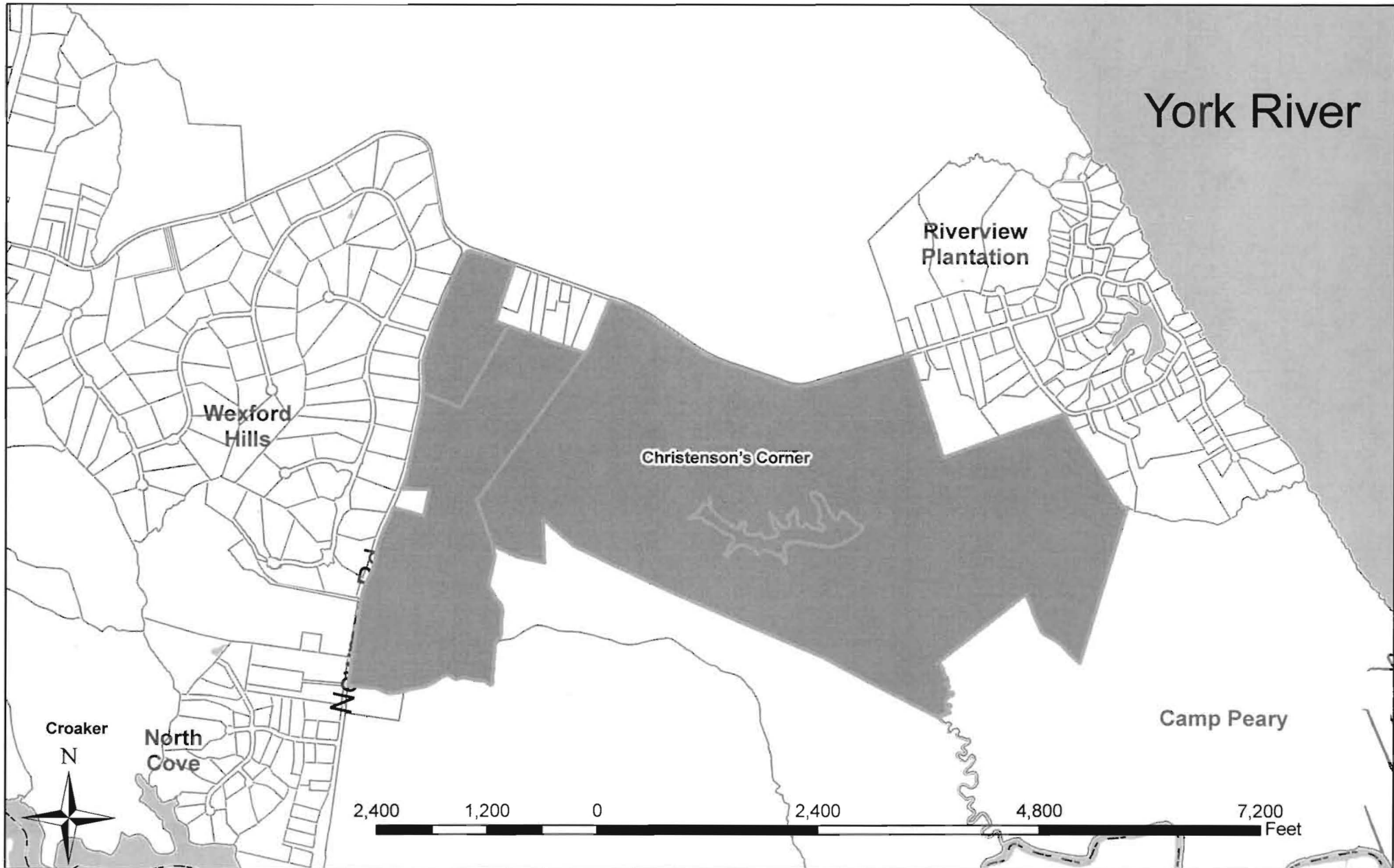
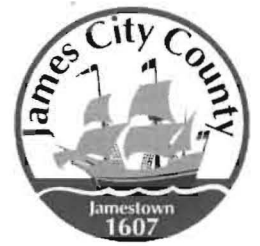
KS/nb
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ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes from the Planning Commission Meeting
4. Unapproved Minutes from the AFD Advisory Committee Meeting

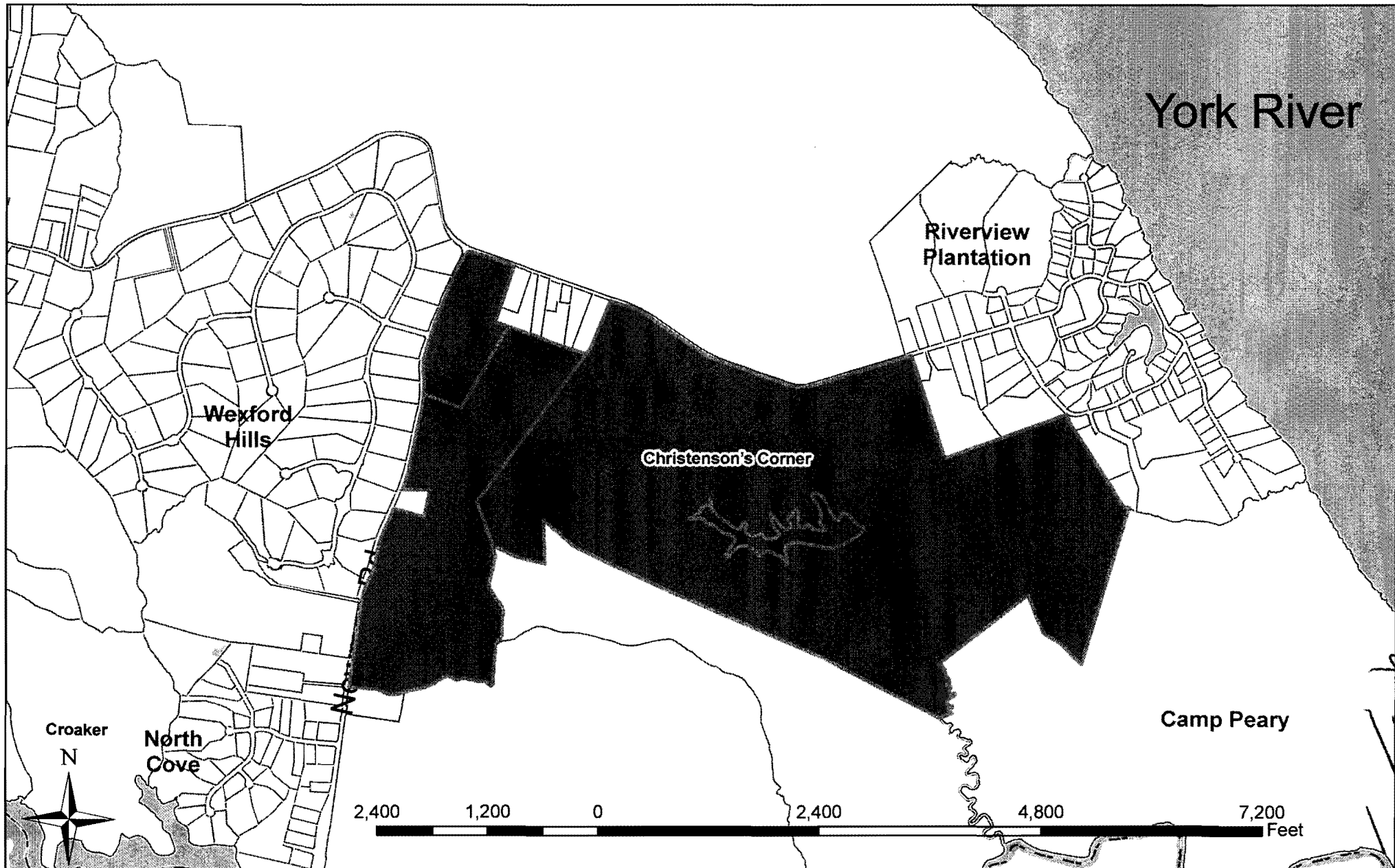
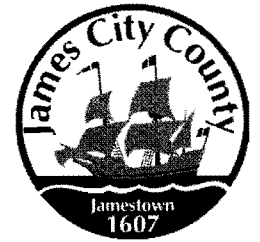
AFD-10-86

Christenson's Corner 2010 Renewal



AFD-10-86

Christenson's Corner 2010 Renewal



AGRICULTURAL & FORESTAL DISTRICT-6-86. Cranston's Pond 2010 Renewal

Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 pm

SUMMARY FACTS

Owners	Parcel No.	Acres
Hidden Acres Farm, Inc.	2330100001	416.50
Bertrand E. Geddy Jr. Trustee	2230100026	167.50
Edward K. English	2240100001A	101.67
Payton J. Harcum	2220100087	62.55
Otto C. and Thelma Ripley	3120100003B	<u>21.01</u>
Total		<u>769.2</u>

Zoning: A-1, General Agriculture and R-8, Rural Residential

Comprehensive Plan: Rural Lands, Low-Density Residential, and Conservation Area

Primary Service Area: One parcel (3120100003B) inside and the remaining outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Cranston's Pond Agricultural and Forestal District (AFD) for a period of four years, one month and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Cranston's Pond AFD.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established AFDs prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-6-86, Cranston's Pond, which is scheduled to expire October 25, 2010.

District History

The District was approved on December 1, 1986, for a term of four years and has been renewed for additional four-year terms by the Board of Supervisors in October 1990, November 1994, September 1998, and August 2002. This District has remained essentially the same since the AFD was created, with the following changes occurring over time: approximately 32 acres were added to the District in 1994, approximately 14 acres were added to the District in 2002, and approximately 130 acres were removed between 1998 and 2002. During the 2006 renewal 111.82 acres was removed from the District.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Cranston's Pond AFD consists of approximately 769.2 acres and is located southeast of Chickahominy Road and Little Creek Dam Road.

Analysis

The District consists mainly of forested land, about 75 percent. The remainder of the District is in marsh land. Most of the District is located outside of the Primary Service Area (PSA) and is designated Rural Lands by the Comprehensive Plan. The Ripley parcel is located inside the PSA and are designated Low Density Residential. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property. The Comprehensive Plan also designates Cranston's Pond and its tributaries as Conservation areas.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

No property owner has requested land be added to the District during this renewal period.

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to

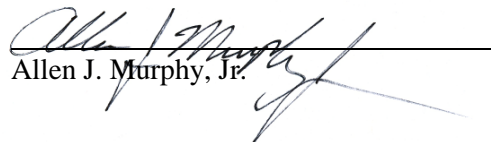
STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Cranston's Pond AFD for a period of four years, one month and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Jason Purse

CONCUR:


Allen J. Murphy, Jr.

JP/nb

AFD6-86CranstonPond.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes from the September 1, 2010, Planning Commission Meeting
4. Unapproved Minutes from the August 23, 2010, AFD Advisory Committee Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT 6-86

CRANSTON'S POND 2010 RENEWAL

WHEREAS, James City County has completed a review of the Cranston's Pond Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Cranston's Pond AFD; and

WHEREAS, the AFD Advisory Committee at its meeting on August 23, 2010, voted 9-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the district with the conditions listed below.

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

1. The Cranston's Pond AFD is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. That the district shall include the following parcels provided, however, that all land within 25 feet of road rights-of-way is excluded from the district:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hidden Acres Farm, Inc.	2330100001	416.50
Bertrand E. Geddy Jr., Trustee	2230100026	167.50
Edward K. English	2240100001A.....	101.67
Payton J. Harcum	2220100087	62.55
Otto C. and Thelma Ripley	3120100003B.....	<u>21.01</u>
	Total:	<u>769.2</u>

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Cranston's Pond Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications

Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.

- b. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
- c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

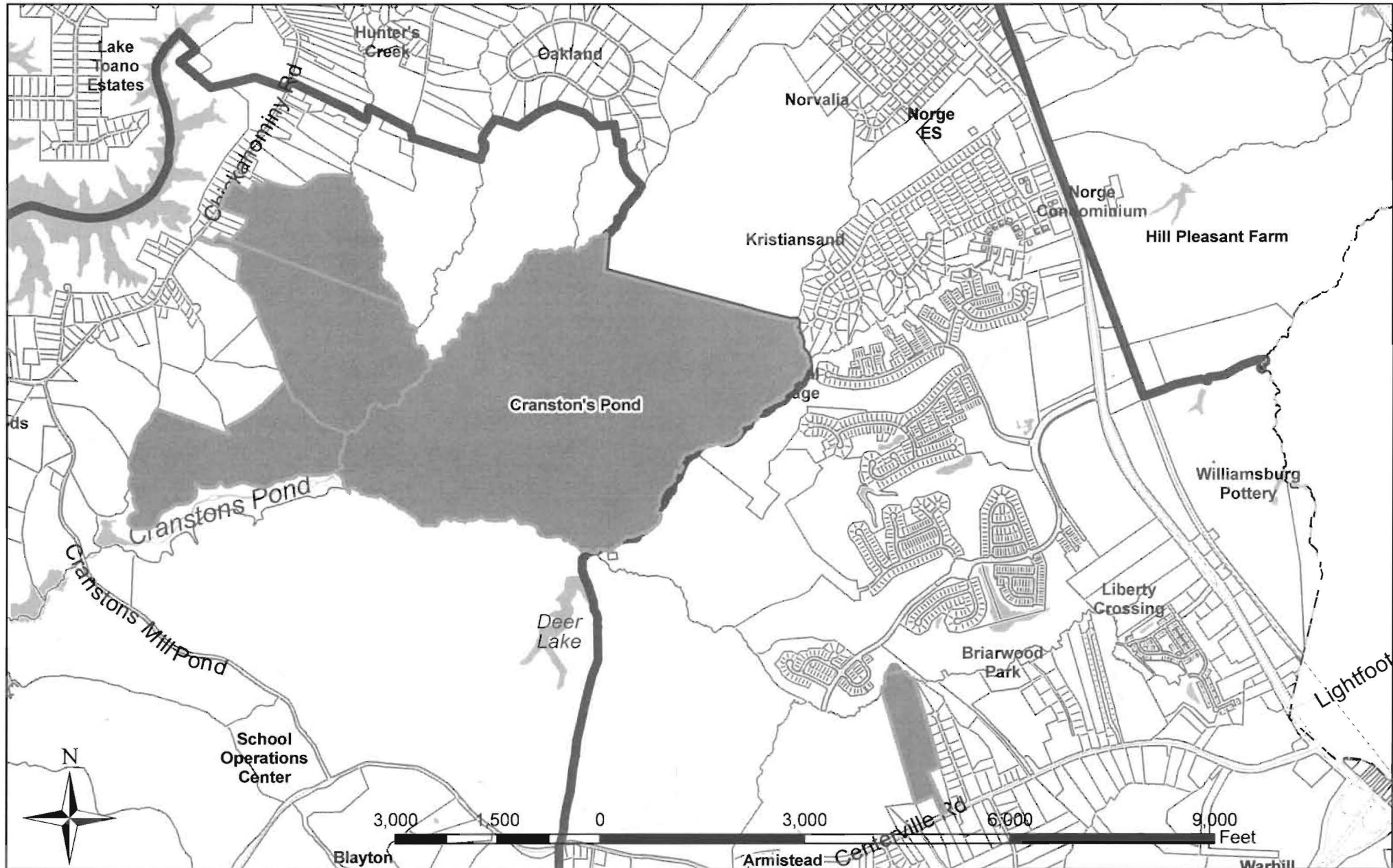
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD6-86CransonPond_res

AFD-6-86

Cranston's Pond AFD 2010 Renewal



**AGRICULTURAL & FORESTAL DISTRICT-2-86. Croaker 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

Parcel No.

Acres

Hankins Land Trust	1530100044	119.00
William and Mary Margaret Apperson	1440100015	51.45
V.D. McManus Estate	1530100043	119.85
V.D. McManus Estate	1530100042	10.10
V.D. McManus Estate	1530100036	40.40
Hazel M. Richardson and L. A Richardson	1530100002	39.76
Clarence D. Richardson, Jr.	1530100034	39.78
Judith R. Pieper	1440100010	40.00
Linda Ann Winston	1440100009	49.07
Wenger Farms, LLC	1320100018	95.30
Wenger Farms, LLC	1410100001	150.00
Wenger Farms, LLC	1440100014	143.50
Thomas B. Ballard	1530100035	53.17
Lasata, LLC	1530100018	16.05
Lasata, LLC	1530100019	16.39
Lasata, LLC	1530100029	30.93
Milly Wallis, c/o Doris Lockley	1540100004	40.00
Thomas B. Ballard	1530100035A	4.91
Thomas B. Ballard	1530100032	16.21

Total 1,075.9

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

This Agricultural and Forestal District (AFD) is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Croaker AFD for a period of four years, one month and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

Staff Contact: Jason Purse, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Croaker Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established AFDs prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-2-86, Croaker, which is scheduled to expire October 25, 2010.

District History

The District was originally approved on November 17, 1986, for a term of four years. In July 1989, the Board of Supervisors approved the withdrawal of 421.773 acres associated with the Old French Winery property. The District was renewed a second time in 1994. Twenty-nine acres were added to the District on January 14, 1997, and 40 acres were added on January 13, 1998. The District was renewed by the Board in 1998 and 2002 with no additions or withdrawals. In 2006, 29 acres were withdrawn, and in May 2007, 21 acres were added to the District.

The District includes all the land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Croaker AFD consists of approximately 1,075.9 acres located in and around the Croaker Road area. The AFD contains parcels which front on Ware Creek and Riverview Roads.

Analysis

The bulk of the District appears to consist of soils well suited for agriculture and is located a considerable distance from the I-64/Croaker Road interchange. Most of the District is forested and remains rural in nature. All of the land within this District is zoned A-1, General Agriculture, and a major portion of the surrounding property is presently zoned A-1. The Old French Winery/Kiskiack development, zoned R-5, Multi-Family Residential, and M-1, Limited Business/Industrial, have requested addition into the Croaker AFD and they abut two of the AFD tracts found on James City County Real Estate Tax Map No. (14-4). The entire District is outside the Primary Service Area (PSA) and is designated Rural Lands by the Comprehensive Plan.

Withdrawals

No property owner has requested land be removed from the District during this renewal period.

Additions

One property has requested to be enrolled in the Croaker AFD, but was deferred by the applicant pending a reorientation of the limits of the proposed enrollment. (Case AFD-2-86-2-2010. Hankins Property Croaker AFD Addition, will be forwarded to the Board of Supervisors at a later date).

Change In Conditions

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the

Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

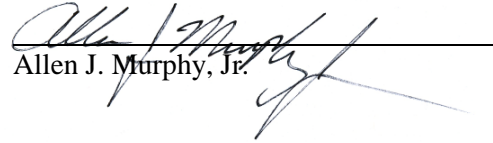
STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Croaker AFD for a period of four years, one month, and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the sitting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the PSA and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Jason Purse

CONCUR:



Allen J. Murphy, Jr.

JP/nb
AFD2-86Croaker.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved Minutes from the September 1, 2010, Planning Commission Meeting
4. Unapproved Minutes from the August 23, 2010, AFD Advisory Committee Meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT 2-86

CROAKER 2010 RENEWAL

WHEREAS, James City County has completed a review of the Croaker Agricultural and Forestal District (AFD); and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Croaker AFD; and

WHEREAS, the AFD Advisory Committee at its meeting on August 23, 2010, voted 9-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the district with the conditions listed below:

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

1. The Croaker AFD is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia AFD Act, Virginia Code Section 15.2-4300 et. seq.
2. That the district shall include the following parcels provided, however, that all land within 25 feet of road rights-of-way is excluded from the district:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Hankins Land Trust	1530100044	119.00
William and Mary Margaret Apperson	1440100015	51.45
V. D. McManus Estate	1530100043	119.85
V. D. McManus Estate	1530100042	10.10
V. D. McManus Estate	1530100036	40.40
Hazel M. Richardson and L. A Richardson	1530100002	39.76
Clarence D. Richardson, Jr.	1530100034	39.78
Judith R. Pieper	1440100010	40.00
Linda Ann Winston	1440100009	49.07
Wenger Farms, LLC	1320100018	95.30
Wenger Farms, LLC	1410100001	150.00
Wenger Farms, LLC	1440100014	143.50
Thomas B. Ballard	1530100035	53.17
Lasata, LLC	1530100018	16.05
Lasata, LLC	1530100019	16.39
Lasata, LLC	1530100029	30.93
Milly Wallis, c/o Doris Lockley	1540100004	40.00

Thomas B. Ballard	1530100035A	4.91
Thomas B. Ballard	1530100032	<u>16.21</u>
	Total:	<u>1,075.9</u>

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Croaker AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

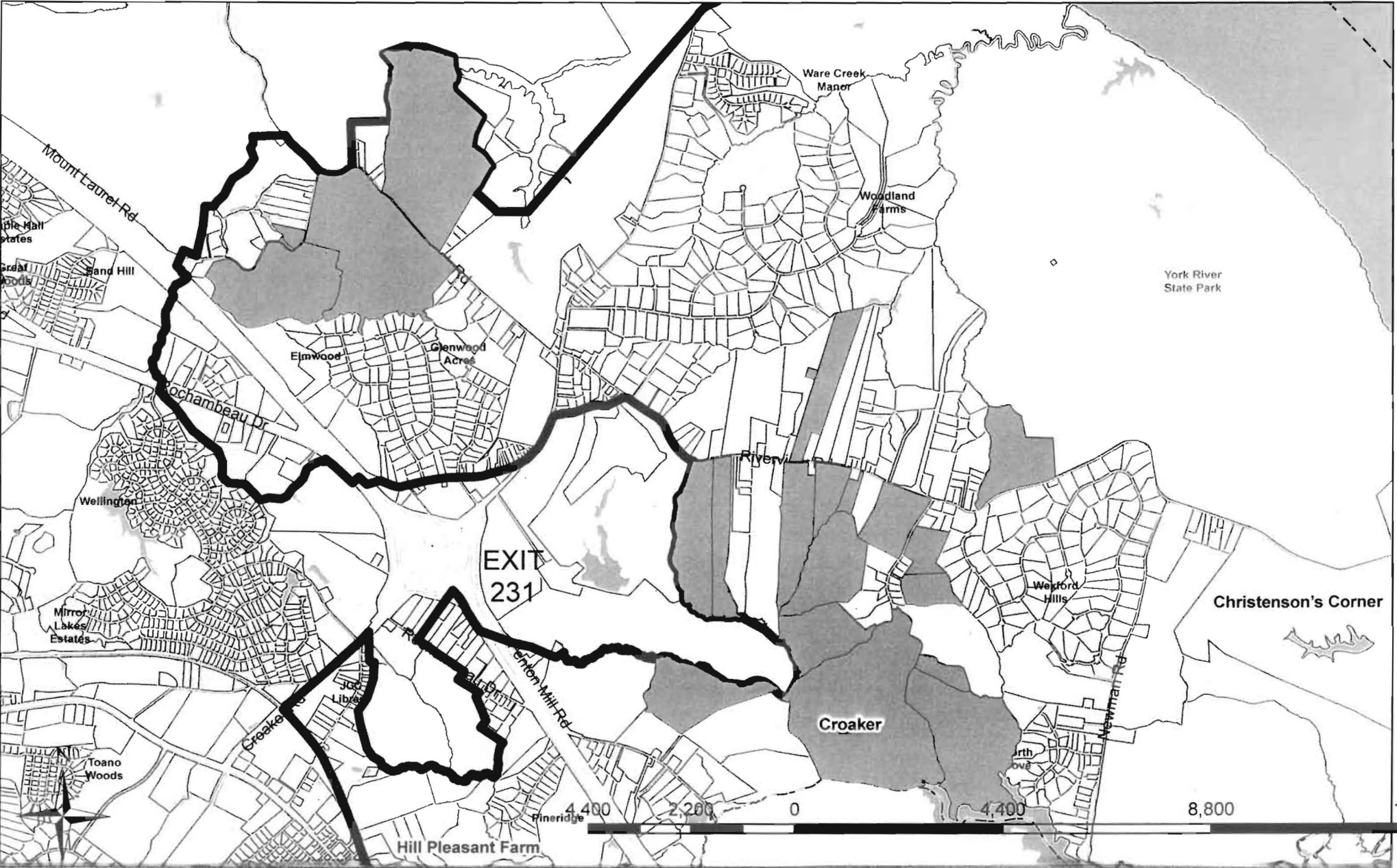
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD2-86Croaker_res

AFD-2-86

Croaker AFD 2010 Renewal



AGRICULTURAL & FORESTAL DISTRICT-9-86. Gordon Creek 2010 Renewal

Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

R. T. Armistead & Letitia A. T. Hanson
R. T. Armistead & Letitia A. T. Hanson
R. T. Armistead & Letitia A. T. Hanson
Martha W McMurren & SWR-Pinewood
Edward Warburton III & Regina L.
Edward Warburton
Allen, David H. & Stephanie M.
Patrick, Matthew CH & Teresa L.
Martha W. McMurren & SWR-Pinewood
Thomas L. Hitchens
W.A. Thompson & Charles Flemming
Claybank Landing, LLC
Richardson Holdings Limited Partnership
Richardson Holdings Limited Partnership
Jane T. Carswell
Martha W. McMurren & SWR-MISC LLC
Powhatan Associates
Powhatan Associates
Mary Abbott
Trust Company of Virginia, c/o Greg Davis
Linda Henderson Gordon
Williamsburg Pottery Inc.
Nayses Bay Land Co.
Nayses Bay Land Co.
William Kane
William Kane
William Kane
William Kane
William Kane
Baxter I. Bell Jr. Trustee
Madeline Carswell Est

Parcel Number

Acres

3520100016 369.00
3630100001 124.17
3030100004 23.00
3540100001 394.50
3520100001B..... 32.00
2940100011 56.20
3420100002 132.98
3420100002A 25.02
3630100003 264.00
3610100006 35.00
3620100040 136.96
4320100001 124.10
3640100007 116.83
3030100003 33.00
3610100003 44.00
3610100004 37.62
4410100001 387.42
3530100001 241.68
3620100018 43.55
3540100009 57.60
3420100001 35.30
4410100002 26.00
3510100003 32.00
3510100006 34.30
2940100003 4.00
3030100007 8.00
3520100007 131.00
3610100001 8.33
3610100002 13.00
4320100003 207.95
3520100010 28.36

TOTAL..... 3,206.80

Zoning: A-1, General Agriculture

Comprehensive Plan: Low-Density Residential, Rural Lands and Conservation Area

Primary Service Area: Two parcels inside, with the remainder located outside the PSA

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Gordon Creek Agricultural and Forestal District for a period of four years, one month and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010 meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Gordon Creek Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

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

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-9-86, Gordon Creek, which is scheduled to expire October 25, 2010.

DISTRICT HISTORY

The District was approved on December 1, 1986, for a term of 4 years. It was subsequently renewed for four-year periods in October 1990, October 1994, September 1998, August 2002, and July 2006. There have been several additions to the Gordon Creek AFD since 1994.

Approximately 40 acres of land was taken out of the Gordon Creek AFD District in May 2006 for the purpose of constructing the 8th Williamsburg-James City County Elementary School. Originally the piece was a part of the approximately 164-acre parcel placed in the AFD by the previous owner. The original parcel can be identified as (36-3)(1-1) on the James City County Real Estate Tax Map.

During the April 2006 renewal period the Barrett's Ferry AFD was terminated and the remaining land was transferred to the Gordon Creek AFD. The transfer consisted of one parcel of approximately 210 acres in land, mostly wooded in nature.

On July 8, 2008, the Board of Supervisors removed 165.50 acres of land from the Gordon Creek AFD District as a part of the Ford's Colony Section 37 rezoning.

The District includes all the land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Gordon Creek AFD consists of approximately 3,206.8 acres located in and around the Centerville Road/News Road area. The AFD contains parcels which front on the following roads: News Road, John Tyler Highway, Centerville Road, Bush Neck Road, Jolly Pond Road and Brick Bat Road.

ANALYSIS

The bulk of the District contains woodland. All of the land within this District is zoned A-1, General Agriculture and a major portion of the surrounding property is presently zoned A-1 and is forested. Most of the District is designated Rural Lands by the Comprehensive Plan. The Nayses Bay area is designated a Conservation Area by the Comprehensive Plan. The bulk of the District is located outside of the Primary Service Area (PSA) and the area remains relatively rural in nature. A small portion (250 acres) is located inside the PSA; however, infrastructure is currently lacking to support major development on these parcels. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property.

WITHDRAWALS

Edward and Regina Warburton have requested three acres be removed from their property 3520100001B for a family subdivision. The property is currently 32 acres, so 29 acres would be left after the removal.

ADDITIONS

One property had requested to be enrolled in the Gordon Creek AFD, but was subsequently withdrawn by the applicant in order to allow the property to continue to be marketed under the approved master plan (the case was previously referenced as AFD-9-86-1-2010, 3889 News Road Gordon Creek Addition).

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

STAFF RECOMMENDATION

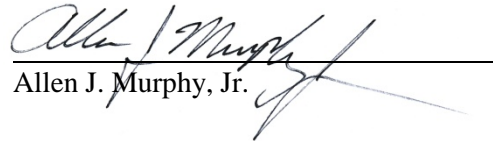
This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Gordon Creek Agricultural and Forestal District for a period of four years, one month and three days, in order to have all the districts expire on October 31, 2014, subject to the enclosed conditions.

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.

2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Jason Purse

CONCUR:


Allen J. Murphy, Jr.

JP/gb

AFD9-86GordonCrk.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the September 1, 2010, Planning Commission meeting
4. Unapproved minutes from the August 23, 2010, AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-9-86

GORDON CREEK 2010 RENEWAL

WHEREAS, James City County has completed a review of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Gordon Creek Agricultural and Forestal District; and

WHEREAS, Edward Warburton III and Regina Warburton have requested the withdrawal of three acres from their parcel which is identified as Tax Map ID 3520100001B; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting on August 23, 2010, voted 9-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the district with the conditions listed below.

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

1. The Gordon Creek Agricultural and Forestal District is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The district shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
R. T. Armistead & Letitia A. T. Hanson	3520100016	369.00
R. T. Armistead & Letitia A. T. Hanson	3630100001	124.17
R. T. Armistead & Letitia A. T. Hanson	3030100004	23.00
Martha W. McMurren & SWR-Pinewood	3540100001	394.50
Edward Warburton III & Regina L.	3520100001B	29.00
Edward Warburton	2940100011	56.20
Allen, David H. & Stephanie M.	3420100002	132.98
Patrick, Matthew CH & Teresa L.	3420100002A	25.02
Martha W. McMurren & SWR-Pinewood	3630100003	264.00
Thomas L. Hitchens	3610100006	35.00
W.A. Thompson & Charles Flemming	3620100040	136.96

Claybank Landing, LLC	4320100001	124.10
Richardson Holdings Limited Partnership	3640100007	116.83
Richardson Holdings Limited Partnership	3030100003	33.00
Jane T. Carswell	3610100003	44.00
Martha W. McMurren & SWR-MISC LLC	3610100004	37.62
Powhatan Associates	4410100001	387.42
Powhatan Associates	3530100001	241.68
Mary Abbott	3620100018	43.55
Trust Company of Virginia, c/o Greg Davis	3540100009	57.60
Linda Henderson Gordon	3420100001	35.30
Williamsburg Pottery Inc.	4410100002	26.00
Nayses Bay Land Co.	3510100003	32.00
Nayses Bay Land Co.	3510100006	34.30
William Kane	2940100003	4.00
William Kane	3030100007	8.00
William Kane	3520100007	131.00
William Kane	3610100001	8.33
William Kane	3610100002	13.00
Baxter I. Bell Jr. Trustee	4320100003	207.95
Madeline Carswell Est	3520100010	<u>28.36</u>
Total:		<u>3,203.8</u>

provided, however, that all land within 25 feet of road rights-of-way is excluded from the district.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Gordon Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided:
 - a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.

- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

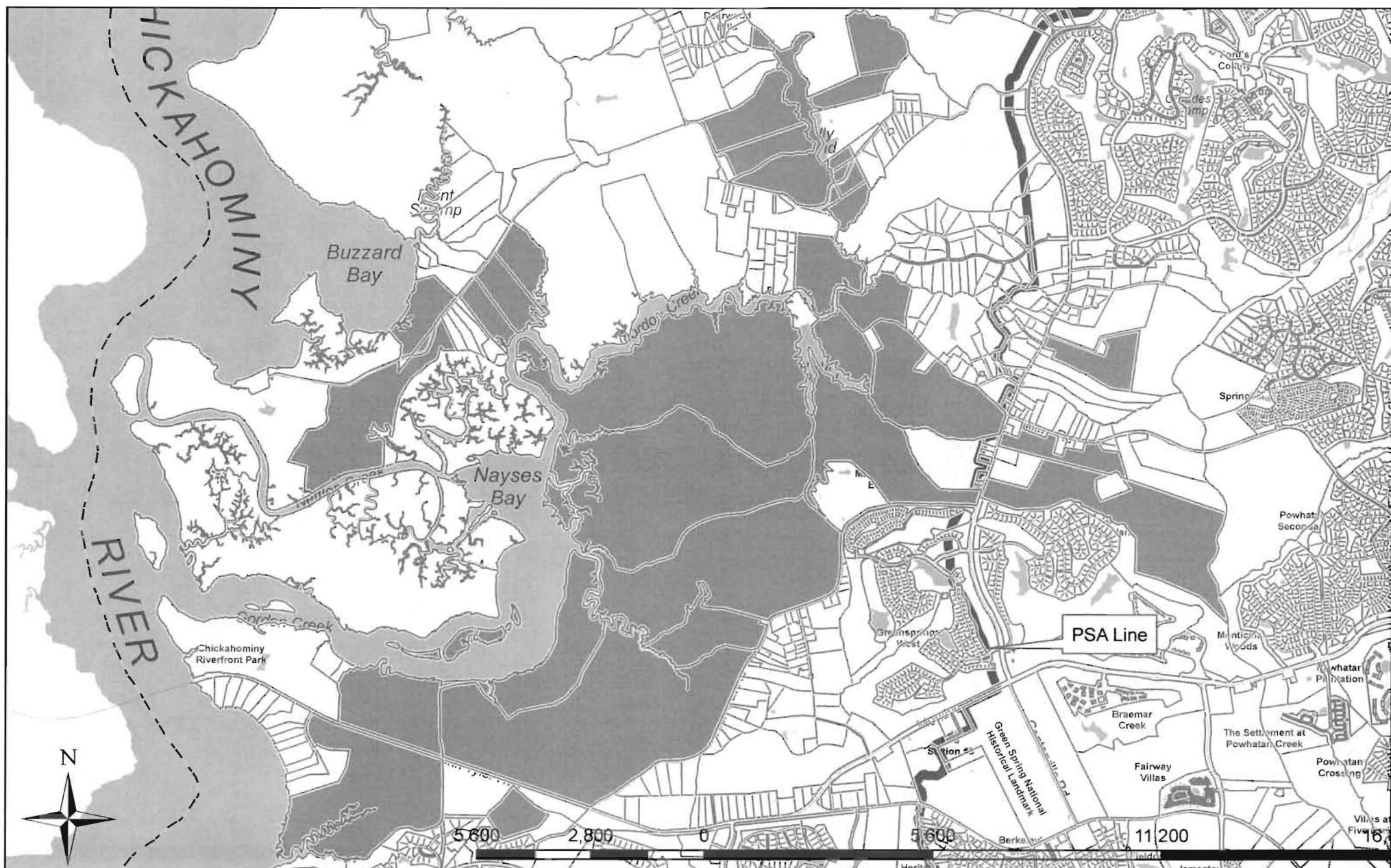
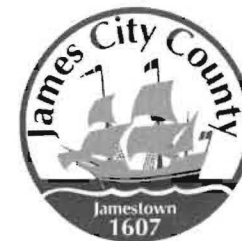
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD9-86GordonCrk_res

AFD-9-86

Gordon Creek AFD 2010 Renewal



**AGRICULTURAL & FORESTAL DISTRICT-12-86. Gospel Spreading Church Farm
2010 Renewal**

Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

JCC Bible & Agricultural Training School
JCC Bible & Agricultural Training School
Floyd B. Carmines
Robert E. Gilley, II & Meredith H. Gilley
REGJAG LLC
REGJAG LLC
REGJAG LLC
REGJAG LLC
REGJAG LLC

Parcel Number

Acres

4830100035403.55
5620100001457.79
474010003727.92
4740100042C.....2.89
4740100042D2.81
4740100042E.....16.29
474010004042.84
4740100041108.27
4830100042 71.33

TOTAL.....1,133.70

Zoning: A-1, General Agriculture; R-8, Rural Residential; R-2, General Residential; and R-1, Limited Residential

Comprehensive Plan: Rural Lands; Low-Density Residential and Conservation Area

Primary Service Area: Inside and Outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Gospel Spreading Church Farm Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010 meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Gospel Spreading Church Farm Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-12-86, Gospel Spreading Church Farm, which is scheduled to expire October 25, 2010.

DISTRICT HISTORY

This District was approved on December 1, 1986 for a term of four years, and the Board of Supervisors approved four-year renewals in 1990, 1994, 1998 and 2002. The following changes have occurred over time: a 26.46-acre parcel has been withdrawn and added several times, finally withdrawing for the final time in 2002; 22.97 acres were withdrawn in 2002; the Gilley District (AFD-13-86) of approximately 198 acres was added in 2002 (a 27-acre parcel did not transfer, making the addition approximately 173 acres); and an additional 71.33 acres was added in 2004. In 2006, two properties were removed totaling 57 acres.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road improvements.

The Gospel Spreading Church Farm AFD consists of approximately 1,133.7 acres located from College Creek extending west to Neck-O-Land Road.

ANALYSIS

The bulk of the District consists primarily of woodland. The remainder of the property in the District is in open land and swamp or low lying land. Property within this District is zoned mostly R-8, Rural Residential, R-2, General Residential, and R-1, Limited Residential and is not developed. Portions of parcels (47-4)(1-40) and (47-4)(1-41) are zoned A-1, General Agricultural. Surrounding property for the most part has developed residentially. The bulk of the District (approximately 950 acres) is designated Rural Lands or Conservation Area by the Comprehensive Plan, with the several parcels (approximately 240 acres) designated Low-Density Residential. Most of the AFD is located along Lake Powell Road and Treasure Island Road. A majority of the land within this District (860 acres) is located outside of the Primary Service Area (PSA). The remaining parcels lie within the PSA. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property.

WITHDRAWALS

No property owner has requested land be removed from the District during this renewal period.

ADDITIONS

No property owner has requested land be added to the District during this renewal period.

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references

future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

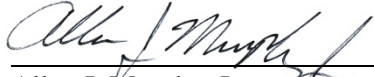
STAFF RECOMMENDATION:

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Gospel Spreading Church Farm Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:


Allen J. Murphy, Jr.

KS/gb
AFD12-86GospelCh.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes of the Planning Commission meeting
4. Unapproved minutes of the AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT -12-86

GOSPEL SPREADING CHURCH FARM 2010 RENEWAL

WHEREAS, James City County has completed a review of the Gospel Spreading Church Farm Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Gospel Spreading Church Farm Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to renew this district with the conditions listed below.

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

1. The Gospel Spreading Church Farm Agricultural and Forestal District is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
JCC Bible & Agricultural Training School	4830100035	403.55
JCC Bible & Agricultural Training School	5620100001	457.79
Floyd B. Carmines	4740100037	27.92
Robert E. Gilley, II & Meredith H. Gilley	4740100042C	2.89
REGJAG LLC	4740100042D	2.81
REGJAG LLC	4740100042E	16.29
REGJAG LLC	4740100040	42.84
REGJAG LLC	4740100041	108.27
REGJAG LLC	4830100042	<u>71.33</u>
Total:		<u>1,133.70</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District to allow for possible road improvements.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Gospel Spreading Church Farm Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communication Facilities (WCF), provided:
 - a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

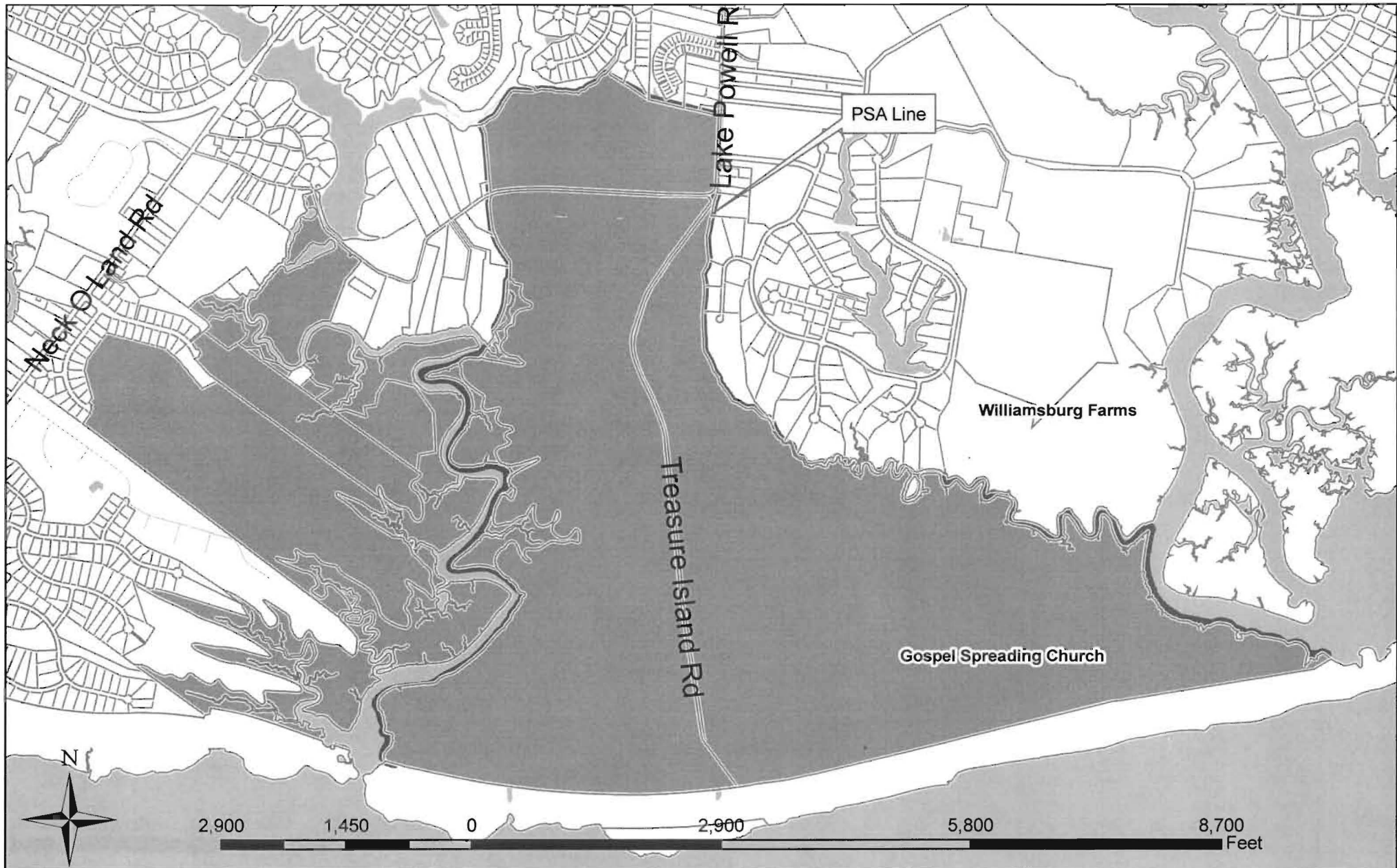
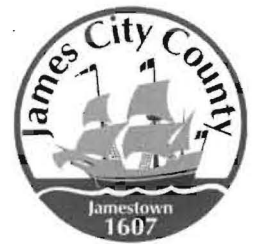
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD12-86GospelCh_res

AFD-12-86

Gospel Spreading Church 2010 Renewal



**AGRICULTURAL & FORESTAL DISTRICT-3-86. Hill Pleasant Farm 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

Building F Board Room; County Government Complex

AFD Advisory Committee: August 23, 2010, 4:00 p.m.
Planning Commission: September 1, 2010, 7:00 p.m.
Board of Supervisors: September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners	Parcel Number	Acres
Margaret S. Stevens	2410100004	105.82
Hill Pleasant Farm, Inc.	2410100005	391.30
Wayne A. Moyer Revocable Trust	2410100015D	32.27
Williamsburg Pottery Factory, Inc.	2430100017	27.00
Williamsburg Pottery Factory, Inc.	2430100031B.....	<u>12.39</u>
TOTAL.....		<u>568.80</u>

Zoning: A-1, General Agriculture and M-1, Limited Business/Industrial (one parcel)

Comprehensive Plan: Economic Opportunity, Rural Lands and Conservation Area

Primary Service Area: Outside with one parcel inside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Hill Pleasant Farm Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Hill Pleasant Farm Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-3-86, Hill Pleasant Farm, which is scheduled to expire October 25, 2010.

DISTRICT HISTORY

The Hill Pleasant Farm AFD was created on November 17, 1986, for a term of 4 years and renewed again on October 1, 1990 for a period of four years. The Board of Supervisors approved the withdrawal of 2.2 acres from the District in 1991. This withdrawal was for the purpose of installing an HRSD trunk main. The 1994 renewal was approved by the Board of Supervisors on October 19, 1994. Subsequently, 32 acres were added on September 10, 1996; 27 acres were added on October 23, 1996; and 12 acres were added on November 12, 1997. The District was renewed in 1998 and 2002 for terms of four years with no additions or withdrawals. In 2006, six acres were removed from the District.

The District includes the land previously described with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Hill Pleasant Farm AFD consists of approximately 568.8 acres located southwest of Norge in between the CSX Railway and Interstate 64.

ANALYSIS

The bulk of this District has remained essentially the same since the time it was put in the District. Except for a few residences, all acreage in this District is in agriculture or forestal uses. The properties have been managed in the past for food and fiber production and have the potential to support significant agriculture and commercial timber operations. The majority of land within the District is zoned A-1, General Agricultural and is located outside the PSA. The one exception is the 12-acre parcel owned by the Williamsburg Pottery which is located inside the PSA and is zoned M-1, Limited Business/Industrial. The PSA is the area of the County that has been designated for growth. The continuation of AFD property within the PSA is consistent with the Comprehensive Plan as this would serve the public purpose of holding key tracts of land temporarily while development plans can be created, maximizing the beneficial use of the property. The District is designated Rural Lands on the Comprehensive Plan Land Use Map except for the one 12-acre parcel located inside the PSA. This parcel is designated Mixed Use.

Most of the surrounding land to the north of the District zoned A-1. The property to the west of the District is a mixture of businesses, residences and developed property within the PSA zoned B-1, General Business; R-2, General Residential; and MU, Mixed Use. The property to the south of the District is mostly zoned M-1, Limited Business/Industrial. Although it is located in the vicinity of existing commercial development along Richmond Road, the District is separated from Richmond Road by the CSX Railway. The District borders York County to the east.

WITHDRAWALS

No property owner has requested land be removed from the District during this renewal period.

ADDITIONS

No property owner has requested land be added to the District during this renewal period.

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the

Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

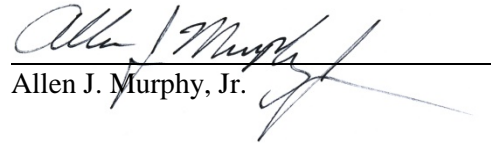
STAFF RECOMMENDATION:

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Hill Pleasant Farm Agricultural and Forestal District for a period of four years, one month, and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:


Allen J. Murphy, Jr.

KS/gb
AFD3-86HPfarm.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the Planning Commission meeting
4. Unapproved minutes from the AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT -3-86

HILL PLEASANT FARM 2010 RENEWAL

WHEREAS, James City County has completed a review of the Hill Pleasant Farm Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Hill Pleasant Farm Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to renew this district with the conditions listed below.

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

1. The Hill Pleasant Farm Agricultural and Forestal District is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Margaret S. Stevens	2410100004	105.82
Hill Pleasant Farm, Inc.	2410100005	391.30
Wayne A. Moyer Revocable Trust	2410100015D	32.27
Williamsburg Pottery Factory, Inc.	2430100017	27.00
Williamsburg Pottery Factory, Inc.	2430100031B	<u>12.39</u>
	Total:	<u>568.80</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District to allow for possible road improvements.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Hill Pleasant Farm Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communication Facilities (WCF), provided:
 - a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

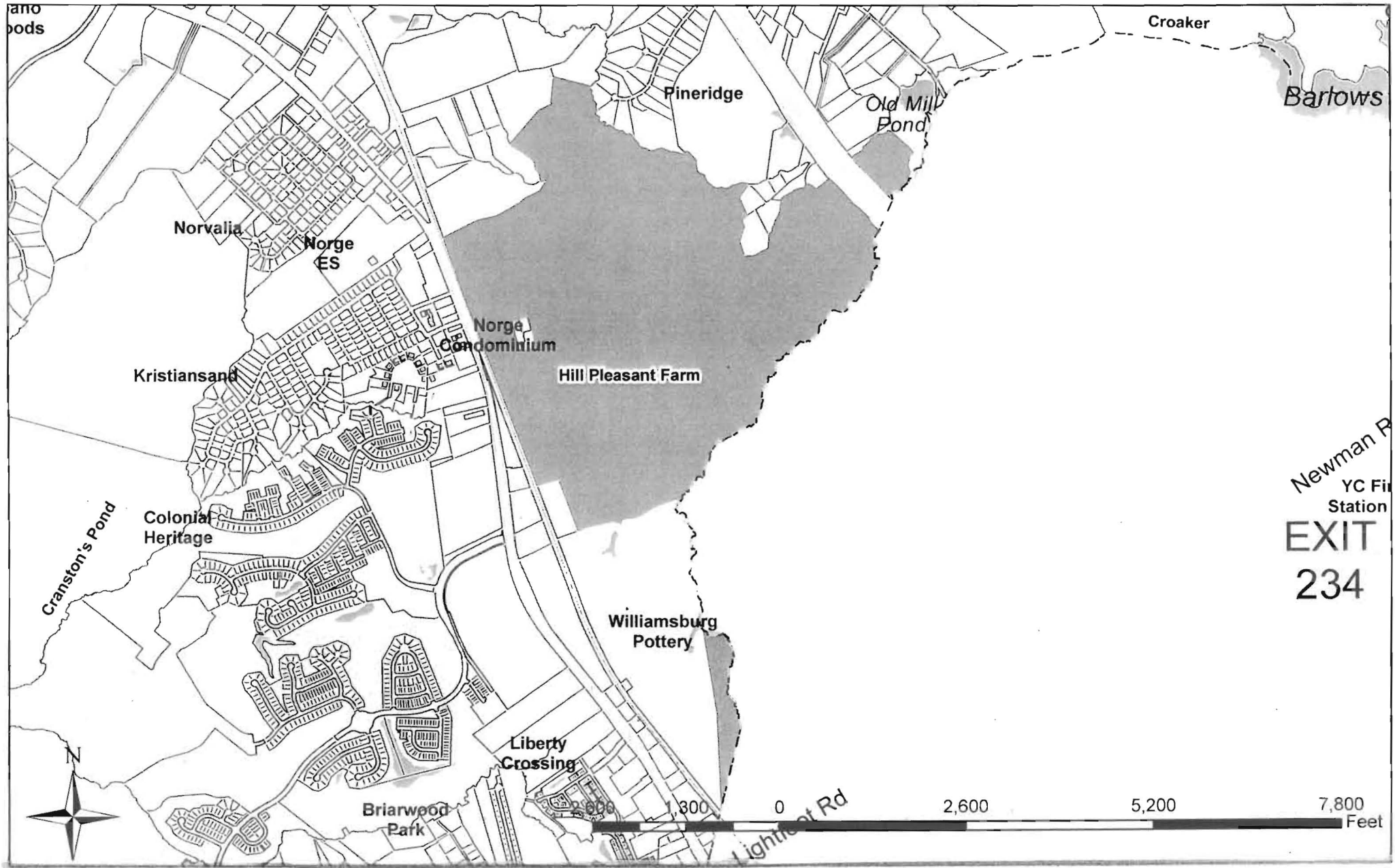
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

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AFD-3-86

Hill Pleasant Farm AFD 2010 Renewal



AGRICULTURAL & FORESTAL DISTRICT-7-86. Mill Creek 2010 Renewal

Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:

Planning Commission:

Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.

September 1, 2010, 7:00 p.m.

September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners

Parcel Number

Acres

Carter C. Cowles, Sr. & Linda B. Cowles Estate	2020100006	352.96
Melinda Cowles Barbour & Ruth Dozier	2020100003	102.66
Melinda Cowles Barbour & Ruth Dozier	2020100001	8.75
Mayes & Cheryl Matthews	2110100005	46.01
Pamela C. Massie Trustee & Steve Massie	1130100028	99.45
Steve L. & Pamela C. Massie	1130100028A	32.61
Richard W. & Margaret Krapf	1140100006	4.73
Nancy Cottrell Kruse & M. Anderson Bradshaw	1140100002	297.28
Linda B. Cowles Estate	1040100005	249.88
Carter C. Cowles, Sr. & Linda B. Cowles Estate	1040100006	124.76
Cynthia Cowles Cragg & Robert Patrick	1040100003	103.26
Sarah H. Armistead	1010100038	50.00
Daniel R. Winall & Marion Virginia	1030100019	97.59
Pamaka LLC	1020100017	244.50
Albert T. & Joan Lloyd Slater	1010100028	69.69
McRae O. Selph	1010100007	50.00
Walter N. Marshall, III Trustee	1140100005	79.94
Martha Ware Trust	2020100002	57.41
John Lee Darst	0920100036	41.22
Pamaka LLC	1030100003	42.00
Caroline W. Dozier	2020100005	186.16
Caroline W. Dozier	2020100007	16.50
Caroline W. Dozier	2020100008	12.00
Dennis P. & Christine A. Weygand	1030100013	34.02
John M. L. Barnes Estate	1020100004	215.76
John M. L. Barnes Estate	1110100001	29.00
Linda B. Cowles Estate	2010100002	2.00
Randolph G. Gulden	1020100012	87.20
Eugene C. Andrews Living Trust	0940100008N	57.81
John G. & Marie Antoinette Findlay	0940100008H	118.29

TOTAL.....2,913.50

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Mill Creek Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

Staff Contact: Kathryn Sipes, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 6-0 with one abstention, the Planning Commission recommended renewal of the Mill Creek Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-7-86, Mill Creek, which is scheduled to expire October 25, 2010.

DISTRICT HISTORY

The District was originally approved in December 1986 for a period of four years. In March 1989 the Board of Supervisors approved the withdrawal of 41.124 acres. In November 1990 the Board approved the continuation of the District for another four years. In January 1992 the Board approved the withdrawal of three acres and in April 1992 the Board approved the addition of 33.62 acres. In 1994, before the District's renewal, 77 acres were removed. In 1995 the Board approved a 303.97 acre addition and the District was renewed for four years in 1998. During the 1998 renewals, approximately 25 acres was withdrawn. Following the 1998 renewal, 19.0 acres were added into the District. The District was renewed again in 2002. In April 2004 the Board of Supervisors approved an addition of 87 acres. In July 2005 an addition of 102 acres was approved and in September 2005 an addition of 73 acres was approved. During the 2006 renewal process one 433 acre parcel was removed.

The District includes all the land on the above properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Mill Creek AFD consists of approximately 2,913.5 acres located from Richmond Road in the north to below Uncle's Creek in the south. The bulk of the land lies between Forge Road and the CSX railroad tracks.

ANALYSIS

The bulk of the District contains many agricultural and forestry uses. All of the land within this District is zoned A-1, General Agricultural and a major portion of the surrounding property is presently zoned A-1 and is forested. This District is located outside of the Primary Service Area (PSA) and remains relatively rural in nature. The District is designated Rural Lands on the Comprehensive Plan Land Use Map.

WITHDRAWALS

No property owner has requested land be removed from the District during this renewal period.

ADDITIONS

No property owner has requested land be added to the District during this renewal period.

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

"No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended."

STAFF RECOMMENDATION:

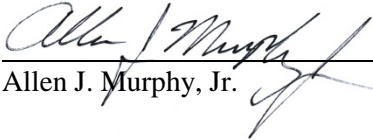
This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Mill Creek Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless

communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:


Allen J. Murphy, Jr.

KS/gb
AFD7-86MillCrk.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the Planning Commission
4. Unapproved minutes from the AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-7-86

MILL CREEK 2010 RENEWAL

WHEREAS, James City County has completed a review of the Mill Creek Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Mill Creek Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 6-0 with one abstention to renew this district with the conditions listed below.

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

1. The Mill Creek Agricultural and Forestal District is hereby continued for a period of four years, one month, and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Carter C. Cowles, Sr. & Linda B. Cowles Estate	2020100006	352.96
Melinda Cowles Barbour & Ruth Dozier	2020100003	102.66
Melinda Cowles Barbour & Ruth Dozier	2020100001	8.75
Mayes & Cheryl Matthews	2110100005	46.01
Pamela C. Massie Trustee & Steve Massie	1130100028	99.45
Steve L. & Pamela C. Massie	1130100028A	32.61
Richard W. & Margaret Krapf	1140100006	4.73
Nancy Cottrell Kruse & M. Anderson Bradshaw	1140100002	297.28
Linda B. Cowles Estate	1040100005	249.88
Carter C. Cowles, Sr. & Linda B. Cowles Estate	1040100006	124.76
Cynthia Cowles Cragg & Robert Patrick	1040100003	103.26
Sarah H. Armistead	1010100038	50.00
Daniel R. Winall & Marion Virginia	1030100019	97.59
Pamaka LLC	1020100017	244.50

Albert T. & Joan Lloyd Slater	1010100028	69.69
McRae O. Selph	1010100007	50.00
Walter N. Marshall, III Trustee	1140100005	79.94
Martha Ware Trust	2020100002	57.41
John Lee Darst	0920100036	41.22
Pamaka LLC	1030100003	42.00
Caroline W. Dozier	2020100005	186.16
Caroline W. Dozier	2020100007	16.50
Caroline W. Dozier	2020100008	12.00
Dennis P. & Christine A. Weygand	1030100013	34.02
John M. L. Barnes Estate	1020100004	215.76
John M. L. Barnes Estate	1110100001	29.00
Linda B. Cowles Estate	2010100002	2.00
Randolph G. Gulden	1020100012	87.20
Eugene C. Andrews Living Trust	0940100008N	57.81
John G. & Marie Antoinette Findlay	0940100008H	<u>118.29</u>
Total:		<u>2,913.50</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District to allow for possible road improvements.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Mill Creek Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communication Facilities (WCF), provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of

Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

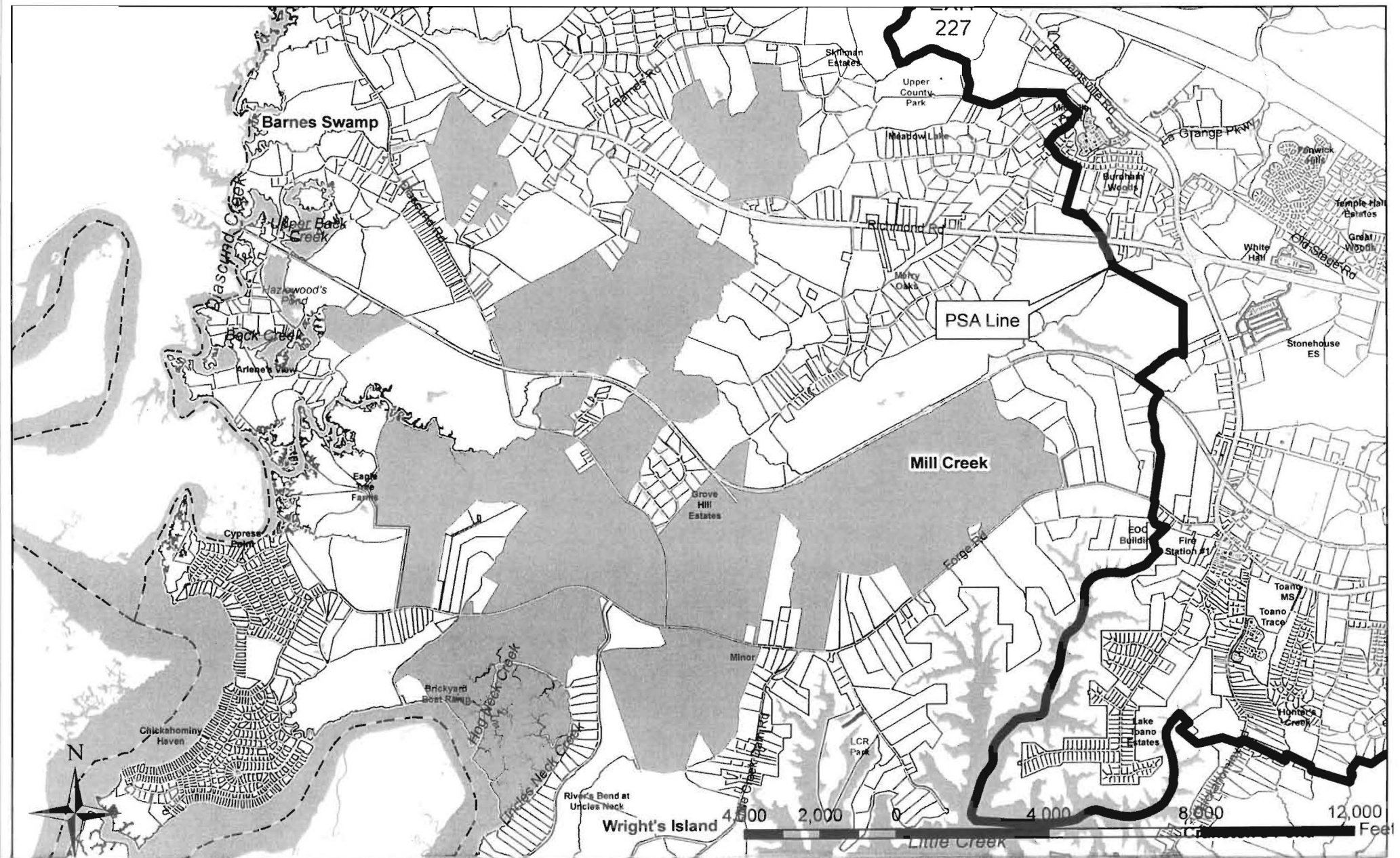
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD7-86MillCrk_res

AFD-7-86

Mill Creek AFD 2010 Renewal



AGRICULTURAL & FORESTAL DISTRICT-1-93. Williamsburg Farms 2010 Renewal Staff Report for the September 28, 2010, Board of Supervisors Meeting

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

PUBLIC HEARINGS

AFD Advisory Committee:
Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 23, 2010, 4:00 p.m.
September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Owners	Parcel Number	Acres
Williamsburg Vineyards, LLC	4840100012	29.65
Williamsburg Vineyards, LLC	4840100010	157.71
Wedmore Place, LLC	4840100010D	67.26
Vineyard Partners, LLC	4840100010E.....	18.72
Williamsburg Winery	4840100010B.....	<u>6.63</u>
TOTAL.....		<u>279.90</u>

Zoning: R-8, Rural Residential and R-1, Limited Residential

Comprehensive Plan: Low-Density Residential and Conservation Area

Primary Service Area: Inside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Williamsburg Farms Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Williamsburg Farms Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-1-93, Williamsburg Farms, which is scheduled to expire November 27, 2010.

Staff is endeavoring to synchronize the expiration dates of all districts. As part of the 2010 renewal process staff is recommending a term of four years, one month and three days, making the expiration date October 31, 2014.

DISTRICT HISTORY

The Williamsburg Farms Agricultural and Forestal District was created in 1994 for a term of four years and consisted of two parcels totaling 311 acres. At the time of creation, 10 acres, which included the Gabriel Archer Tavern and a proposed inn, were excluded from the District. During the review of the District for renewal in 1997, a five-acre, tract on the eastern side of the District at the end of Conservancy Road was withdrawn leaving the AFD with approximately 306 acres. In 1999, the Board of Supervisors approved the withdrawal of an additional 4.5 acres at the end of Conservancy Road, leaving the AFD with approximately 301.5 acres. During the review of the District for renewal in 2002, 7.2 acres was withdrawn along Jockey's Neck Trail leaving the District with approximately 294.3 acres. On August 10, 2004, the Board of Supervisors approved the withdrawal of an additional 75 acres, leaving the AFD with approximately 219.3 acres. As part of the 2006 renewal, staff worked with the Williamsburg Winery to redraw the boundaries of the Williamsburg Farms AFD. Approximately 60.74 acres were added to the District as part of the 2006 renewal. The revised District excludes the Gabriel Archer Tavern and the Wedmore Place Inn.

The District includes all the previously described properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Williamsburg Farms AFD consists of approximately 279.9 acres located on the east side of Lake Powell Road and is adjacent to the Vineyard's at Jockey's Neck subdivision.

ANALYSIS

Although the amount of property in this AFD has been adjusted with development of the Williamsburg Winery, the majority of the District has remained in either an agricultural use or protected as open space. All property in the District is zoned R-8, Rural Residential with the exception of the entrance road, which is zoned R-1, Limited Residential. The parcels in the District are designated as Low Density Residential by the Comprehensive Plan and all are within the Primary Service Area. The Comprehensive Plan's Community Character goal is to enhance and preserve the County's scenic, cultural, rural, farm, forestal, natural and historic resources. The AFD program helps satisfy this goal and therefore this renewal is consistent with the 2009 Comprehensive Plan.

WITHDRAWALS

No property owner has requested land be removed from the District during this renewal period.

ADDITIONS

No property owner has requested land be added to the District during this renewal period.

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of

Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

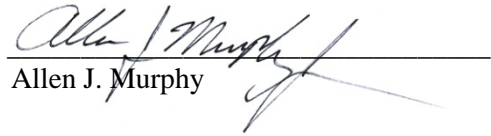
STAFF RECOMMENDATION:

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Williamsburg Farms Agricultural and Forestal District for a period of four years, one month and three days in order to have all districts expire October 31, 2014, subject to the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Kathryn Sipes

CONCUR:


Allen J. Murphy

KS/gb
AFD1-93Wfarms.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the Planning Commission meeting
4. Unapproved minutes from the AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-1-93

WILLIAMSBURG FARMS 2010 RENEWAL

WHEREAS, James City County has completed a review of the Williamsburg Farms Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public meetings have been held, public hearings have been advertised, and public hearings have been held on the continuation of the Williamsburg Farms Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its meeting on August 23, 2010, voted 9-0 to approve the application; and

WHEREAS, the Planning Commission, following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to renew this district with the conditions listed below.

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

1. The Williamsburg Farms Agricultural and Forestal District is hereby continued for a period of four years, one month, and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Williamsburg Vineyards, LLC	4840100012	29.65
Williamsburg Vineyards, LLC	4840100010	157.71
Wedmore Place, LLC	4840100010D	67.26
Vineyard Partners, LLC	4840100010E	18.72
Williamsburg Winery	4840100010B	<u>6.63</u>
	Total:	<u>279.90</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District to allow for possible road improvements.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Williamsburg Farms Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communication Facilities (WCF), provided:
 - a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

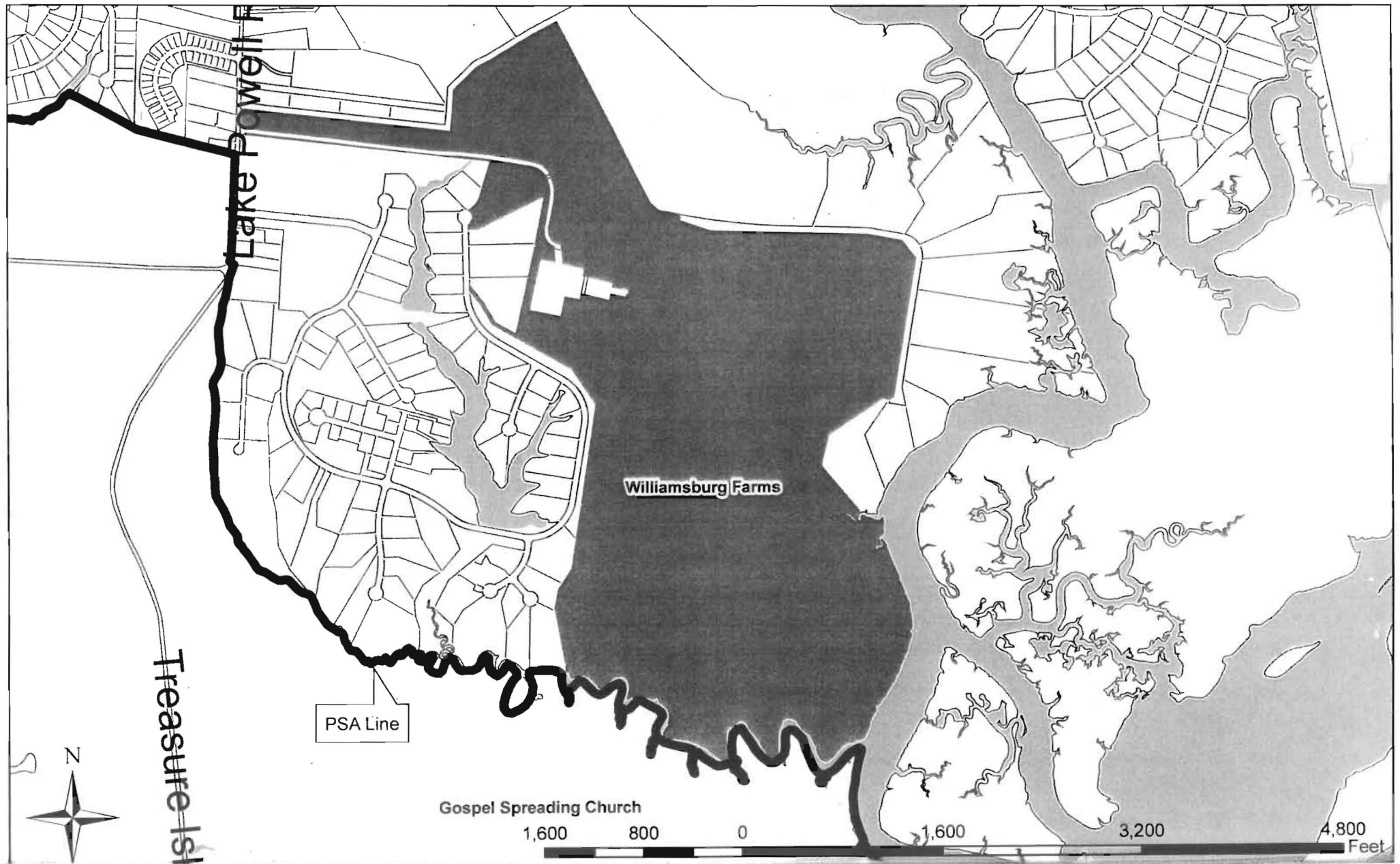
Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

AFD1-93Wfarms_res

AFD-1-93

Williamsburg Farms AFD 2010 Renewal



**AGRICULTURAL & FORESTAL DISTRICT-11-86. Yarmouth Island 2010 Renewal
Staff Report for the September 28, 2010, Board of Supervisors Meeting**

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

PUBLIC HEARINGS

Building F Board Room; County Government Complex

AFD Advisory Committee: August 23, 2010, 4:00 p.m.
Planning Commission: September 1, 2010, 7:00 p.m.
Board of Supervisors: September 28, 2010, 7:00 pm

SUMMARY FACTS

Owners	Parcel Number	Acres
Richardson Holdings Limited Partnership	2930100005	172.84
Richardson Holdings Limited Partnership	2930100002	68.50
Richardson Holdings Limited Partnership	2840100005	940.00
John C. Richardson	2910100001	28.50
Richardson Holdings Limited Partnership	2920100001	123.00
McMurrin, Martha W. & SWR-MISC LLC	2940100001	38.70
Franciscan Brethren of St. Philip	2940100002	34.65
Shield's Point LLC	2840100008	<u>625.20</u>
TOTAL.....		<u>2,031.40</u>

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands and Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Yarmouth Island Agricultural and Forestal District for a period of four years, one month and three days, in order for all the districts to expire on October 31, 2014, subject to the enclosed conditions.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 9-0 to recommend approval of this application.

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

PLANNING COMMISSION RECOMMENDATION

At its meeting on September 1, 2010, by a vote of 7-0, the Planning Commission recommended renewal of the Yarmouth Island Agricultural and Forestal District.

Proposed Changes Made Since Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

SUMMARY

As required by State Code, the County must review all established Agricultural and Forestal Districts (AFDs) prior to their expiration. During this review, districts must be continued, modified, or terminated. This report will review AFD-11-86, Yarmouth Island, which is scheduled to expire October 25, 2010.

DISTRICT HISTORY

The District was approved on December 1, 1986 for a term of four years. It was subsequently renewed for four-year periods in October 1990, October 1994, and September 1998. In 1999, approximately 746 acres was added into the District. The District was renewed again in 2002 and 2006 for four-year periods, with approximately 52 acres withdrawn as part of the 2002 renewal.

The District includes all land on the above-referenced properties with the exception of all land within 25 feet of arterial road rights-of-way. That property has been excluded from the District to allow for possible road and/or drainage improvements.

The Yarmouth Island AFD consists of approximately 2,031.4 acres located along Jolly Pond Road, between Yarmouth Creek and the Chickahominy River.

ANALYSIS

The majority of the District contains woodland. The remainder of the property in the District is in open, swamp, and low-lying land. All of the property within this District is zoned A-1, General Agriculture and a major portion of the surrounding property is zoned A-1 and is forested. The District is designated Rural Lands by the Comprehensive Plan, is located outside of the Primary Service Area (PSA), and remains relatively rural in nature.

WITHDRAWALS

No property owner has requested land be removed from the District during this renewal period.

ADDITIONS

No property owner has requested land be added to the District during this renewal period.

CHANGE IN CONDITIONS

Staff is recommending a revision to Condition No. 2 to correct language that references the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as well as adding a reference to the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Inside the Primary Service Area, adopted September 24, 1996. Staff is also recommending language that references future amendments to those Board policies. The proposed condition is as follows, with proposed corrections and additions underlined:

“No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.”

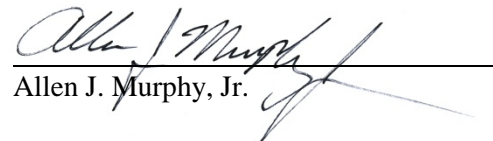
STAFF RECOMMENDATION:

This AFD is consistent with the surrounding zoning and consistent with the goals of the Comprehensive Plan. Staff recommends renewing the Yarmouth Island Agricultural and Forestal District for a period of four years, one month and three days, in order for all the districts to expire on October 31, 2014, subject to the enclosed conditions.

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Jason Purse

CONCUR:


Allen J. Murphy, Jr.

JP/gb
AFD11-86YaMoIs.doc

ATTACHMENTS:

1. Ordinance
2. Location Map
3. Unapproved minutes from the September 1, 2010, Planning Commission meeting
4. Unapproved minutes from the August 23, 2010, AFD Advisory Committee meeting

ORDINANCE NO. _____

AGRICULTURAL AND FORESTAL DISTRICT-11-86

YARMOUTH ISLAND 2010 RENEWAL

WHEREAS, James City County has completed a review of the Yarmouth Island Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, 1950, as amended (the "Virginia Code") property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Yarmouth Island Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal District Advisory Committee at its meeting on August 23, 2010, voted 9-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 1, 2010, concurred with the recommendation of staff and the AFD Advisory Committee and voted 7-0 to recommend renewal of the district with the conditions listed below.

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

1. The Yarmouth Island Agricultural and Forestal District is hereby continued for a period of four years, one month and three days to October 31, 2014, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. The District shall include the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Richardson Holdings Limited Partnership	2930100005	172.84
Richardson Holdings Limited Partnership	2930100002	68.50
Richardson Holdings Limited Partnership	2840100005	940.00
John C. Richardson	2910100001	28.50
Richardson Holdings Limited Partnership	2920100001	123.00
McMurrin, Martha W. & SWR-MISC LLC	2940100001	38.70
Franciscan Brethren of St. Philip	2940100002	34.65
Shield's Point LLC	2840100008	<u>625.20</u>
	Total:	<u>2031.40</u>

provided, however, that all land within 25 feet of the road rights-of-way is excluded from the District to allow for possible road improvements.

3. Pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, the Board of Supervisors requires that no parcel in the Yarmouth Island Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
 - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of Wireless Communications Facilities (WCF), provided:
 - a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
 - b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land outside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Outside the Primary Service Area, adopted September 24, 1996, as amended. Land inside the PSA, and within the Agricultural and Forestal District, may be withdrawn from the District in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996, as amended.
 - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with Virginia Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

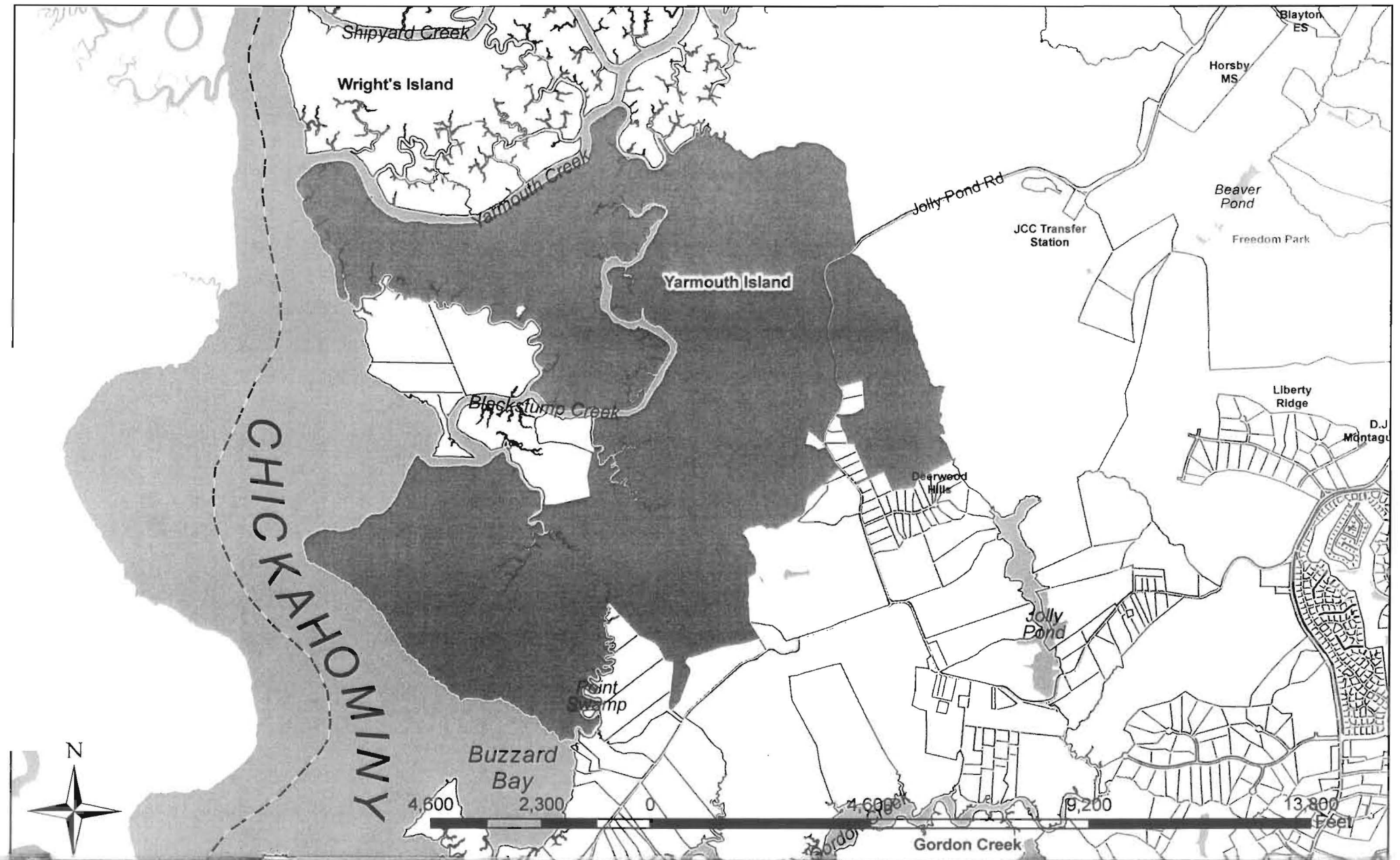
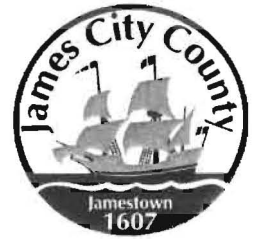
Robert C. Middaugh
Clerk to the Board

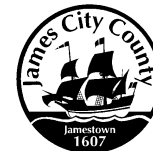
Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

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AFD-11-86

Yarmouth Island AFD 2010 Renewal





MEMORANDUM COVER

Subject: Case No. SUP-0019-2010. Harmonious Hardscapes

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the resolution approving this application with the conditions?

Summary: Mr. David Barglof has applied for a special use permit to allow for the development of a retail landscaping store with the storage of landscaping materials as an accessory use at 8162 Richmond Road. The sale of plant and garden supplies and the storage and distribution of sand, gravel, and stone are specially permitted uses in the A-1, General Agriculture zoning district. The applicant will be using one of the existing structures as the retail store and business office. A vacant and deteriorating house, currently on the property, will be removed. A 17-space parking lot, as depicted on the master plan, and a privacy fence around the "Inventory and Equipment Storage Area" will be constructed.

On September 1, 2010, the Planning Commission recommended approval of this application by a vote of 7-0. Condition No. 2 was changed, at the recommendation of the Planning Commission, to read "A privacy fence of at least 6 feet tall made of chain link with vertical slats to accommodate privacy or a comparable material, such as Enviroscreen, approved by the Planning Director shall be provided around the "Inventory and Equipment Storage Area." The addition is italicized.

Staff recommends approval of the resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Resolution
2. Location map
3. Master Plan
4. Unapproved Minutes of the September 1, 2010, Planning Commission Meeting

Agenda Item No.: H-2

Date: September 28, 2010

**SPECIAL USE PERMIT-0019-2010. Harmonious Hardscapes
Staff Report for the September 28, 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

September 1, 2010, 7:00 p.m.
September 28, 2010, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. David Barglof of Mid Atlantic Enterprise, Inc.

Land Owner: Dr. Sam English

Proposed Use: The applicant has applied for a Special Use Permit (SUP) to allow for the construction of a retail landscaping store with storage of materials for landscaping as an accessory use.

Location: 8162 Richmond Road

Tax Map/Parcel No.: 1240100012

Parcel Size: 2.47 acres

Existing Zoning: A-1, General Agricultural District

Comprehensive Plan: General Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

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

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

PLANNING COMMISSION RECOMMENDATION

On September 1, 2010, the Planning Commission recommended approval of this application by a vote of 7-0.

Proposed Changes Made Since the Planning Commission Meeting

Condition No. 2 was changed, at the recommendation of the Planning Commission, to read "A privacy fence of at least six feet tall made of chain link with vertical slats to accommodate privacy or a comparable material, *such as Enviroscreen*, approved by the Planning Director shall be provided around the "Inventory and Equipment Storage Area." The addition is italicized.

PROJECT DESCRIPTION

Mr. David Barglof has applied for a special use permit to allow for the development of a retail landscaping store with the storage of landscaping materials as an accessory use at 8162 Richmond Road. The sale of plant and garden supplies and the storage and distribution of sand, gravel, and stone are specially permitted uses in the A-1, General Agriculture, zoning district. The applicant will be using one of the existing structures as the retail store and business office. A vacant and deteriorating house, currently on the property, will be removed. A 17-space parking lot, as depicted on the master plan and a privacy fence around the "Inventory and Equipment Storage Area" will be constructed. The fenced area will serve as a storage area for equipment and materials on pallets. On the western side of the property, the applicant is proposing a bulk storage area, where crushed stone, gravel, and dirt would be stored for easy loading. The applicant intends to expand the business in the future to provide an indoor workspace as well as additional office space. The proposed future expansion would provide approximately 2,000 square feet of shop space and approximately 1,500 square feet of additional retail and office space. This property is not currently being utilized as a business or residence.

Access to the proposed development will be from two proposed entrances on Industrial Boulevard. The existing entrance on Richmond Road will be closed and one of the entrances on Industrial Boulevard will be a service entrance for loading and unloading landscaping material. According to information provided by the applicant, the area to the south of the building will be used as a display area to showcase attractive ways to develop Best Management Practice (BMPs), rain gardens, and utilize low-impact design. The property fronts on Richmond Road, which is designated as a Community Character Corridor in the 2009 Comprehensive Plan. A single-family dwelling unit is located directly to the east of the proposed development at 123 Industrial Boulevard. This property is zoned A-1, General Agriculture, and is also owned by Dr. English. It will be buffered from the proposed development by a fence and existing pine trees (Condition No. 2). Hankins Industrial Park, is zoned M-2, General Industrial and the property across Richmond Road from the proposed development is zoned B-1, General Business, and M-1, Limited Business/Industrial.

PUBLIC IMPACTS

Archaeology

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

Planning Division Comments: Given the size and nature of the site, staff finds that no archaeological study is necessary.

Environmental

Watershed: Ware Creek

Environmental Staff Comments: Environmental Staff has reviewed the application and finds that any outstanding issues can be resolved at the site plan stage.

Planning Division Comments: The applicant will remove two existing structures to decrease impervious area.

Public Utilities

JCSA Staff Comments: The site is located within the Primary Service Area (PSA) and will be served by public water and sewer. The JCSA staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards.

Planning Division Comments: Staff notes that water conservation and irrigation standards are part of the SUP conditions for this proposal (Condition No. 4).

Transportation

- **2007 Traffic Counts:** From Rochambeau Road to Croaker Road, approximately 17,201 average daily trips.
- **2035 Volume Projected:** From Rochambeau Road to Croaker Road, projected 29,293 vehicles per day on a four-lane divided road - “OK” category in the 2009 Comprehensive Plan.
- **Road Improvements:** There have been no road improvements proposed.

VDOT Comments: According to the Virginia Department of Transportation (VDOT), the proposed use will not generate substantial trips during peak hours of operation and impacts to the surrounding roadway network will be negligible. Several minor entrance issues will be worked out during site plan review.

Planning Division Comments: Staff notes that the section of Richmond Road at the entrance to Hankins Industrial Park is not in the “watch” category according to the 2009 Comprehensive Plan. The proposed use is not expected to generate a significant number of daily trips and would have a minimal impact on this section of Richmond Road or Industrial Boulevard. Average trip generation for the AM peak hour is estimated to be approximately 11 and for the PM peak hour is estimated to be approximately 12 (based on ITE codes 817 for Garden Center and 150 for Warehousing).

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>General Industry (Page 123):</i> The James City County Land Use Plan designates this property as General Industry. General Industry describes areas within the 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. Secondary uses in General Industry areas may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p>
	<p>Staff Comments: While the property is adjacent to a single-family dwelling, it is located at the entrance to Hankins Industrial Park and the dwelling is also owned by the same owner as the subject property. The applicant has agreed to provide a buffer between the business and the residence (Condition No. 2) and to limit hours of operation so that loading and unloading will not occur early in the morning or late evening (Condition No. 3). Because this development will be located at the entrance to a large industrial park, this business will not have a negative impact on adjacent parcels.</p>

Economic Development

Goals, Strategies, and Actions	<p>Strategy ED 1-Page 24: 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 ED 1.1-Page 24: 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>Action ED 1.2-Page 24: Encourage the creation of new and retention of existing small business...</p>
	<p>Staff Comments: Staff finds that the creation of a new local small business is in keeping with the intent of the Economic Development Section of the Comprehensive Plan.</p>

Environmental

Goals, Strategies, and Actions	Action ENV 1.1-Page 61: Promote development and land use decisions that protect and improve the function of wetlands and the quality of water bodies. Action ENV 1.2-Page 61: Promote the use of Better Site Design, Low Impact Development (LID), and effective best management practices (BMPs).
	Staff Comments: According to information provided by the applicant, the majority of the parcel will remain pervious. The applicant intends to use reinforced turf and pavers for parking and does not intend to pave the “Inventory and Equipment Storage” area. These measures should minimize any adverse impacts on the natural environment.

Transportation

General	Richmond Road- Page 116: Future commercial and residential development proposals along Richmond Road should concentrate in planned areas and will require careful analysis to determine the impacts such development would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination is crucial.
	Staff Comments: This area of Richmond Road is not in the watch category according to the 2009 Comprehensive Plan. This development is closing the existing entrance onto Richmond Road and will be utilizing Industrial Boulevard for access to the site. Hankins Industrial Park is an area which has been planned for development. Traffic generation is estimated to be 12 vehicle trips during the peak PM time. Staff believes the proposed use will have a minimal impact on this section of Richmond Road and will not negatively impact Industrial Boulevard.

Community Character Area

Goals, Strategies, and Actions	Action CC 1.1-Page 79: Expect that development along Community Character Corridors protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt network and establishes entrance corridors that enhance the experience of residents and visitors. Action CC 1.10-Page 79: Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County by preserving buffers and minimizing the need for road improvements, among other techniques.
	Staff Comments: Staff finds that the remaining structure with a 50-foot landscaped CCC buffer along the west side of the property will be compatible with the surrounding development on Route 60. Staff has included an SUP condition that will require plants will be, at a minimum, 125 percent of the size requirements otherwise required in the Zoning Ordinance (Condition No. 6). A vacant and deteriorating house currently on the property will be removed. Lastly, given the low trip generation triggered by the proposed development, staff finds that this use will not have an adverse impact on the traffic on Route 60.

Staff Comments

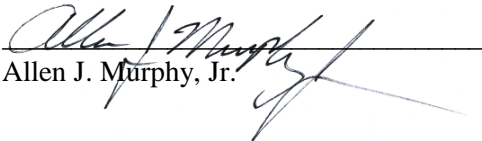
Staff finds that the proposed development, with the attached conditions, is generally consistent with the suggested uses for land designated General Industry in the Comprehensive Plan. Low traffic generation, limited hours of operation, and maintenance of a landscaping buffer ensures that this development will have minimal impact on surrounding development and the adjacent residential unit.

RECOMMENDATION

This development is consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve this application with the conditions in the attached resolution.

Sarah Propst

CONCUR:


Allen J. Murphy, Jr.

SP/nb
SUP19_2010.doc

ATTACHMENTS:

1. Resolution
2. Location Map
3. Master Plan
4. Unapproved Minutes of the September 1, 2010, Planning Commission Meeting

RESOLUTION

CASE NO. SUP-0019-2010. HARMONIOUS HARDSCAPES

- 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 Barglof has applied on behalf of Mid Atlantic Enterprises, Inc. for an SUP to allow for the construction of a retail landscaping store with storage of materials for landscaping as an accessory use; and
- WHEREAS, the proposed development is shown on a plan prepared by Cornerstone Design Group, dated August 20, 2010 (the "Master Plan") and entitled "Harmonious Hardscapes Special Use Permit Application Exhibit"; and
- WHEREAS, the property is located at 8162 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100012; and
- WHEREAS, the Planning Commission, following its public hearing on September 1, 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 site.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0019-2010 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for the construction of an approximately 1,440 square foot, one-story-high retail landscaping business, which also includes a two-story future expansion of approximately 1,500 square feet for retail and office space and an approximate 2,000-square-foot shop space. The property is located at 8162 Richmond Road and further identified as James City County Tax Map Parcel No. 1240100012. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Harmonious Hardscapes 8162 Richmond Road," prepared by Cornerstone Design Group, date stamped August 20, 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. Buffering: A privacy fence of at least 6 feet tall made of chain link with vertical slats to accommodate privacy or a comparable material, such as Enviroscreen, approved by the Planning Director shall be provided around the "Inventory and Equipment Storage Area." The trees between the fencing and the residence at 123 Industrial Boulevard shall be preserved and maintained.

3. Hours of Operation: The hours of operation for the business, including the loading or unloading of, or maintenance of, vehicles or equipment, shall be limited from 6 a.m. to 8 p.m., Monday through Friday, 7 a.m. to 8 p.m. on Saturday, and 9 a.m. to 8 p.m. on Sunday.
4. 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 for the initial phase. 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.
5. Lighting: Any parking lot lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward, and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Accent lighting to showcase products is allowed but may not produce any glare or light spillage toward the roads or the residence at 123 Industrial Boulevard. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.
6. Landscape Plan: A landscape plan, subject to the review and approval of the Planning Director or his designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance) during the initial phase of development. The owner shall provide enhanced landscaping such that the required size of shrubs and trees located in the 50-foot buffer along Richmond Road equals, at a minimum, 125 percent of the size requirements, and such that at least 60 percent of the shrubs and trees are evergreens.
7. Equipment Storage: All storage of equipment associated with the development shall be located inside the fenced area defined as "Inventory and Equipment Storage" or "Bulk Storage" on the Master Plan.
8. Freestanding Sign: Freestanding signage shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed ten feet in height from grade. The sign shall be illuminated by ground mounted lights only.
9. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of
September, 2010.

SUP19-2010_res



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 2005 James City County.

1 inch = 226 feet



UNAPPROVED MINUTES FROM THE SEPTEMBER 1, 2010 PLANNING COMMISSION MEETING

SUP-0019-2010 Harmonious Hardscapes

Mr. Krapf stated that his wife has a limited business association with the applicant. He stated he and the County Attorney both agree he can objectively review the case.

Ms. Sarah Propst stated that Mr. David Barglof has applied for a SUP for the construction of a retail landscaping store with landscape material storage as an accessory use. The parcel is zoned A-1, General Agriculture, and designated General Industry on the Comprehensive Plan. The eastern neighboring property, owned by Dr. English, will have mature pines and fencing as sight and noise buffers, as stated in Condition 2. The site fronts on Richmond Road but will be accessed on Industrial Boulevard. Enhanced landscaping in Condition 6 provides compliance with the Community Character Corridor. A vacant, deteriorating home and driveway on site will be removed, while mature trees are intended to be preserved. The property is inside the PSA. Staff recommends approval of the proposal with conditions.

Mr. Fraley stated that although the applicant intends to preserve trees, there are no conditions related to tree-preservation.

Ms. Propst stated that the applicant would like to preserve mature trees but that the existing home would be used for fire training purposes and nearby trees may be impacted. She stated several dying/diseased trees would be removed, and applicant would like the larger, healthier trees to remain, although he was unsure which trees would remain.

Mr. Fraley stated enhanced language in the landscaping plan could discuss tree preservation. He stated he would like the landscaping plan to address which trees would be saved.

Mr. Murphy stated staff and the applicant would work together regarding tree preservation.

Mr. David Barglof, the applicant, stated he wanted to maintain specific trees for aesthetic appeal. The trees are intended compliment the shopping experience.

Mr. Fraley asked about the vertical slats for the proposal's chain link fence.

Ms. Propst stated vertical slats were vinyl inserts that provided privacy between fence links.

Mr. Peck opened the public hearing.

Mr. Barglof stated the slats were woven between fence links.

Mr. Fraley stated that vinyl fencing does not weather particularly well, wears unevenly, creating a mismatched appearance. Enviroscreen, a knitted polyester, is a better alternative. Condition 2 should be amended to include language on Enviroscreen as an alternative fence material, which would let the business review its use without commitment to use the materials.

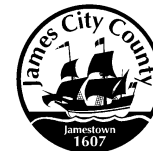
Mr. Barglof stated he did not object to the language.

Mr. Peck closed the public hearing.

Mr. Fraley moved to recommend approval with amended Condition 2.

Mr. Poole stated the proposal was a substantial improvement to the existing lot. He stated he would support the proposal.

In a unanimous roll call vote, the Commission recommended approval with the amended condition (7-0).



MEMORANDUM COVER

Subject: Reductions in the FY 2011 Capital Budget

Strategic Management Plan Pathway: 1.a - evaluate service delivery costs

Action Requested: Shall the Board approve the resolution to reduce appropriations to School capital budget by \$2,513,857?

Summary: Board is being requested, after a public hearing, to reduce \$2,513,857 in funding for school capital budget projects. The projects will be funded, instead, from the School FY 2010 fund balance. This change will reduce the need for debt financing by the County in the amount of \$2.5 million.

Since the County's FY 2011 capital budget financing plan originally anticipated debt financing as a significant portion of the funding, the availability of FY 2010 surplus funds allows the County to reduce its reliance on debt for ongoing school capital spending.

Staff recommends approval of the resolution.

Fiscal Impact: Spending reduction of \$2.5 million in FY 2011 capital budget

FMS Approval, if Applicable: Yes ☒ No ☐

Approved - FMS initiating the request

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memo
2. Resolution

Agenda Item No.: H-3

Date: September 28, 2010

MEMORANDUM

DATE: September 28, 2010

TO: The Board of Supervisors

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

SUBJECT: Reductions in the FY 2011 Capital Budget

Williamsburg-James City County Schools (WJCC) has ended the year with an unusually high fund balance (approximately \$4.26 million in unencumbered funds) primarily due to the fact that the State suspended the 4th quarter Virginia Retirement System (VRS) payment in FY 2010. Under State law, these funds would be returned to the City and the County but under the provisions of the City/County School contract, the schools can retain the funds, invest up to \$500,000 in any needed school project, and use the residual to fund approved capital projects. WJCC has set aside the \$500,000 allowed under the contract and is tentatively allocating approximately \$1 million to capital budget investments for instructional technology and the James Blair renovation. The remaining funds (\$2.75 million) are proposed to be used on capital projects that the City and County have agreed to fund in FY 2011.

The specific projects that WJCC has chosen to fund with year-end balances (and that were proposed for funding in the FY 2011 County budget) are:

DJ Montague Refurbishment	\$ 1,292,864
James River Fire Sprinkler System	585,000
Berkeley HVAC	400,000
Berkeley Field Improvements	182,400
Resurfacing Parking Lots	139,000
Security Card Access	70,000
New Horizons	<u>82,331</u>
TOTAL	<u>\$ 2,751,595</u>
 County share (91.36%)	 \$ 2,513,857
City Share	<u>\$ 237,738</u>
	 <u>\$ 2,751,595</u>

The County had anticipated the need to borrow \$6.9 million to fund needed capital projects for the schools, but with the allocated WJCC funds, the \$6.9 million in additional indebtedness can be reduced by \$2.5 million. This allows the County to either avoid the additional debt or to reallocate possible debt financing to other capital projects.

Final audited year-end balances are not yet available, but could result in funds that are either slightly less or slightly more than the preliminary figures shown above. If the year-end fund balance proves to be more than what is shown above, those additional funds would probably be invested in additional school technology improvements. Enhancements in instructional and operational technology have been a multi-year commitment in the School's Capital Budget. These investments, however, have relatively short useful lives and borrowing money for 20 years to invest in technology has been something the County has avoided. Some of the proposed technology improvements are focused on cost-efficiencies, reducing ongoing spending for telecommunications, internet connectivity, and HVAC controls and management systems.

Reductions in the FY 2011 Capital Budget

September 28, 2010

Page 2

County Capital Budget funding would remain for the following projects:

Jamestown High School Multi-use	\$ 2,489,000
DJ Montague HVAC	<u>2,600,000</u>
 TOTAL	 <u>\$ 5,089,000</u>
 County share	 \$ 4,649,310
City share	<u>\$ 439,690</u>
	 <u>\$ 5,089,000</u>

Proceeds from a debt financing would be utilized for \$4.4 million of the County share of these two projects, a reduction from the \$6.9 million in the current approved budget. The residual, approximately \$249,310, was originally approved in the FY 2011 Capital Budget from recurring revenues.

The attached resolution reduces the County's Capital Budget by \$2,513,857 in school spending and reduces the approved financing by \$2.5 million. The \$13,857 difference is proposed to be added to Capital Contingency.

There will be additional savings in debt service given both the reduced borrowing and the expectation that both remaining projects will begin next summer. A proposal to reduce debt service spending will be presented to the Board when the savings from bond re-financings currently anticipated over the next few months are available.

John E. McDonald

JEM/gb
FY11CapBudRed_mem

Attachment

RESOLUTION

REDUCTIONS IN THE FY 2011 CAPITAL BUDGET

WHEREAS, the Board of Supervisors has been advised that FY 2010 ending balances accumulated by the Williamsburg-James City County School Board are sufficient to finance \$2,513,857 in certain specific capital projects that were originally dependent on County borrowings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following amendments to appropriations in the FY 2011 capital budget be adopted and that the FY 2011 budget be amended, as follows:

Reduction in FY 2011 School Bond Financing	\$ 2,500,000
Increase in Capital Contingency	<u>13,857</u>
	<u>\$ 2,513,857</u>
Reduction in FY 2011 School Capital Projects	<u>\$ 2,513,857</u>

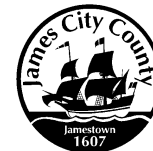
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

FY11CapBudRed_res



MEMORANDUM COVER

Subject: Refunding of General Obligation Bonds

Strategic Management Plan Pathway: 1.a - evaluate service delivery costs

Action Requested: Shall the Board approve the resolution authorizing the refunding of bonds?

Summary: Board is being requested to refund general obligation debt issued in 2002 to save an estimated \$373,638 in debt service spending.

Staff recommends approval of the resolution.

Fiscal Impact: Spending reduction estimated at \$373,638

FMS Approval, if Applicable: Yes ☒ No ☐

Approved - FMS initiating the request

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memo
2. Resolution
3. Plan of Finance – General Obligation Refundings

Agenda Item No.: I-1

Date: September 28, 2010

M E M O R A N D U M

DATE: September 28, 2010

TO: The Board of Supervisors

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

SUBJECT: Refunding of General Obligation Bonds

Staff has been working with representatives of Davenport & Company, the County's financial advisors, and Stephen Johnson of Troutman Sanders, bond counsel, on a possible refunding (refinancing) of \$4,939,800 of the County's outstanding 2002 General Obligation debt. Interest rates have dropped to the point where the County can refinance existing borrowings and reduce the annual debt service payments. No additional debt is incurred since these new bond proceeds will be used to retire existing debt. Savings in debt service spending from the refunding are estimated to be \$373,638 through the year 2016.

Although it is not being presented this evening, we are also working on a refunding of \$4,903,000 of the County's 2003 lease revenue financing, with a projected savings of \$235,461 through the year 2019. We hope to be able to bring that proposal to the Board in October.

Staff recommends approval of the attached resolution prepared by our bond counsel.

John E. McDonald

JEM/gb
GOBondsRefund_mem

Attachment

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS,
SERIES 2010, OF THE COUNTY OF JAMES CITY, VIRGINIA,
AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$52,100,000 was approved by the qualified voters of the County gracebin three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements and park and recreation improvements (together, the "Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, on November 20, 2002, the County issued its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002 (the "2002A Bond") to refund a portion of the 1994 Bonds, and on December 17, 2002, the County issued its \$3,180,200 General Obligation Public Improvement Refunding Bond, Series 2002B (the "2002B Bond") to refund a portion of the 1995 Bonds. The County's Board of Supervisors (the "Board") determines that it is in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refund the 2002A Bond and the 2002B Bond (collectively, the "Prior Bonds"); and

WHEREAS, the Board determines that it would be advantageous to the County to sell such refunding bonds in a competitive sale.

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

Section 1. **Authorization, Issuance and Sale.** There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount not to exceed \$5,250,000 to refund the Prior Bonds and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. **Bond Details.** Such bonds shall be designated "General Obligation Public Improvement Refunding Bonds, Series 2010" (the "Bonds"), shall be dated the date of their issuance, shall be in registered form, shall be in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4 and Section 9, the Bonds shall mature in installments, or shall have mandatory sinking fund redemption installments, on each December 15 ending no later than the

year 2016. Subject to Section 9, interest on the Bonds shall be payable on June 15, 2011, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date") and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 2.00% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than six (6) years; (d) shall be issued in an aggregate amount not to exceed \$5,250,000; (e) shall not be subject to optional redemption; and (f) shall result in a three percent (3.00%) or greater net present value debt service savings to the County.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month in which each Interest Payment Date occurs. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before June 15, 2011, in which case it will bear interest from its dated date, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

Section 3.

Book-Entry System. Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations (the "Letter of Representations") relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein,

the term “Securities Depository” shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository’s participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository’s participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the County shall not be responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

Section 4.

Redemption Provisions.

- (a) Optional Redemption. The Bonds are not subject to optional redemption prior to their respective stated dates of maturity.
- (b) Mandatory Sinking Fund Redemption. Any term bonds may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County’s mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been purchased and

canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption obligation for such Bonds. Each such Bond so purchased and delivered shall be credited at 100% of the principal amount thereof against the principal amount of the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased and delivered in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator or the Chairman of the Board.

- (c) Bonds Selected for Redemption. If less than all the Bonds of any maturity are to be redeemed through a mandatory sinking fund redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.
- (d) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), to determine whether the issuance of any term bonds would be beneficial to the County.

Section 5.

Execution and Authentication. The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

Section 6. **Bond Form.** The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions or omissions to reflect the final terms of the Bonds.

Section 7. **Pledge of Full Faith and Credit.** The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

Section 8. **Registration, Transfer and Owners of Bonds.** Regions Bank, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month in which each Interest Payment Date occurs.

Section 9. **Sale of Bonds.** The Board approves the following terms of the sale of the Bonds. The Bonds will be sold by competitive bid. The County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, shall receive bids for the Bonds and award the Bonds to the bidder providing the lowest true or "Canadian" interest cost, all subject to the limitations set forth in Section 2. The Board further authorizes the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, to (a) determine the principal amount of the Bonds, subject to the limitations set forth in Section 2, (b) determine the maturity schedule of the Bonds, subject to the weighted average maturity limitations and other limitations set forth in Section 2, (c) establish the sinking fund redemption provisions for any term Bonds, subject to the limitations set forth in Section 2 and Section 4(d) and (d)

confirm that the debt service savings target set forth in Section 2 has been satisfied. In connection with the sale of the Bonds, the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, may change the dated date of the Bonds and the payment dates provided therein (so long as the interest payment dates for any series are semi-annual) to facilitate the sale and delivery of the Bonds. The actions of the County Administrator or the Chairman of the Board in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the Board.

Section 10. **Official Statement.** The form of the Preliminary Official Statement of the County, to be dated the date of its mailing (the "Preliminary Official Statement"), has been made available to the Board prior to the adoption of this Resolution. The use and distribution of the Preliminary Official Statement, in substantially the form made available to the Board, including the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and "deemed final" by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), except for the omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the "Official Statement"). The use and distribution of the Official Statement are hereby authorized and approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the successful bidder of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the successful bidder initially sells Bonds.

The County Administrator or the Chairman of the Board is authorized, on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

Section 11. **Continuing Disclosure.** A substantially final form of the Continuing Disclosure Certificate to be given by the County (the “Continuing Disclosure Certificate”), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Certificate is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Continuing Disclosure Certificate to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Certificate. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Certificate on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Certificate shall not be considered a default under this Resolution or the Bonds; ***provided***, that any holder of the Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Certificate.

Section 12. **Sale Documents.** The use and distribution of the Notice of Bond Sale pursuant to which the Bonds will be offered for sale are hereby authorized and approved.

Section 13. **Refunding; Escrow Agreement.** The Board hereby irrevocably calls for the optional redemption of the Prior Bonds on a date that is not less than thirty (30) days nor more than sixty (60) days after the issuance of the Bonds (the “Redemption Date”) at a redemption price equal to 100% of the principal amount of the Prior Bonds plus accrued interest to the Redemption Date.

To facilitate the defeasance of the Prior Bonds and the payment of the principal of, premium and interest on the Prior Bonds from the issuance date through the Redemption Date, the Board hereby authorizes the use of the Escrow Agreement, dated as of October 1, 2010 (the “Escrow Agreement”), between the County and Regions Bank, as escrow agent (the “Escrow Agent”). The Escrow Agreement shall be in substantially the form previously used by the County in connection with the issuance of general obligation refunding bonds, with such changes, insertions and omissions as may be approved by the Chairman or Vice Chairman of the Board or the County Administrator, whose approval shall be conclusively evidenced by the execution of the Escrow Agreement. The Board hereby authorizes the County Administrator or the Escrow

Agent to submit a subscription for the purchase and issue of United States Treasury Securities - State and Local Government Series or, alternatively, the County Administrator or the Escrow Agent, with the advice of the Financial Advisor, to obtain competitively a portfolio of securities. If the County Administrator shall determine that the same shall improve the efficiency of the Escrow Fund created under the Escrow Agreement, he is further authorized to enter into agreements and give instructions for the purchase of securities for periods when the moneys credited to the Escrow Fund would otherwise be uninvested. The Board hereby authorizes the Chairman and the Vice Chairman of the Board and the County Administrator, any of whom may act, to execute and deliver the Escrow Agreement on behalf of the County.

Section 14. Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 15. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

Section 16. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be “federally guaranteed,” as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 17. Bank Qualification. The Bonds are hereby designated as qualified tax-exempt obligations under Section 265(b)(3)(B) of the Code. The County has not and will not designate more than \$30,000,000 of obligations, including the Bonds, as qualified tax-exempt obligations in calendar year 2010. The County has not issued, nor had issued for its benefit, more than \$30,000,000 of tax-exempt obligations in calendar year 2010, including the Bonds. Barring circumstances unforeseen as of the date of delivery of the Bonds, none of the County, its economic development authority or any other entity which issues obligations on behalf of the County (together, the “County Entities”) will issue tax-exempt obligations if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the County Entities in calendar year 2010, result in the County Entities having issued a total of more than \$30,000,000 of tax-exempt obligations in calendar year 2010, including the Bonds, for the benefit of the County. The County has no reason to believe that it will issue such tax-exempt obligations in 2010 in an aggregate amount that will exceed such \$30,000,000 limit; *provided*, that if the County receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth above in this paragraph is not required for the Bonds to be qualified tax-exempt obligations, the County need not comply with such covenant.

Section 18. Discharge upon Payment of Bonds. The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from

its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 14 and 16 until the date the Bonds are paid in full.

- Section 19.** **Other Actions.** All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the refunding of the Prior Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.
- Section 20.** **Limitation of Liability of Officials of the County.** No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.
- Section 21.** **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owners of the Bonds.
- Section 22.** **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.
- Section 23.** **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of
September, 2010.

Obligbonds-10_res

4. Plan of Finance- General Obligation Refundings

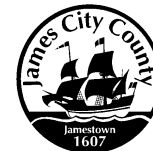
James City County-- September 2010

Summary of Bonds Refunded		Series 2002A		Series 2002B		
Series 2002 Bonds, Maturities:	Principal		Principal		Call	Call
	Refunded	Coupon	Refunded	Coupon	Date	Price
12/15/2011	497,000	3.590%	25,400	3.750%	11/5/2010	100.00%
12/15/2012	488,000	3.590%	26,300	3.750%	11/5/2010	100.00%
12/15/2013	479,000	3.590%	27,300	3.750%	11/5/2010	100.00%
12/15/2014	469,000	3.590%	28,400	3.750%	11/5/2010	100.00%
12/15/2015			2,899,400	3.750%	11/5/2010	100.00%
Total	\$1,933,000		\$3,006,800			

Refunding Results	Series 2002A	Series 2002B	Total
Gross Savings	\$91,260	\$282,378	\$373,638
Estimated TIC	1.83%	1.81%	1.82%
Net PV Savings*	\$89,564	\$272,675	\$362,239
PV Savings as % of Refunded Bonds	4.63%	9.07%	7.33%

*Net of estimated fixed cost of issuance of totaling \$100,000 and estimated underwriting costs of \$26,200 for a total of \$126,200.

FY	Prior Debt Service 2002A Bonds	Prior Debt Service 2002B Bonds	Total Prior Debt Service	Refunding Debt Service	Savings
2011	\$69,395	\$112,755	\$182,150	\$133,598	\$48,552
2012	557,474	137,679	695,152	646,200	48,952
2013	530,793	137,609	668,402	623,800	44,602
2014	504,435	137,604	642,040	594,200	47,840
2015	477,419	137,660	615,079	569,950	45,129
2016		2,953,764	2,953,764	2,815,200	138,564
Total	\$2,139,515	\$3,617,071	\$5,756,586	\$5,382,948	\$373,638



MEMORANDUM COVER

Subject: Policy Governing the Withdrawals of Property from Agricultural and Forestal Districts (AFDs)

Strategic Management Plan Pathway: 4.g - preserve greenspace

Action Requested: Shall the Board approve the resolution relating to the withdrawal of lands from AFDs?

Summary: At a Board of Supervisors work session on July 27, 2010, staff previewed several possible changes in existing legislative authority and policies relating to Agricultural Forestry Districts (AFDs). The memorandum provides information on several issues related to AFDs, but the only issue staff is requesting the Board to act on at this time is the withdrawal policy which was last updated in the mid 1990s. This update would create the same withdrawal policy for all AFD properties, whether in the Primary Service Area (PSA) or not. The other issues will be brought back to the Board of Supervisors at a later date.

Staff recommends approval of the resolution.

Fiscal Impact: None

FMS Approval, if Applicable: Yes ☐ No ☒

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memo
2. Resolution

Agenda Item No.: I-2

Date: September 28, 2010

MEMORANDUM

DATE: September 28, 2010

TO: Board of Supervisors

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

SUBJECT: Policy Governing the Withdrawals of Property from Agricultural and Forestal Districts (AFDs)

At a work session with the Board of Supervisors on July 27, 2010, staff previewed several possible changes in existing legislative authority and policies relating to Agricultural and Forestal Districts (AFDs). Staff is requesting your consideration and recommendations on these possible changes. The proposals presented to the Board are shown below:

1. That enabling legislation be requested from the General Assembly to allow James City County to join the current group of eight counties that have the ability to authorize new AFDs with as few as 20 acres.
2. That the benefits of land use valuation for agricultural properties be limited to properties within an AFD and, as a component of that recommendation, that the minimum parcel size for inclusion in an AFD be reduced from 20 acres to five acres.
3. That the policy governing withdrawals from AFDs outside of the Primary Service Area (PSA) be used for every property in an AFD, whether within the PSA or not. Current legislative policies for AFD properties in the PSA assume that these properties will be developed in the short term and withdrawals would be favorably considered if a development plan is presented as justification. The presumption of development as an acceptable certification for withdrawal does not exist for AFD properties outside of the PSA.
4. That six-year terms with staggered commencement dates be established for citizen appointees to the AFD Advisory Committee and a request that the Board attempt to appoint citizen committee members from each election district within the County.

At its August 23, 2010, meeting, the AFD Advisory Committee voted 10-0 to recommend approval of requesting enabling legislation to allow 20-acre AFDs (Item No. 1 above). Staff would recommend that this item come back to the Board as part of its legislative program for 2011.

Contingent upon the State granting that approval, the Committee voted 10-0 to recommend approval of limiting land use valuation for agricultural properties to those enrolled in an AFD (Item No. 2 above). Staff recommends that this item be deferred until the General Assembly can consider amending the enabling legislation to allow the County to consider Item No. 1.

The Committee also voted 10-0 to recommend approval of Item No. 3, the policy governing withdrawals from AFDs outside the PSA be used for every property in an AFD, whether within the PSA or not. A resolution is attached that would amend previous Board policies and create one consistent legislative policy for owner-initiated withdrawals from AFDs. As with any legislative policy, future Boards will have the option to make exceptions.

Finally, the Committee recommended deferral of Item No. 4, in order to provide the Board with a more detailed policy for dealing with the composition and by-laws of the Committee. Any recommendations for change will be presented to the Board at such time as the Committee can prepare and propose changes in the by-laws.

The attached resolution would establish a new withdrawal policy for properties in an AFD. The policy would apply to properties in the PSA in the same way it would apply to properties that are not in the PSA. As is the case for every legislative policy, the Board may, in a review of requests to withdraw from an AFD, consider whatever other criteria it deems appropriate.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gb
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Attachment

RESOLUTION

POLICY GOVERNING THE WITHDRAWALS OF PROPERTY FROM AGRICULTURAL

AND FORESTAL DISTRICTS (AFDs)

WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFDs) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and

WHEREAS, premature withdrawals of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFDs during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.2-4311 or 15.2-4314D of the Code of Virginia.

1. It is the policy of the Board of Supervisors to discourage the withdrawal of properties from AFDs during the terms of those districts.
2. The criteria for withdrawal during the terms of the districts are as follows:

In order to establish “good and reasonable cause,” a landowner requesting to withdraw property from an AFD must submit written information to demonstrate compliance with the following criteria:

- A. The request is caused by a change in circumstances that could not have been anticipated at the time application was made for inclusion in the district.
- B. The request would serve a public purpose, as opposed to the proprietary interest of the landowner that could not otherwise be realized upon expiration of the AFD.
- C. The request would not cause damage or disruption to the existing district.
- D. If the request for withdrawal is in conjunction with a proposal to convert the land use of a property to a different use than is currently in place on the property, the new land use would be in conformance with the Comprehensive Plan.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever other criteria as it deems appropriate for the individual case.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of September, 2010.

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