

# **A G E N D A**

## **JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**June 12, 2012**

**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Jalen Morris, 5th grade student at James River Elementary School

**E. PRESENTATIONS**

1. 2012 Historical Preservation Award –
  - a. Mr. John Labanish
  - b. Friends of Green Spring
2. Library Presentation

**F. PUBLIC COMMENT**

**G. BOARD REQUESTS AND DIRECTIVES**

**H. CONSENT CALENDAR**

1. Minutes –
  - a. May 22, 2012, Work Session
  - b. May 22, 2012, Regular Meeting
2. Reimbursement Resolution – Bonded Indebtedness
3. Colonial Community Corrections (CCC) Budget Adjustment - \$90,000

**I. PUBLIC HEARINGS**

1. Expansion of James City County's Enterprise Zone
2. Zoning Ordinance Updates
  - a. Case Nos. ZO-0011-2011, ZO-0012-2011, and ZO-0013-2011. Procedural Descriptions, Submittal Requirements and Administrative Items, and Nonconformities
  - b. Case No. ZO-0014-2011. Exterior Signs
3. Ordinance to Amend and Reordain Chapter 20, Taxation, Article II, Exemption of Certain Persons from Real Estate Taxes, Section 20-10, Qualifications for Exemption and Section 20-12, Application
4. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc. While Intoxicated or Under the Influences of Any Drug, Section 13-28, Adoption of State Law, Generally

**- CONTINUED -**

5. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-24, Temporary Removal and Disposition of Vehicles Involved in Accidents

**J. BOARD CONSIDERATIONS**

1. Courthouse Statue
2. Case No. Z-0006-2011. Stonehouse Development Proffer Amendment – Conservation Easement Dedication

**K. PUBLIC COMMENT**

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

**M. BOARD REQUESTS AND DIRECTIVES**

**N. CLOSED SESSION**

1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Economic Development Authority
  - b. Colonial Behavioral Health Board
2. Consideration of an Acquisition/Disposition of a Parcel/Parcels of Property for Public Use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

**O. ADJOURNMENT - to 4 p.m. on June 26, 2012**

061212bos\_age

**MEMORANDUM**

DATE: June 12, 2012  
TO: The Board of Supervisors  
FROM: Leanne Reidenbach, Staff Liaison to the Historical Commission  
SUBJECT: 2012 Historical Preservation Awards

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The Historical Commission was established to preserve, protect and promote the historical heritage of the County. In accomplishing this effort, the Historical Commission presents Historical Preservation Awards to individuals, groups or organizations that have made a significant contribution to the preservation of historic resources in the County.

After soliciting nominations through a publicly advertised process, the Historical Commission has selected an individual and an organization to receive the 2012 Historical Preservation Awards at their March Commission meeting. The individual selected is Mr. John Labanish and the organization selected is the Friends of Green Spring. Their accomplishments are outlined in the attached resolutions. The Commission is proud to honor their invaluable contributions to the County's historic legacy.

Mr. Lafayette Jones, Chairman of the Historical Commission, will present the awards.

  
Leanne Reidenbach

CONCUR:

  
Allen J. Murphy, Jr.

LR/tlc  
2012HistPresAwds\_mem

Attachment



2012 HISTORICAL PRESERVATION AWARD – MR. JOHN LABANISH

WHEREAS, Mr. John Labanish has worked diligently to preserve and promote the local history of James City County, particularly that of the Norge Train Depot; and

WHEREAS, Mr. Labanish has served on the James City County Historical Commission (the “Commission”) since his appointment in 1992, during which time he facilitated initiatives to accomplish the Commission’s objectives to educate the community and ensure the protection and preservation of historically significant buildings and archaeological sites while systematically placing historical markers at multiple locations; and

WHEREAS, Mr. Labanish served as the chairman of the Commission for three consecutive terms; and

WHEREAS, Mr. Labanish was instrumental in initiating the project to relocate the Norge Train Depot, bringing the first phase of restoration grants to fruition, establishing a Norge Train Depot Steering Committee and subsequently continuing to serve as a member of the Norge Depot Association; and

WHEREAS, work on the Norge Train Depot has resulted in its restoration and placement on the National Register of Historic Places.

NOW, THEREFORE, BE IT RESOLVED by the Historical Commission of James City County, Virginia, that the Commission presents to Mr. John Labanish the:

**2012  
Historical Preservation Award**

BE IT FURTHER RESOLVED that this resolution be recorded in the minutes of the Historical Commission to be preserved in perpetuity and that a copy of this resolution be presented to Mr. John Labanish.

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Lafayette Jones  
Chairman, Historical Commission

ATTEST:

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Leanne Reidenbach  
Liaison to the Historical Commission

Adopted by the Historical Commission of James City County, Virginia, this 22nd day of March 2012.



2012 HISTORICAL PRESERVATION AWARD – Friends of Green Spring

- WHEREAS, the Friends of Green Spring has worked diligently to preserve and promote the local history of James City County, particularly that of the Historic Green Spring Plantation; and
- WHEREAS, the Friends of Green Spring, an official partner of the Colonial National Historical Park in the preservation and development of the Historic Green Spring Plantation, was founded in 1997 and has more than 100 current members; and
- WHEREAS, the mission of the Friends of Green Spring emphasizes educational efforts to increase knowledge and awareness of the Historic Green Spring Plantation and its builder Governor William Berkeley in order to build continued interest in the site and important developments that took place there; and
- WHEREAS, in support of that mission, the Friends of Green Spring sponsor regular lectures and an annual open house on the property with informational guided tours, video presentations, and lectures; and
- WHEREAS, the Friends of Green Spring funded an interactive mobile kiosk that presents more than 100 pages of information about Green Spring and will be based at the Jamestown Visitor Center but move to other locations and through Williamsburg-James City County Schools; and
- WHEREAS, the Friends of Green Spring is sponsoring research to recreate detailed visual images of Governor Berkeley's manor house and the later mansion that once stood on the property.
- NOW, THEREFORE, BE IT RESOLVED by the Historical Commission of James City County, Virginia, that the Commission presents to the Friends of Green Spring the:

**2012  
Historical Preservation Award**

BE IT FURTHER RESOLVED that this resolution be recorded in the minutes of the Historical Commission to be preserved in perpetuity and that a copy of this resolution be presented to the Friends of Green Spring.

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Lafayette Jones  
Chairman, Historical Commission

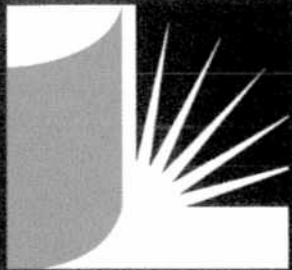
ATTEST:

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Leanne Reidenbach  
Liaison to the Historical Commission

Adopted by the Historical Commission of James City County, Virginia, this 22nd day of March 2012.

HPA-GSpring\_res



# WILLIAMSBURG REGIONAL LIBRARY

Visit our website at  
[www.wrl.org](http://www.wrl.org)

Serving Williamsburg, James City County  
and York County, Virginia



**Williamsburg Library**  
515 Scotland Street  
Williamsburg, VA 23185  
757.259.4040

**James City County  
Library**  
7770 Croaker Road  
Williamsburg, VA 23188  
757.259.7770  
Exit 231A from I-64

#### Hours of Service:

Mon-Thurs 10am-9pm  
Friday 10am-6pm  
Saturday 10am-5pm  
Sunday 1pm-5pm

## HISTORY:

Founded in 1909 in the front hall of the historic Saint George Tucker House with 50 volumes, the library grew and relocated many times. It began serving James City County residents in 1926. The Williamsburg Library moved to its present location in 1973 with about 12,000 volumes and was first expanded there in 1981. The Williamsburg Regional Library was created by contract between the City of Williamsburg and James City County as an independent agency in 1977. The James City County Library was opened in the Norge area in July 1996.

## BUILDINGS:

The Williamsburg Library houses approximately 180,000 volumes and covers 40,000 square feet. Wireless access is available throughout the library. This library offers a theatre, art gallery, and meeting rooms. The library is located at the Williamsburg Municipal Center with free parking. The Williamsburg Library opened 1973, and was expanded/renovated in 1981 and 1998.

The James City County Library covers 35,000 square feet and houses about 150,000 volumes and many behind-the-scenes work areas. It features meeting rooms and a computer lab. Wireless access is available throughout the library. Ample parking is available. This library was funded through a James City County bond referendum in March 1994 and was opened in July 1996.

## MOBILE LIBRARY SERVICES:

The library extends services beyond the walls of its buildings and out into the community. The Mobile Library Services Department (MLS), a unit of the library's **Outreach Services Division**, plays a central role in delivering regularly scheduled service to residents who are the least able to visit the library. These audiences include children in preschools and childcare centers, youth of all ages, who have limited ability to get to library buildings from where they live, homebound adults, and residents living in adult care centers.

## STATISTICS:

Budget:	\$5,802,163 (FY12)
Materials Circulation:	1,328,633 items (FY11)
Items Held:	344,698 (FY11)
Questions Answered:	141,582 (FY11)
Cardholders:	48,416 (FY11)
Attendance Library Sponsored Programs:	111,409 (FY11)
Staffing Level:	86.5 FTE. current

# Williamsburg Regional Library Update

James City County  
Board of Supervisors  
June 12, 2012













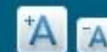






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## Featured News

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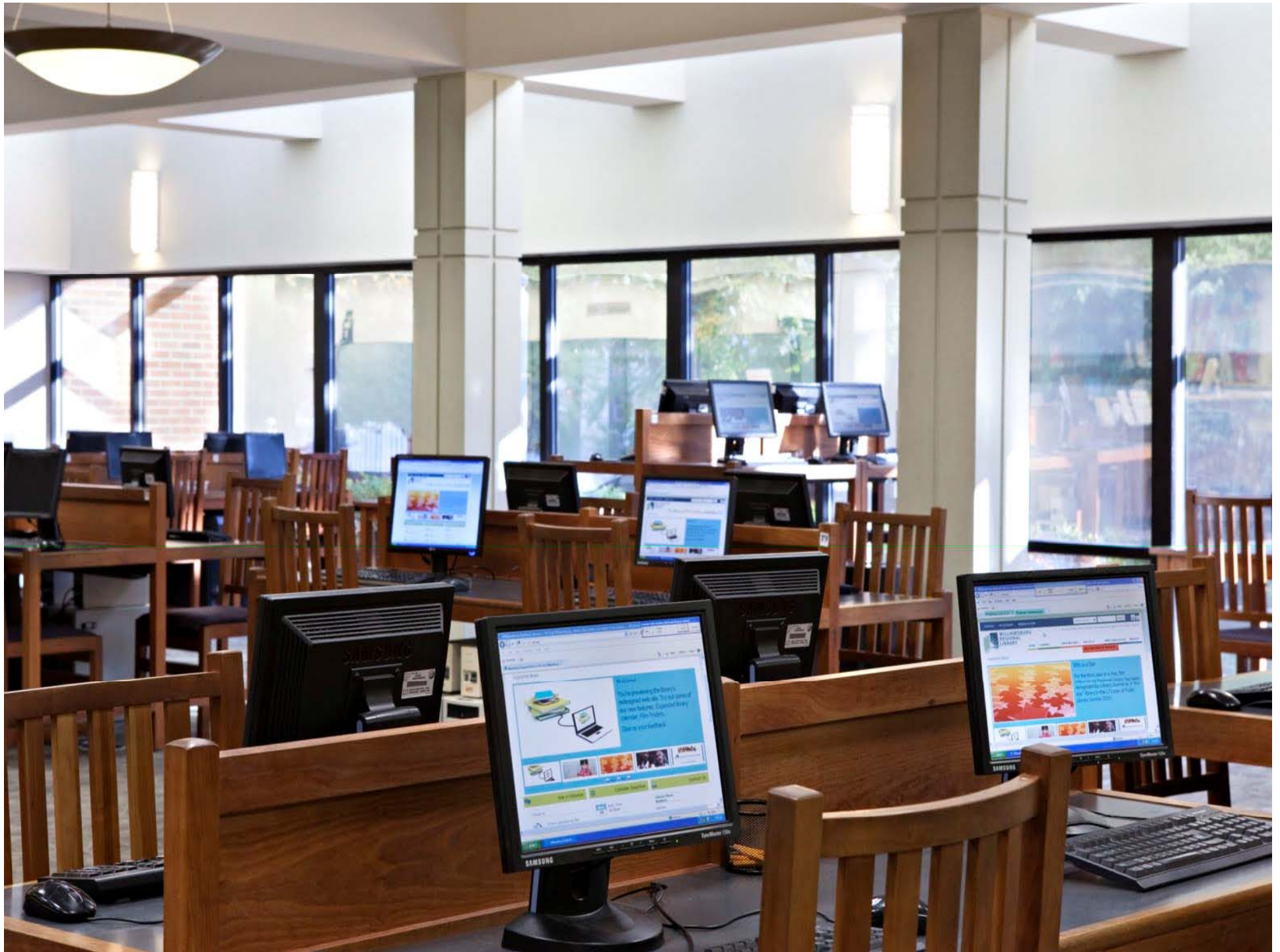
## Search Everything!

WRL is trying out a new tool that allows you to search not only our catalog but also many of our databases. It's great for folks looking for books and articles on a specific topic. **Try it out here**, or choose the "Everything" tab in the search box above.

[Ask a Librarian](#)[Calendar Snapshot](#)[Contact Us](#)









































**Questions?**

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,  
VIRGINIA, HELD ON THE 22ND DAY OF MAY 2012, AT 4:00 P.M. IN THE COUNTY  
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,  
VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

Mary K. Jones, Chairman, Berkeley District  
John J. McGlennon, Vice Chairman, Roberts District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

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

**C. BOARD DISCUSSIONS**

**1. Joint Work Session with the Planning Commission**

Mr. Tim O'Connor, Planning Commission Chairman, called to order the Planning Commission (PC) and advised the Board that all members, with the exception of Mr. George Drummond, were present. Mr. O'Connor thanked the Board for the opportunity to meet with them and advised them that the PC had three topics to discuss with the Board. He stated that the topics were a review of the Coordinated Comprehensive Plan Process to date; a review of the 2009 Comprehensive Plan's Goals, Strategies, and Actions as listed in the PC's Annual report; and, an update from staff on the Zoning Ordinance revision process.

Mr. O'Connor informed the Board that under the Coordinated Comprehensive Plan, the PC's goals were threefold: 1) special considerations or concerns regarding the Joint Comprehensive Plan and the process, 2) any individual considerations for the Board, including Quarterpath/Riverside Hospital, Busch Gardens, Marquis area, Lightfoot/Pottery area, the northeast triangle in Williamsburg, and lower York County and, 3) the preferred format the Board desires for the Comprehensive Plan update. He stated that the PC's recommendation would be to create an addendum to the Comprehensive Plan which could be easily updated/amended.

Ms. Tammy Rosario, Principal Planner, informed the Board that this topic was discussed with the Board in January 2012, at which time the Board received an overview regarding the project. She informed the Board of the progress made on the project since January, which included three community forums. She stated that following the forums, there was a Joint Planning Commission meeting in April 2012. She stated that the staff prepared a Joint Transportation Study, Inventory of Existing Land Uses, and updated demographic and housing trends. She advised the Board that a website was created regarding the Historic Triangle. Ms. Rosario provided a recap of the April 2012 joint meeting and invited questions from the Board.

Ms. Jones stated that the PC is seeking guidance on whether or not to proceed with having an insert of the joint pages in the Comprehensive Plan. Ms. Jones stated that, from her perspective, it is always good to have leadership from the localities communicating, collaborating, and working together. She expressed her concerns about putting the same exact pages in the three Comprehensive Plans and moving toward the direction of regionalism. Ms. Jones stated that the public has expressed concerns regarding regionalism, private property rights, and is ensuring that the County government officials hear their voices and represent them. She stated that there is public support for communication and collaboration among the communities.

Mr. McGlennon inquired as to the motivation for the Regional Issues Committee in proposing the coordination of the Comprehensive Plans.

Ms. Jones stated that the matter arose in 2006 and it was referred to as the synchronization of the comprehensive plan so that all three comprehensive plans were updated at the same time. She also stated that the plan was to have all three Planning Commissions communicating because there are key areas that impact multiple jurisdictions.

Mr. Icenhour stated that when he was on the Regional Issues Committee, the issue was brought forward during the County's Comprehensive Plan update that there were border areas where land use designations in York County and the City of Williamsburg that did not mesh with the County's land use map. He stated that communication between the localities could minimize conflicts. He stated that in order to accomplish this, the plans had to be coordinated because the localities were on different schedules. He stated that it has taken six years to get to that point. He stated that the Comprehensive Plan did not have to have common pages. He stated that information should be gleaned from other jurisdictions and incorporated into the County's Comprehensive Plan. Mr. Icenhour questioned the time frame of the review process for updating the Comprehensive Plan.

Mr. Rogers responded that a review has to be done every five years after the date of adoption and advised the Board that if the plan was readopted, the five-year period would start from the time of adoption.

Mr. O'Connor stated that an important goal stressed at Regional Issues Committee meetings is that the comprehensive plans remain as individual plans for each locality.

Mr. McGlennon stated that the process does not require or allow for a regional comprehensive plan. He stated that authority rests with local jurisdictions.

Ms. Jones stated that she agreed with Mr. Icenhour that the comprehensive plan did not have to have common pages. She stated that for the first time in 15 years she attended a meeting with officials from James City County, the City of Williamsburg, and York County. She stated the meeting opened dialogue and built relationships with leadership and planning commissioners. She stated that in the 2009 Comprehensive Plan there are pages dedicated to recognizing corridors of other localities. She stated that there is value in opening the lines of communication between leadership in the localities. She expressed that the current Board and Planning Commission members are sensitive to proposed project impacts along jurisdictional corridors.

Mr. Kennedy stated that he believes in regional cooperation but does not believe in regional government. He stated that he believes it would be appropriate to develop shared revenue zones to create something unique such as a year-round tourist destination. He questioned if there are any proposals before the Planning Commission that concern jurisdictional lines.

Mr. O'Connor responded no. He stated that York County and the City of Williamsburg have just begun this process. He stated that York County has instructed its planning staff to inform the James City County Planning Commission when they hold public meetings regarding Lightfoot and areas adjacent to James City County. He stated that all jurisdictions are concerned about traffic impact along the corridors. He stated that staff has had conversations about creating a common history regarding a joint comprehensive plan with jurisdictions tailoring it to their individual regions.

Ms. Rosario stated that the County focus has always been a targeted review of the comprehensive plan for regional discussions and issues. She stated that a wealth of information has been produced and that she would like to document the updates to the demographics and highlight jurisdictional commonalities or differences.

Mr. Kennedy stated that there are a lot of fundamental differences between the localities and that an area he is concerned about is the Lightfoot corridor. He stated that there is still a lot of rural undeveloped land in Lightfoot.

Mr. Kale stated that the County should first determine the differences between each jurisdictional comprehensive plan and then determine the commonalities. He stated that he would not like an addendum to the comprehensive plan. He stated that he would like an inclusion in the comprehensive plan.

Mr. McGlennon questioned recent legislation passed by the General Assembly that transportation aspects of any comprehensive plan update have to be submitted to the Virginia Department of Transportation (VDOT) for review.

Ms. Rosario responded that based on prior legislation, the County had worked with VDOT on the 2009 Comprehensive Plan. Ms. Rosario summarized that the Board is interested in keeping the scope narrow and targeted to regional issues focused on common borders. She stated that the Board has varied opinions regarding common pages. Ms. Rosario advised the Board that York County and the City of Williamsburg are trying to get their comprehensive plans concluded and to their Planning Commissions at the end of this year or the beginning of next year. She stated that James City County will try to be on the same schedule.

Mr. Kale questioned that if the County added information and readopted the plan as other localities were adopting their plans, would all the localities then be on the same cycle.

Mr. Rogers responded that the adoption dates would be the same. He stated that the requirement of the State Code is that the localities would have to begin the review of the Comprehensive Plan at the same time.

Mr. Kennedy expressed his views on whether or not the municipalities had to synchronize comprehensive plans.

Mr. Richard Krapf, Planning Commission member, stated each locality develops their own goals, strategies, and actions and they all have different time tables.

Mr. Icenhour questioned staff as to the process and questioned if the plan would be adopted in early 2012.

Mr. Allen Murphy, Development Management Manager, responded that James City County will track what the other localities are doing, document the similarities and differences, and be prepared to talk about them. He requested guidance and direction from the Board on how to proceed.

Ms. Jones requested input from the Board on how they wanted to direct the Planning Commission on how to move forward.

Mr. Icenhour stated that he would be in favor of adding a modified update to the plan which can then be readopted.

Ms. Jones stated that she could be in favor of readopting the plan and synchronizing it with the other localities.

Mr. Murphy asked if the decision could be postponed until York County and City of Williamsburg were closer to the end of their process so that the County could fully examine the differences and commonalities. He stated that the Board could review the matter in a year.

Ms. Jones stated that she would like input from York County and City of Williamsburg regarding common pages.

Mr. Kennedy stated that he supported Mr. Murphy's suggestion. He stated that the matter could be looked at in a year or sooner. He stated that he did not want to start a process at this point, not knowing what the process was going to entail.

Mr. O'Connor thanked the Board for its direction. He advised the Board that Mr. Krapf is Chairman of the Policy Committee and stated that Mr. Krapf will be discussing the scorecard for goals, strategies, and actions with the Board.

Mr. Krapf stated that during the past 12 to 18 months the focus of the Policy Committee has been the zoning and subdivision ordinance re-write triggered by the 2009 Comprehensive Plan. He stated that to date, four priority topics have been completed and approved by the Board. He stated that the four policies included the Economic Opportunity, which was adopted in September 2011; Development Standards, adopted in November 2011; Commercial Districts, adopted in January 2012; and Wireless Communications Facilities, adopted in January 2012. Mr. Krapf discussed the key issues that still remained on the calendar for this year. Those issues included a sign ordinance, housing opportunity policy, green building policy. He stated that a majority of the adopted and pending ordinances are contained in the goal, strategies, and actions section of the comprehensive plan. He stated that most of the policies are in the zero- to five-year priority category that the County established.

Ms. Rosario stated that they also have rural land work to explore with the Board and will be looking for its direction.

Ms. Jones inquired of the Board if they had any further questions for the Planning Commission and staff. Ms. Jones thanked the staff and Planning Board for their work session participation.

2. Board of Supervisors Guidelines for Outside Communications with Applicants Requesting Legislative Approvals

Mr. Middaugh advised the Board that this item and the Legislative Action Deferral Policy were requested previously and deferred by the Board. He stated that the Board received a draft of each policy. He stated that for both policies, he provided suggestions, parameters, and comments from Board members. He stated that the material on the deferral policy provides some criteria that can be shaped by the Board.

Ms. Jones thanked Mr. Middaugh and asked the Board for input on Guidelines for Outside Communications. Ms. Jones stated that she appreciated the intent of transparency; however, she does not



believe the legislation is necessary because the Board does a good job of communicating and being transparent. She stated that she also had concerns that citizens might not talk to the Board if the matter has to be reported out.

Mr. Kale stated that he feels the Board of Supervisors is transparent and the Board functions as such due to the trustworthiness of its members. He believes that the policy is not necessary.

Mr. Icenhour stated that he agreed with Mr. Kale. He stated that he was comfortable with not passing the policy.

Mr. McGlennon stated that it was in the individual Board member's best interest to let people know when they have met with an applicant; however, he stressed that it was their responsibility to do that.

Mr. Kennedy stated that he has always believed in transparency. He stated that communication needs to be improved and cited an example about a current request for a donation for a courthouse statue.

Mr. McGlennon stressed to the Board that when talking about legislative approvals, someone is requesting an action by the Board. Mr. McGlennon stated that the Board is better off recognizing that it is in its best interest to be clear when meeting with an applicant.

Mr. Kennedy agreed but expressed his opinion that the Board needs to improve communications.

Ms. Jones stated that the Board will pass on the disclosure policy.

### 3. Legislative Action Deferral Policy

Mr. Middaugh stated that staff has developed a template for the Board to work with. He stated that the Board can give deferrals not in excess of 12 months based on certain criteria. He stated that if the matter has to be re-advertised and citizens had to be re-notified, the applicant would bear the expense. Mr. Middaugh questioned if the Board's 12-month limitation is from the time of submission to the Planning Division.

Mr. Rogers stated that for legislative approvals, the time period is 12-months from when the case goes to the Planning Commission.

Mr. Icenhour questioned about making the policy to reflect the State Code.

Mr. Rogers responded that was not necessary but that it would shorten what is permissible under the State Code.

Mr. Kale inquired as to when the 12-month clock begins.

Mr. Rogers responded that the 12-month clock begins when the case is put on the Planning Commissions agenda for action. He stated that if there is not an applicant deferral of the case at that point, it would begin the 12-month period.

Mr. Kale questioned if the 12-month period would encompass both the Planning Commission and the Board.

Mr. Rogers responded yes.

Mr. Kennedy stated that the time frame would really be 11 months for the Board. He stated that there is a period of 30 days if the application is approved by the Commission and 30 days later before it can be heard by the Board.

Mr. Rogers stated that the Planning Commission has 100 days to act on the application from the time it is submitted to the Commission for action.

Mr. Kennedy stated that would shorten the Boards time to nine months.

Mr. Middaugh stated that the provision is in the policy to ensure that the Board acts timely.

Mr. Icenhour stated that the intent of the Board was to rectify indefinite deferrals for unexplained reasons. He stated that he is not adverse in giving people as much time as they need and stated that the Board has to have that flexibility.

Mr. McGlennon questioned an alternative approach regarding the possibility of the Board setting an expiration date, absent an extension for cause, when a deferral has been granted.

Mr. Middaugh stated that would be an added discipline. He stated that if a case came before the Board and the applicant has requested a deferral based on certain criteria, the Board could grant a deferral not to exceed 90 days. He stated that in 90 days the deferral would expire and the applicant would have to come back for action or to request an extension.

Mr. Kennedy expressed concerns about the policy and stated that the Board has to be cognizant of deferrals for difficult economic times.

Mr. Middaugh addressed Mr. Kennedy's concerns and advised that the Board could ask the applicant to withdraw the application until they were ready.

Mr. Kale agreed with Mr. McGlennon's approach regarding an expiration date on the extension.

Mr. Icenhour also agreed with Mr. McGlennon's approach.

Mr. Rogers stated that the public hearing process identifies a date for a case to come back to the Board.

Mr. McGlennon inquired as to the process if the public hearing was closed.

Mr. Rogers responded that that Board is not required to identify a date.

Mr. McGlennon questioned if there is a requirement for public hearing to occur if the applicant comes before the Board, after the public hearing has been closed several months earlier, asking for a deferral.

Mr. Rogers responded that the County does re-advertise for those cases. He stated that it is a requirement because the Board is going to take action on a case. He stated that if the Board defers the case for two weeks to the next Board meeting, the County would not re-advertise the case even after the public hearing has been closed.

Mr. Icenhour stated that he would like modifications made to the policy and have the matter brought before the Board for consideration.

Ms. Jones queried the Board and the Board agreed.

Mr. Middaugh questioned the Board if they want to set a limit on themselves in terms of how long the deferral would be.

Ms. Jones stated that the matter should be determined case by case.

Mr. Icenhour stated that the State Code was written so that the Board does not excessively drag the matter out when the applicant wants to get through the matter quickly.

Mr. Kale questioned that if an applicant comes to the Board and they have had one deferral of three months and requests another deferral of two months which is one month beyond 12 months, what happens to the State law. He questioned that if the applicant is asking for the deferral, then the 12-month time frame does not apply.

Mr. Rogers stated that even though the applicant requests a deferral, the time clock keeps running. He stated that at the end of the time clock, it can be continued by an applicant.

Mr. Middaugh questioned if the deferral criteria were appropriate.

Mr. McGlennon responded that this is another reason why he suggested the alternative approach which would reduce the need to set criteria.

Mr. Icenhour stated that he feels the Board should have flexibility and stated matters should be reviewed case by case.

Mr. Middaugh stated that the policy will be brought back before the Board for action at a regular meeting.

Mr. Kale advised the Board that he asked the County Administrator to look into the speed limit on Longhill Road, from the area of Plumeri Park and Eastern State Hospital going west around the curve at the Recreation Center. He stated that there is a lot of traffic exiting Eastern State Hospital and the Recreation Center. He stated that there have been two accidents at the intersection this year. He stated that he also asked Mr. Middaugh to take a look at the drainage system underneath the entry road of the Recreation Center. He stated that there is not a drainage culvert underneath the road and that in the wintertime the road becomes a sheet of ice.

At 6:01 p.m., Ms. Jones recessed the Board.

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Robert C. Middaugh  
Clerk to the Board

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF MAY 2012, 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**

Mary K. Jones, Chairman, Berkeley District  
John J. McGlennon, Vice Chairman, Roberts District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Powhatan District

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

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE – Katelyn Call, 8th grade student at Toano Middle School**

**E. PRESENTATION – Ford's Colony Proclamation**

Mr. Icenhour presented the Ford's Colony Homeowners Association Board with a proclamation recognizing the 25th anniversary of Ford's Colony.

**F. PUBLIC COMMENT**

1. Mr. Richard Swanenburg, 4059 South Riverside Drive, Lanexa, stated that after the Board meeting on May 12, 2012, he was approached by the County Attorney that he should have not made his presentation to the Board. He stated that he was reprimanded by the County Attorney and felt the situation could have been better handled.

2. Mr. Keith Sadler, 9929 Mountain Berry Court, Toano, addressed the Board regarding Agenda 21 and the James City County Comprehensive Plan.

3. Mr. John Bookless, 3 Claredon Court, Williamsburg, addressed the Board regarding Agenda 21 and the James City County Comprehensive Plan.

4. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board regarding Route 60 traffic concerns.

5. Mr. Joe Swanenburg, 3026 The Point Drive, Lanexa, addressed the Board regarding the treatment of his father, Mr. Richard Swanenburg, by the County Attorney at the May 12, 2012, Board meeting. He stated that his father felt threatened by the County Attorney.

6. Ms. Linda Reese, 511 Spring Trace, Williamsburg, representing the Season's Trace Homeowners Association, addressed the Board regarding the Virginia Department of Transportation (VDOT)'s increase from 25 miles per hour to 35 miles per hour in Season's Trace. She stated that the homeowners never received any notification of the change in the speed limit. She also stated that the homeowners were never asked for any input. She requested that the Board and County Administrator contact VDOT to get the speed limit reduced to 25 miles per hour.

7. Mr. Robert Richardson approached the podium to speak to the Board; however, he declined to state his address for the public record. Ms. Jones repeatedly requested that Mr. Richardson state his address. The Chair declared a recess and the members of the Board of Supervisors left the room. Mr. Richardson continued speaking at the podium while the Board was in recess. The Chair reconvened the Board and Mr. Richardson again refused to provide his address. The Chair declared Mr. Richardson out of order and he was escorted from the room.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy stated that he requested the County Attorney to draft a resolution encouraging the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML) to coordinate an effort by localities to challenge the validity of the State's changes to the Virginia Retirement System (VRS) contribution and mandate to provide a raise for local government employees. Mr. Kennedy read the drafted resolution. Mr. Kennedy moved for the adoption of the resolution.

Mr. Icenhour stated that he agrees with Mr. Kennedy and that he is comfortable in joining an effort by other municipalities, coordinated through VACo and VML.

Mr. McGlennon expressed concern and inquired as to what part of the State's Constitution is being violated. He stated that he has not received any documentation of a constitutional provision violation and that he would like to see documentation before he takes a position on this matter. He stated that the State has broad authority over localities, particularly in the VRS system, which localities choose to belong to.

Ms. Jones stated that the County is being told that it must compensate the employees and feels that it is worth it to ask the question whether or not this is constitutional.

Mr. McGlennon expressed concern about objecting to something that really is not in violation of the Constitution of the Commonwealth.

RESOLUTION EXPRESSING SUPPORT IN THE EVENT THE VIRGINIA ASSOCIATION OF  
COUNTIES AND/OR THE VIRGINIA MUNICIPAL LEAGUE COORDINATES AN EFFORT BY  
LOCALITIES TO CHALLENGE THE VALIDITY OF THE STATE'S CHANGES TO THE  
VIRGINIA RETIREMENT SYSTEM CONTRIBUTIONS AND TO MANDATE A RAISE FOR  
LOCAL GOVERNMENT EMPLOYEES

WHEREAS, Senate Bill 497, Chapter 822 of the 2012 Acts of the Assembly, (SB 497) requires employees of localities to pay member contributions to the Virginia Retirement System and to require member localities to increase compensation for employees to offset the cost of employee contributions; and

WHEREAS, SB 497 constitutes an unfunded mandate and an unconstitutional intrusion by the State into local autonomy; and

WHEREAS, any action contesting the validity of SB 497 should be a coordinated effort among affected localities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its support in the event the Virginia Association of Counties (VACo) and/or the Virginia Municipal League (VML) coordinate an effort by effected localities to contest validity of SB 497 and to seek to reverse the impacts on localities in Virginia.

BE IT FURTHER RESOLVED that the Clerk of the Board is hereby authorized and directed to forward a copy of this Resolution to VACo and VML.

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

**H. CONSENT CALENDAR**

1. Minutes –
  - a. April 30, 2012, Budget Work Session
  - b. May 8, 2012, Regular Meeting
2. Resolution Accepting Virginia Housing Development Authority (VHDA) Housing Counseling Grant Funds - \$9,950

Mr. McGlennon made a motion to approve the Consent Calendar.

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



## **RESOLUTION**

### **ACCEPTANCE OF VIRGINIA HOUSING DEVELOPMENT AUTHORITY (VHDA)**

#### **HOUSING COUNSELING GRANT FUNDS - \$9,950**

WHEREAS, financial assistance is available to units of local government through the Commonwealth of Virginia Housing Authority (VHDA) Grant; and

WHEREAS, James City County wishes to provide VHDA homeownership education classes and housing counseling services for its residents; and

WHEREAS, \$9,950 in funds are allocated to the program and will be expended as part of this effort; and

WHEREAS, the program is anticipated to benefit 81 persons, of which 50 will be low-and moderate-income renters, 20 will receive pre-purchase counseling, five will receive mortgage default counseling, and six Homebuyer Education Classes will be held.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign and submit appropriate documents, including an application with all the understandings and assurances contained therein, and to provide such additional information as may be required for the acceptance of the Virginia Housing Development Authority Grant.

#### **I. PUBLIC HEARINGS**

##### **1. Ordinance to Rename Certain County Position Titles as They May Appear in the County Code and Other Adopted Policies**

Mr. Middaugh advised the Board that department heads are often referred to as the title department manager. He stated that for common use in the public sector, they should be referred to as directors. He stated that this ordinance adjusts the title from manager to director. He stated that the title would be more representative of what the employee truly does for the County. He stated that the ordinance changes the titles on all the documents and provisions. He stated that the ordinance does not require the County to rewrite the entire Code.

Mr. Icenhour questioned Chapter 6.2 of the County Charter, Responsibility of Division Offices and Department Heads. He stated that the provision requires a Director at the head of each division and a Manager at the head of each department. He questioned if this provision has to go back to the General Assembly and questioned how to administratively change the Charter.

Mr. Leo Rogers, County Attorney, responded that the Charter provides flexibility to the Board to manage the departments and make changes without going back to the General Assembly.

Ms. Jones opened the public hearing. No one from the audience spoke.

Mr. Kale made a motion to adopt the ordinance.

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

2. Resolution Approving the FY 13-18 Secondary Six-Year Program

Ms. Tammy Rosario, Principal Planner, stated that each year VDOT, in conjunction with James City County Board of Supervisors, reviews the budget priority list for the Secondary Six-Year Plan (SSYP) for secondary roads. She stated that the SSYP is a priority funding plan for the improvement and construction of secondary roads. She stated that she would like to highlight six current and special funding projects for the budget priority list for the FY 2013-2018 SSYP. Ms. Rosario advised the Board that due to funding limitations, no new projects are proposed to be added to the list. She stated that the total allocation for the next six years is approximately \$1.1 million or \$227,000 per year.

Ms. Rosario stated that the first project is the Ironbound Road widening. She stated that this is an ongoing project to widen Ironbound Roads to four lanes between Ironbound Road and Strawberry Plains Road; from Ironbound Square to Longhill Connector Road, it will be widened to five lanes to include a center-turn lane. She indicated that both segments will include shoulder-bike lanes and a multipurpose trail or sidewalk. She stated that the project is fully funded and expected to be completed this fall.

Ms. Rosario addressed the Board regarding a project on Olde Towne Road. She stated that this project addresses safety and visibility concerns and it will increase the radius of the curve adjacent to The Colonies at Williamsburg Timeshares. She stated that most of the rights-of-way were secured at the time of development; however, staff estimates that one parcel would be needed to adequately straighten the bend. Ms. Rosario stated that of the \$2.6 million in estimated costs, approximately \$1.5 million has been funded. She stated that this project is recommended as the County's first priority.

Ms. Rosario addressed the Board regarding a project on Croaker Road. She stated that this project will widen the section of roadway between Richmond Road and the James City County Library from two to four lanes. She advised the Board that the first phase will include preliminary engineering, acquiring rights-of-way, and accumulating funds to construct a new two-lane bridge parallel to the existing bridge over the CSX lines. She stated that the second phase would be the construction of additional travel lanes. She further stated that a multipurpose trail, fully funded as a separate project, is under design and will be constructed in tandem with the road widening. She advised the Board that of the \$12.6 million in estimated costs, \$984,000 has been funded and stated that this project is recommended as the County's second priority.

Ms. Rosario stated that the third project recommended was to widen Longhill Road from Route 199 to Olde Towne Road from two to four lanes separated by a variable width median with curb and pedestrian accommodations. She advised the Board that separately, but concurrently, VDOT and the County are conducting a corridor study of Longhill Road from Route 199 to Centerville Road and proceeding with a safety project to upgrade the traffic signal and install a barrier at the intersection of Longhill and Olde Towne Roads. She indicated that due to the existing safety concerns and capacity deficiencies of Longhill Road, staff recommends keeping the project on the SSYP to continue accumulating funds but synchronizing the timing of the project to occur after the corridor study. She stated that on the \$11.8 million in estimated costs, \$135,000 has been previously funded.

As part of a special funding project, Ms. Rosario addressed the Board regarding Racefield Drive. She stated that Racefield Drive is part of the unpaved road funding program. She stated that this project currently has a balance of \$69,357. She stated that the total cost to pave the remaining section of Racefield Drive is estimated at \$178,000 and staff recommends that this road stay on the SSYP until the projects is fully funded and the road is paved.

Ms. Rosario advised that Board that VDOT has identified replacing Hicks Island Road Bridge over Diascund Creek as a candidate project, with an estimated cost of \$726,000. She stated that as part of the bridge funding program, funds are applied to this project yearly until enough money is accumulated to replace a bridge. She stated that this structure has a sufficiency rating less than 50, making it their first priority for

bridge replacement on the County's secondary road system. She stated that staff recommends selecting Hicks Island Bridge as the specific project for the bridge funds.

Ms. Rosario stated that the priorities listing Olde Towne Road, Croaker Road, and Longhill Road reflect the general rule that higher priority projects in the SSYP are those that will be constructed first. She stated that Olde Towne Road has the smallest deficit and will likely be the next project to begin construction. Therefore, it is recommended for first priority. She stated that staff acknowledges that Longhill Road has the greatest need for improvement; however, it is likely that Croaker Road will reach the construction phase before Longhill Road due to minimal right-of-way acquisition needed. She stated that, over the course of next year, staff will be investigating alternate methods for evaluating candidate projects with the goal of refining the selection and ranking process in the County.

Mr. Kale questioned when the project for Hicks Island Bridge could begin.

Ms. Rosario responded that the project could begin in FY 2014-2015.

Mr. Kennedy enlightened the Board that Croaker Road has been on the SSYP since 1987.

Ms. Jones opened the public hearing.

1. Ms. Rosa Corey, 111 West Grand Avenue, Oakland, California, representing Concerned Citizens of the Historic Triangle, addressed the Board regarding sustainable development and United Nations Agenda 21. She stated that road maintenance is vital to James City County and that Federal transportation monies are being diverted to sustainable community strategies.

2. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, questioned why Route 60 was not included in the SSYP.

3. Mr. John Bookless, 3 Claredon Court, Williamsburg, addressed the Board regarding increasing the radius of the curve on Olde Towne Road. He stated that a benefit of the curve is that it slows people down. He stated that he considers the curve to be a safety factor.

4. Ms. Ester Hatfield, 103 Armstrong Drive, Williamsburg, addressed the Board regarding the curve on Olde Towne Road. Ms. Hatfield stated that her mother lives on Olde Towne Road and they consider it to be a safety net. She asked the Board to consider keeping the curve on Olde Towne Road with a 25 mile per hour speed limit.

Ms. Jones closed the public hearing.

Mr. Icenhour questioned the process to change the priorities. He inquired if the Board passed a resolution to alter the priorities that the resolution to adopt the SSYP would remain unchanged.

Mr. Rogers responded yes.

Mr. Icenhour stated that he agreed with the concerns of the citizens that the curve does act as a speed control mechanism. Mr. Icenhour made a motion to change the Priorities One and Three and reverse them. He stated that he would like to make Longhill Road (Route 612) the first priority and Olde Towne Road (Route 658) the third priority. He stated that he would like to reallocate the \$1,523,224 of funding set aside for Olde Towne Road to the Longhill Road project. He stated that the second priority, Croaker Road (Route 607), would remain unchanged.

Mr. Middaugh addressed a comment made by Mr. Oyer and informed him that this project is for the secondary road system and not the primary road system. He stated that the primary road system includes Route



60, Route 199, and other major thoroughfares in the County and that the County does not make a plan for the primary routes. He stated that is the purview of VDOT. Mr. Middaugh also addressed Ms. Corey's comments and stated that the roads are owned by the State which is the principle funding agent for the roads.

Mr. Kale stated that he supports the change in the priorities. He stated that the Olde Towne project has other questions that could be addressed in the future that would make the straightening of the curve more problematic.

Mr. Kennedy questioned that if the Olde Towne Road funding is depleted, what would be the point in keeping it as Priority Three. He stated that he considers the curve to be a natural speed suppressant. He stated that the straightening of the road might make cars travel faster through the area. Mr. Kennedy spoke about the Longhill Road project and stated that the biggest problem would be the acquisition of easements. Mr. Kennedy also expressed concerns regarding Croaker Road. He stated that Croaker Road has been on the SSYP since 1987. He stated that he could be supportive but would like to be kept informed. He questioned moving the Hicks Island Bridge replacement into the third priority slot.

Mr. Kale questioned if the bridge was under special funding.

Mr. Middaugh responded that there was a separate pot of money available for bridges.

Mr. Kennedy stated that the Racefield Drive project could become the third priority.

Mr. Icenhour stated that he would be happy to amend his motion to move funding to the Racefield Drive Project.

Mr. Kale questioned that if the proposed Longhill Road widening from Route 199 to Olde Towne Road would have the variable median that is on Ironbound Road. He stated that if that is the case, it would be a waste of money and would cause the need to acquire property. He stated that there were multiple ways of solving a four-lane highway without putting in that kind of a median.

Ms. Jones stated that she agreed with Mr. Kale.

Ms. Rosario assured the Board that an Ironbound Road style for Longhill Road has not been the discussion with VDOT. She stated that the priority is to minimize right-of-way acquisitions. She stated that the variable median would be 13 feet or less.

Ms. Jones questioned why a median was recommended for the project.

Ms. Rosario stated that it was recommended for safety purposes.

Mr. Kale stated that he felt 13 feet was a lot of space.

Ms. Rosario stated that 13 feet is the maximum. She stated that this would be discussed during the design phase.

Mr. McGlennon questioned if the median was designed to accommodate turn lanes.

Ms. Rosario stated that it was.

Mr. McGlennon stated that the median would have to be 13 feet to have a center lane turn lane. Mr. McGlennon stated he supports the change in priorities. He stated that it is a project that will require acquisition

of rights-of-way and accumulation of funds, but that the longer the County delays the project, the longer it will be before the current traffic problem is solved.

Ms. Jones stated that she would support the recommendation and agreed with Mr. Kennedy about being kept informed about Longhill Road. She stated that she would like more information about Olde Towne Road. Ms. Jones acknowledged the comments made by Ms. Corey regarding sustainable development, known as smart growth. Ms. Jones stated that smart growth does affect the funding, with Federal funds being diverted to specific high density road projects.

Mr. Kale questioned the clarification of the Racefield Project. He questioned if the motion included taking the money from one project and moving some to complete the Racefield Project Fund.

Mr. Icenhour stated that monies will be moved to complete the Racefield Drive Project.

Mr. Middaugh stated that this is the only gravel road in the VDOT system.

Ms. Jones asked Mr. Middaugh to call the roll on the motion to amend the priorities.

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

Mr. Icenhour inquired as to the process for approval of study money for Longhill Road.

Mr. Middaugh stated that the money has been allocated and the County will be administering the corridor study per the agreement reached with VDOT. He stated that the Board approved a contract for miscellaneous type projects, not to exceed \$500,000. He stated that one of those was an engineering company and that the County is in the process of assessing if the engineering company has the appropriate skill set to do the study or if the County needs to go out for a Request for Proposal (RFP). He stated that if the County does have to go out for an RFP, it would be done relatively soon.

Mr. Icenhour questioned the funding source.

Mr. Middaugh responded that the funding has already been allocated by VDOT's Regional Surface Transportation Program (RSTP) Funds. He stated that the corridor study is an eligible use for RSTP funds.

Mr. McGlennon questioned what other uses would qualify for RSTP funds.

Ms. Sonya House-Pronton, VDOT District Program Manager, responded that the RSTP Funds are used for widening projects, new location projects, High Occupancy Vehicle (HOV) lanes, and intersection/interchange improvements. She stated the funds can also be used for studies.

Mr. McGlennon questioned if the RSTP funds could be used on the Longhill Road widening project.

Ms. House-Pronton responded yes.

Mr. Middaugh stated that he thought the RSTP money was intended to be applied fairly readily as opposed to banked for some period of time and asked Ms. House-Pronton to clarify.

Ms. House-Pronton responded that Mr. Middaugh was correct. She stated that if funding is already allocated, in which VDOT has been given authorization from the Federal Highway Department, those funds have been allocated based on a schedule. She stated that if VDOT transferred the funds, they would have to move them to a project that could be used immediately. She stated that the Longhill Road project is in

preliminary stages. She stated that there has been money allocated for a study. She stated the study has not been started yet.

Mr. Icenhour questioned the time frame for when the study would be completed.

Mr. Middaugh responded that the study would be at least a year-long process. He stated that the process is quite involved.

Mr. Icenhour moved for the adoption of the FY 2013-2018 Secondary Six Year Plan Resolution.

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

## **RESOLUTION**

### **PROPOSED FY 2013-2018 SECONDARY SIX-YEAR PLAN**

WHEREAS, Section 33.1-23.4 of the *Code of Virginia*, 1950, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Secondary Six-Year Plan; and

WHEREAS, James City County has consulted with the VDOT District Project Manager to set priorities for road improvements to the County's secondary roads; and

WHEREAS, a public hearing was advertised prior to the regularly scheduled Board of Supervisors meeting on May 22, 2012, so citizens of the County had the opportunity to participate in the hearing and to make comments and recommendations concerning the proposed Budget Priority List.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves of the Budget Priority List for the Secondary System as presented at the public hearing.

### **3. Resolution Reducing Personal Property Taxes on Boats**

Mr. John McDonald, Financial and Management Services Director, advised the Board that on December 13, 2011, a citizens committee was created to evaluate the County's boat tax. He stated that a summary of the committee's findings was presented to the Board during its budget work session on April 30, 2012. He stated that the study concluded that the County's tax rate on boats, weighing five tons or more, did not compete with other communities with riverfront marinas and the County was losing money because residents who owned large boats were moving them to marinas in other localities. He further stated that the County has a boat tax rate of \$4.00 per \$100 of the assessed value on all boats, regardless of the size. He stated that other localities with riverfront marinas have tax rates of \$1.00 or less on large boats. He stated that the committee concluded, with the competitive tax rate, that the County could generate additional tax revenue from boats of \$35,000 to \$50,000. He mentioned that boat related businesses, including the marinas, would also benefit. He stated that any new projected revenue from the larger boats would be used to reduce the tax rate on smaller boats. He stated that the resolution proposes a tax rate of \$1.00 per \$100 of the assessed value for boats weighing five tons or more and a tax rate of \$3.50 per \$100 of the assessed value for boats weighing less than five tons. He stated that both are reductions from the existing tax rate of \$4.00 per \$100 of the assessed value. He stated that the proposal is expected to be revenue neutral. Mr. McDonald advised the Board that the Commissioner of the Revenue determines the method of assessments for all personal property, including boats and has advised the County that he intends to continue the current method of assessment using



a standard pricing guide for the smaller boats but may change the method for assessing larger boats to more closely align with the original cost. He stated that State Code allows either one overall category of boats or allows two categories of boats based on weight: five tons or more and less than five tons. He stated that the County cannot establish additional categories for taxation based on value, age of the boat, or length of the boat without pursuing changes in State legislation. Mr. McDonald advised the Board that Committee members and Mr. Bradshaw were present to also answer any questions.

Ms. Jones opened the public hearing.

1. Mr. Wayne Nooe, 15530 Riverbend Trail, Lanexa, stated that Kingsmill Resorts supports the proposed lower tax rate for boats in James City County. He stated that as a marine operator, he feels that a lower tax rate will encourage local boat owners, who presently take their boats out of James City County, to not only keep their boats in James City County but to utilize them. He stated that if a boat owner is storing their boat in another area, he is probably doing business in that area also. He further stated that the increased water traffic that the tax reduction could generate would help boost the local economy by getting the boaters to utilize local marinas and restaurants.

2. Ms. Kim Berry, 447 Fenton Mill Road, Williamsburg, speaking on behalf of Eco Discovery Park, confirmed support of the proposed boat tax plan. She stated that Eco believes the plan will increase boat activity in the County enhancing the success of its business. She stated that the approval of the tax plan communicates the fact that the County is interested in encouraging marine investments. She stated that the proposal provides for additional incentives for marine services to locate at Eco Discovery Park, home of the Jamestown Yacht Basin.

3. Mr. Alan Finger, Committee Member, stated that the Committee agrees with the recommendation that staff presented. He stated that the proposed tax rate will benefit the County. He stated that boats should come back to the County. He stated that the new tax rate will help investment in the infrastructure of marinas. He said the new tax rate indicates that the County is boater friendly. He further stated that the tax rate will help maintain property values in the homes surrounding the marinas in Governor's Land and Kingsmill.

4. Mr. Robert Pinto, 4063 South Riverside Drive, Lanexa, Committee Member, stated that he supports the proposal to reduce the boat tax. He stated that reducing the tax would encourage more citizens to purchase boats and stimulate infrastructure.

Ms. Jones closed the public hearing.

Mr. Kale stated that the proposed boat tax is revenue neutral. He stated that if the County gets any increased revenue from the large boats, the revenue will be used to offset the tax on the smaller boats. He stated that a year from now if the County determines it has gotten more money, it will allow the County in the future to lower taxes on the smaller boats.

Ms. Jones thanked the boat tax committee members. She stated that the reports were very thorough and provided numerous options. She stated that James City County has one of the highest boat taxes in the region and that she could support the proposed tax plan.

Mr. McGlennon stated that when this matter was discussed, it was agreed that it had to be revenue neutral. He stated that he also expressed that he wanted to treat all boat owners fairly and equitably. He stated that it is almost impossible to accomplish that with the proposed tax plan. He stated that with comparison information provided to him by County staff at his request, an \$80,000 boat that falls just below the five ton limit would pay \$1,400 in taxes under the proposed tax rate from \$4.00 to \$3.50, saving \$200 over the current bill. An \$80,000 larger boat would be given a tax bill of \$400, or a savings of \$1200. He stated that this is regrettable but that it is the fact. He stated that if the tax was applied at a higher rate and reduced everyone's

tax to \$3.50, then it would not solve the issue of the larger boats owners. He stated that Old Dominion University did a boat tax study of the region and determined that it had no impact to eliminate the boat tax for the City of Virginia Beach. He stated that the City actually experienced a small decline in the number of boats that were kept in Virginia Beach. He stated that the same was true for Hampton. He stated that one of the most popular locations for boating is Deltaville. He stated that Deltaville has over 300 large boats and 3,000 smaller boats registered and paying taxes. He stated that Deltaville's tax rate is \$3.00 for small and large boats. He stated that he is aware that there is a serious problem with Governor's Land and maintaining its marina, but he does not believe this is a way to solve it. He stated that he cannot support the proposal. He stated that he would be happy to entertain other possibilities.

Mr. Kennedy stated that he could be supportive of the proposal, but believes the County should work toward fair equity for small boat owners.

Ms. Jones agreed and stated that the County will look at the matter again next year.

Mr. Icenhour stated that the Board is dealing with an economic development issue and that the matter should be about fair treatment. He stated that he spoke to the Commissioner of the Revenue and found out that there are thirty-some exceptions, from antique cars to airplanes, that the County can make changes on how to assess taxes but has kept the taxes as equitable treatment across the board. He stated that the boat tax is a significant change. Mr. Icenhour stated that the County has approximately 2,800 boats registered and paying taxes. He stated that out of the 2,800, the County does not know how many large boats it has because the County only has one tax rate. He stated that the County does not know how many boats are over five tons. He stated that he would have a hard time telling someone with a small boat that the good news would be that the County is cutting your taxes from \$4.00 to \$3.50 but the bad news is that you are not rich enough to afford from having it cut from \$4.00 to \$1.00. He stated that it is differential treatment that will benefit the wealthy. He stated that he is not sure how he is going to vote. He agreed that the tax rate needs to be cut.

Ms. Jones stated that she believed the proposal is a step in the right direction and that the matter could be looked at again next year.

Mr. Kennedy made a motion to approve the resolution.

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

## **RESOLUTION**

### **PUBLIC HEARING – REDUCTION IN BOAT TAXES**

WHEREAS, the James City County Board of Supervisors (Board) has previously adopted an appropriation resolution that has set the tax rates for personal property taxes for FY 2013 at \$4.00 per \$100 of assessed value; and

WHEREAS, a committee of citizens appointed by the Board has presented its finding on the impact and potential changes in personal property tax rates for the larger category of boats, those that weigh five tons or more; and

WHEREAS, § 58.1-3506 of the Code of Virginia allows separate classifications of certain personal property, to include boats weighing less than five tons and those weighing five tons or more, to be considered separately for purposes of taxation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby creates the following separate classifications of personal property and changes the tax rate, as indicated, per \$100 of assessed value, effective with the personal property book prepared as of January 1, 2012:

Boats or watercraft weighing under five tons, not used solely for business purposes	\$3.50 per \$100 of assessed value
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Boats or watercraft weighing five tons or more, not used solely for business purposes.	\$1.00 per \$100 of assessed value
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#### **J. BOARD CONSIDERATIONS**

1. Resolution – Employer Contribution Rates for Virginia Retirement System
2. Resolution – Member Contributions by Salary Reduction for Virginia Retirement System

Mr. Middaugh reported that both resolutions have been passed onto the Board by the General Assembly. He stated that this matter was talked about during the budget process. He stated that Item 1 has to do with the VRS rate that is paid into the program. He stated that in regard to Item 1, the County has the choice of two rates this year. He stated that the first rate is a certified rate, which was calculated and approved by the VRS Board and is the County staff's recommendation. He stated that the General Assembly made a provision that the County could phase it in over the period of years. He stated that Item 2 is changing the five percent contribution that the County now makes to employees. He stated that an offsetting raise of 5.7 percent was included in the budget and approved.

Mr. Kale made a motion to approve the Employer Contribution Rates for Virginia Retirement System Resolution.

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

Employer Contribution Rates for Counties, Cities,  
Towns, School Divisions and Other Political Subdivisions  
(In accordance with the 2012 Appropriation Act Item 468(H))

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#### **Resolution**

BE IT RESOLVED, that the James City County 55147 does hereby acknowledge that its contribution rates effective July 1, 2012 shall be based on the higher of a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium (the "Alternate Rate") provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code § 51.1-145(I) resulting from the June 30, 2011 actuarial value of assets and liabilities (the "Certified Rate"); and

BE IT ALSO RESOLVED, that the James City County 55147 does hereby certify to the Virginia Retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2012:



**(Check only one box)**

☒ The Certified Rate of 11.70%

☐ The Alternate Rate of 8.46%; and

BE IT ALSO RESOLVED, that the James City County 55147 does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of any election made under the provisions of this resolution; and

NOW, THEREFORE, the officers of James City County 55147 are hereby authorized and directed in the name of the James City County to carry out the provisions of this resolution, and said officers of the James City County are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by James City County for this purpose.

Mr. Icenhour made a motion to approve the Member Contributions by Salary Reduction for Virginia Retirement System Resolution.

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

Member Contributions by Salary Reduction for Counties, Cities,  
Towns, and Other Political Subdivisions  
(In accordance with Chapter 822 of the 2012 Acts of Assembly (SB497))

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**Resolution**

WHEREAS, the James City County 55147 employees who are Virginia Retirement System members who commence or recommence employment on or after July 1, 2012 ("FY2013 Employees" for purposes of this resolution), shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis upon commencing or recommencing employment; and

WHEREAS, the James City County 55147 employees who are Virginia Retirement System members and in service on June 30, 2012, shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis no later than July 1, 2016; and

WHEREAS, such employees in service on June 30, 2012, shall contribute a minimum of an additional one percent of their creditable compensation beginning on each July 1 of 2012, 2013, 2014, 2015, and 2016, or until the employees' contributions equal five percent of creditable compensation; and

WHEREAS, the James City County 55147 may elect to require such employees in service on June 30, 2012, to contribute more than an additional one percent each year, in whole percentages, until the employees' contributions equal five percent of creditable compensation; and

WHEREAS, the second enactment clause of Chapter 822 of the 2012 Acts of Assembly (SB497) requires an increase in total creditable compensation, effective July 1, 2012, to each such employee in service on Jun,: 30, 2012, to offset the cost of the member contributions, such increase in total creditable compensation to be equal to the difference between five percent of the employee's

total creditable compensation and the percentage of the member contribution paid by such employee on January 1 2012,

BE IT THEREFORE RESOLVED, that the James City County 55147 does hereby certify to the Virginia Retirement System Board of Trustees that it shall effect the implementation of the member contribution requirements of Chapter 822 of the 2012 Acts of Assembly (SB497) according to the following schedule for the fiscal year beginning July 1, 2012 (i.e., FY2013):

Type of Employee	Employer Paid Member Contribution	Employee Paid Member Contribution
Plan 1	%	%
Plan 2	%	%
FY 2013 Employees	0%	5%

(Note: Each row must add up to 5 percent.); and

BE IT FURTHER RESOLVED, that such contributions, although designated as member contributions, are to be made by the James City Service Authority in lieu of member contributions; and

BE IT FURTHER RESOLVED. that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and

BE IT FURTHER RESOLVED, that member contributions made by the James City County under the pick up arrangement shall be treated for all purposes other than income taxation. including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and

BE IT FURTHER RESOLVED, that nothing, herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the James City County directly instead of having them paid to VRS; and

BE IT FURTHER RESOLVED, that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of the James City County shall be reduced by the amount of member contributions picked up by the James City County on behalf of such employee pursuant to the foregoing resolutions.

NOW, THEREFORE, the officers of James City County 55147 are hereby authorized and directed in the name of the James City County to carry out the provisions of this resolution, and said officers of the James City County are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the James City County for this purpose.

#### **K. PUBLIC COMMENT**

Ms. Jones opened the public comment section. No one spoke.

#### **L. REPORT OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh stated that the County offices will be closed on Monday, May 28, 2012, in observance of Memorial Day. Mr. Middaugh announced that effective June 1, 2012, Convenience Center coupons will no longer be sold at fire stations. Coupons will be available for sale at the Treasurer's Office, the Satellite Office,

the Freedom Park office, the James City County Recreation Center and the James River Community Center. Mr. Middaugh also stated it was the consensus of the Board not to go into closed session for the appointments to the Library Board and Parks and Recreation Advisory Board. He stated this matter will be discussed under Board Requests and Directives.

**M. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour made a motion to appoint Ms. Lynda Byrd-Poller to the Library Board and moved to appoint Mr. Michael Hand, Mr. Julian Lipscomb, and Mr. Craig Metcalf to the Parks and Recreation Advisory Board.

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

Mr. McGlennon stated that the Courthouse has a statue recognizing the importance of Native Americans. He stated that two more statues are planned for the location honoring English settlers and African Americans. He stated that Towne Bank has made a commitment to pay for the cost of approximately \$50,000 for the statue honoring the English settlers. He stated that the statue honoring African American slaves brought to the new world will be half funded by a foundation grant. He stated the Board has been requested to consider allocating \$12,500 as one quarter of the cost. He stated that the City of Williamsburg has agreed to pick up a quarter of the cost if James City County also agrees. Mr. McGlennon requested that the Board consider funding the statue out of the Tricentennial Fund. He stated that the fund has a little over \$12,000 in it and that the statue would be an appropriate utilization of the fund.

Ms. Jones requested that the item be on the next Board agenda. Ms. Jones mentioned that she attended the groundbreaking ceremony for Settlers Market and stated that she is very excited to have the project moving forward. She also mentioned that she, along with several staff members, attended an open house at Busch Gardens to see the new roller coaster, Verbolten.

Mr. Icenhour stated that on May 9, 2012, he attended the Citizen's Police Academy graduation with Supervisor Kale and Supervisor McGlennon. He stated that he also attended the Police Awards Ceremony on May 17, 2012. He stated that he also attended the Settlers Market groundbreaking ceremony. Mr. Icenhour thanked the Planning staff for making a presentation about New Town 12 to approximately 140 residents of Windsormeade.

**N. CLOSED SESSION -None**

**O. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn the meeting until 7:00 p.m. on June 12, 2012.

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



The meeting adjourned at 8:58 p.m.

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Robert C. Middaugh  
Clerk to the Board

052212bos\_min

## MEMORANDUM COVER

**Subject:** Resolution of the Board of Supervisors of James City County, Virginia Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Financings for Certain Costs of Capital Improvements

**Action Requested:** Should the Board of Supervisors authorize the reimbursement of project spending incurred before bonds are actually sold to finance the projects?

**Summary:** Bonds are expected to be sold for the school and fire station projects included in the adopted Capital Budget. A bond sale for \$20 million is expected in August or September. If the Board adopts this resolution, any spending on these projects before the bond issue can be reimbursed from bond proceeds.

The resolution was drafted by bond counsel.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** It would provide a fiscal option that would not otherwise exist.

**FMS Approval, if Applicable:** Yes ☒ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.: H-2**

**Date: June 12, 2012**

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

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

SUBJECT: Resolution of the Board of Supervisors of James City County, Virginia Declaring Its Intention to Reimburse Itself from the Proceeds of One or More Financings for Certain Costs of Capital Improvements

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In the recently adopted FY 2013 Capital Budget, the Board of Supervisors approved bond financing for three school projects (Lafayette High, Toano Middle, and James River Elementary Schools) and a new Fire Station 1 in the total amount of \$20 million. Recent discussions with representatives of McGuireWoods LLP, bond counsel, and Davenport & Co LLC, financial advisors, have resulted in a recommended financing in either August or September. In the time period between now and a possible bond issue, the County and Schools will begin to hire design firms and engineers to prepare construction documents for the various projects. With the attached resolution, the County could reimburse itself, under Federal Treasury regulations, for any spending between now and the time bonds are sold.

This resolution does not obligate the Board in any way. It is permissive; it allows a reimbursement.

At one of its meetings in July, the Board will be asked to formally approve the Issuance of Debt, an action that will also require adopted resolutions of both the School Board and the Economic Development Authority (EDA) Board of Directors. The EDA would be the conduit for the County's bond issue. In addition to the \$20 million in financing for new projects, both bond counsel and Davenport & Company LLC are evaluating the possibility of adding a refinancing of \$8 million in existing County debt to the offering. That would be done only if it would reduce current debt service payments on that existing debt. If a savings of sufficient size is created, that action would also be brought to the Board of Supervisors when the \$20 million bond authorization is sought.

Staff recommends approval of the attached resolution.

---

John E. McDonald

JEM/gb  
IndebtReim\_mem

Attachment



## **RESOLUTION**

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

#### **DECLARING ITS INTENTION TO REIMBURSE ITSELF**

#### **FROM THE PROCEEDS OF ONE OR MORE FINANCINGS**

#### **FOR CERTAIN COSTS OF CAPITAL IMPROVEMENTS**

WHEREAS, James City County, Virginia (the "County") has determined that it may be necessary or desirable to advance money to pay the costs of certain capital improvements for public facility improvements, identified as the "Project" and adopted as part of the Capital Budget for the fiscal year ending June 30, 2013; and

WHEREAS, the Project includes the James River Elementary School Heating, Ventilation, and Air Conditioning (HVAC) system replacement, the Lafayette High School HVAC system replacement, the Toano Middle School refurbishment and HVAC system and roof replacements, and a replacement for Fire Station 1 in Toano.

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

1. The Board of Supervisors adopts this declaration of official intent under Treasury Regulations Section 1.150-2.
2. The Board of Supervisors reasonably expects to reimburse advances made or to be made by the County to pay the costs of the Project from the proceeds of one or more financings. The maximum amount of financing expected to be issued for the Project is \$20 million.
3. This resolution shall take effect immediately upon its adoption.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

## MEMORANDUM COVER

**Subject:** Colonial Community Corrections (CCC) Budget Adjustment - \$90,000

**Action Requested:** Shall the Board of Supervisors authorize a two-year limited-term position in Colonial Community Corrections (CCC) under a reimbursement agreement with the Federal government?

**Summary:** The National Institute of Corrections (NIC) has offered to reimburse the salary and fringe benefit costs of Ms. Katie Green for two years so that she might work with the NIC on community correction programs. A two-year limited-term position, funded from the monies reimbursed by the NIC, would allow the work to continue in Ms. Green's absence - at no additional cost to the County or the other locality partners in CCC.

Staff recommends a budget amendment of \$90,000 for both FY 2013 and FY 2014 and the appropriation of the funds in FY 2013. Also recommended is the creation of a limited-term position for two years (FY 2013 and FY 2014) to allow the work at CCC to continue in Ms. Green's absence.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-3

**Date:** June 12, 2012

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Emmett H. Harmon, Police Chief

SUBJECT: Colonial Community Corrections (CCC) Budget Adjustment - \$90,000

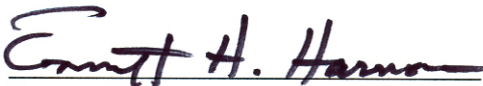
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The National Institute of Corrections (NIC) has offered to reimburse the salary and fringe benefit costs of Ms. Katie Green, Program Director, for two years so that she might work with NIC on community correction programs at the Federal level in Washington DC. A two-year limited-term position, funded from the monies reimbursed by the NIC, would allow the work to continue in Ms. Green's absence - at no additional cost to the County or to the other locality partners in Colonial Community Corrections (CCC).

Staff recommends a budget amendment of \$90,000 for both FY 2013 and FY 2014 and the appropriation of the funds in FY 2013. Also recommended is the creation of a limited-term position for two years (FY 2013 and FY 2014) to allow the work at CCC to continue in Ms. Green's absence.

The NIC proposal includes the reimbursement of all personnel costs, salary and fringes, to include any pay or benefit adjustments in the two-year period.

Staff recommends the approval of the attached resolution.

  
Emmett H. Harmon

EHH/gb  
CCCBudAdj\_mem

Attachment



## RESOLUTION

### COLONIAL COMMUNITY CORRECTIONS (CCC)

#### BUDGET ADJUSTMENT - \$90,000

WHEREAS, the Board of Supervisors of James City County, Virginia, is the fiscal agent for Colonial Community Corrections (CCC) and approves both budgets and position requests for CCC; and

WHEREAS, CCC has entered into an agreement with the National Institute of Corrections (NIC) to reimburse the salary and fringe benefit costs of Ms. Katie Green, Program Director, for two years so that she might work with NIC on community correction programs; and

WHEREAS, CCC has requested a two-year limited-term position, funded from the monies reimbursed by the NIC, would allow the work to continue in Ms. Green's absence - at no additional cost to the County or the other locality partners in CCC; and

WHEREAS, a budget amendment of \$90,000 for both FY 2013 and FY 2014, the appropriation of the funds in FY 2013 and the creation of a limited-term position for two years (FY 2013 and FY 2014) need to be approved by the Board of Supervisors for CCC to execute this agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the adopted budget of CCC as follows and appropriates the funds for the fiscal year ending June 30, 2013;

<u>FY 2013</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000
<u>FY2014</u>	Revenues – National Institute of Corrections	+\$ 90,000
	Expenditures – Personnel Services	+\$ 90,000

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes a two-year limited-term position for the period beginning July 1, 2012, to act as the CCC Program Director.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

CCCBudAdj\_res

## MEMORANDUM COVER

**Subject:** Expansion of James City County's Enterprise Zone

**Action Requested:** Shall the Board approve the Enterprise Zone Amendment Application to the Virginia Department of Housing and Community Development?

**Summary:** James City County is allowed to designate 3,840 acres as an Enterprise Zone. In 2011, the Zone measured 3,456 acres, leaving 384 acres unallocated. In an effort to include more businesses in the Zone, staff identified 1,061 acres of the existing Enterprise Zone as public lands, wetlands, or property designated by the Chesapeake Bay Preservation Act as a Resource Protection Area (RPA). The Board of Supervisors amended the Zone, removing, and re-allocating 518 acres (15 percent), the maximum yearly amount allowed by the State. When combined with the unallocated acreage, the County designated a total of 898 new acres within the James City County's Enterprise Zone in 2011.

In 2012, staff proposes to repeat this process and remove Enterprise Zone designation from 537 additional acres of the existing zone characterized by wetlands, public lands, and RPA, and designate 533 acres of industrial and commercial lands in the northern part of the County along the Route 60 corridor and within the Stonehouse Commerce Park consistent with the Stonehouse Master Plan. Staff proposes to allocate 533 acres at this time, instead of the 537 acres available, because there is no logical place to allocate the remaining 4 acres without having a boundary line go through the middle of a parcel.

Additionally, the staff proposes to amend the local incentives available to investors within the James City County Enterprise Zone by making the following two changes:

1. Reduce the capital investment threshold requirement from **\$1 million or more** to **\$500,000 or more** in commercial or industrial investment in the zone; and
2. Add a new incentive which will provide expedited processing and/or fast track permitting for all projects that meet the capital investment qualification criteria within the Enterprise Zone.

These incentives will encourage more capital investment within the zone by providing incentives for small to medium sized businesses who commit to making substantial capital investments within the Zone, thus triggering an increase in taxes paid to the County.

Staff recommends that the Board authorize staff to submit the Enterprise Zone Amendment Application including the aforementioned changes to the Virginia Department of Housing and Community Development.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution
3. Base Map(s) Showing Expansion Areas

**Agenda Item No.:** I-1

**Date:** June 12, 2012

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Telly D. Tucker, Assistant Director, Office of Economic Development

SUBJECT: Expansion of James City County's Enterprise Zone

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James City County received an Enterprise Zone Designation in 1996 by the Commonwealth of Virginia in 1996. This designation lasts 20 years and will expire December 31, 2015. As part of this designation, the County is allowed a total of 3,840 acres and can be amended once a year. The Zone was most recently amended in 2011 and currently measures approximately 3,836 acres. Yearly amendments can reallocate 15 percent of the existing designated acreage to support new or changing development trends.

In 2011, the existing Enterprise Zone measured 3,456 acres leaving 384 acres unallocated. Staff identified 1,061 acres within the existing Enterprise Zone as public lands, wetlands, or property designated by the Chesapeake Bay Preservation Act as a Resource Protection Area (RPA). Property located within a wetland or RPA is generally undevelopable, so staff proposed an amendment to remove Enterprise Zone Designation from these areas from the existing Enterprise Zone, so additional developable acreage could be designated. Virginia Enterprise Zone regulations allow 15 percent (518 acres) of an existing Zone to be deleted per year. When combined with the unallocated acreage, the County designated 898 new acres within James City County's Enterprise Zone in 2011. The James City County Board of Supervisors approved this amend by resolution on March 22, 2011.

In 2012, staff proposes to continue the multi-year reallocation plan and remove Enterprise Zone designation from 537 additional acres of the existing zone characterized by wetlands, public lands, and RPA, and designate 533 acres of industrial and commercial lands in the following manner:

1. Expand the County's existing Enterprise Zone by designating additional acreage along both sides of the SR-60 corridor from the Stonehouse Commerce Park approximately 1.3 miles toward the intersection of SR-60 and Croaker Road; and
2. Expand the existing Enterprise Zone by designating additional acreage within in the Stonehouse Commerce Park consistent with the approved Stonehouse Master Plan.

Staff proposes the allocate 533 acres at this time, instead of the 537 acres available, because there is no logical place to allocate the remaining 4 acres without having a boundary line go through the middle of a parcel.

Additionally, after comparing James City County Incentives with other Enterprise Zone municipalities in the Commonwealth, staff proposes to amend the local incentives available to investors within the James City County Enterprise Zone by making the following two changes:

1. Reduce the capital investment threshold requirement from \$1 million or more to \$500,000 or more in commercial or industrial investment in the zone to encourage small business investment; and
2. Add a new incentive which will provide expedited processing and/or fast-track permitting for all projects that meet the capital investment qualification criteria within the Enterprise Zone.

These proposed changes to the Enterprise Zone boundaries and incentives will allow existing businesses and prospective new businesses within the designated Zone to apply for Enterprise Zone Incentives and encourage capital investment and job creation within the zone for smaller business, thus triggering an increase in taxes paid to the County.



Because of the limited time remaining and the desire to get as much benefit from this Program as possible, staff is looking at additional areas which may be included on an annual basis through the year 2015.

This proposal was presented to the EDA on May 17, 2012, receiving its support. Amendments must ultimately be approved by the Virginia Department of Housing and Community Development.

Staff recommends that the Board authorize staff to submit the Enterprise Zone Amendment Application to the Virginia Department of Housing and Community Development.

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Telly D. Tucker

CONCUR:



Russell C. Seymour

TDT/nb

ExpEnterZne\_mem

Attachments:

1. Resolution
2. Location Maps

## RESOLUTION

### EXPANSION OF JAMES CITY COUNTY'S ENTERPRISE ZONE

WHEREAS, James City County has a total of 3,840 acres which can be included as part of designated Enterprise Zone that will expire on December 31, 2015; and

WHEREAS, the County's existing Enterprise Zone contains approximately 3,836 acres; and

WHEREAS, the existing Enterprise Zone contains large areas of public lands, wetlands, or property designated by the Chesapeake Bay Preservation Act as a Resource Protection Area (RPA); and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for an annual 15 percent reallocation of existing Enterprise Zone acres; and

WHEREAS, the Virginia Enterprise Zone Program regulations allow for local incentives to be amended once per 365 days.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes staff to submit an Enterprise Zone Boundary and Incentive Amendment Application to the Virginia Department of Housing and Community Development to remove Enterprise Zone designation of 537 acres from the existing Enterprise Zone identified as wetlands, RPA, and publicly owned land, and designate 533 acres in the following manner:

- Expand the County's existing Enterprise Zone to include additional acreage along the SR-60 corridor from the existing Zone boundary farther east toward Croaker Road.
- Expand the existing Enterprise Zone to include additional acreage in the Stonehouse Commerce Park per the approved master plan.
- Reduce the capital investment threshold requirement from \$1 million or more to \$500,000 or more in commercial or industrial investment in the zone.
- Add a new incentive which will provide expedited processing and/or fast track permitting for all projects that meet the capital investment qualification criteria within the Enterprise Zone.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

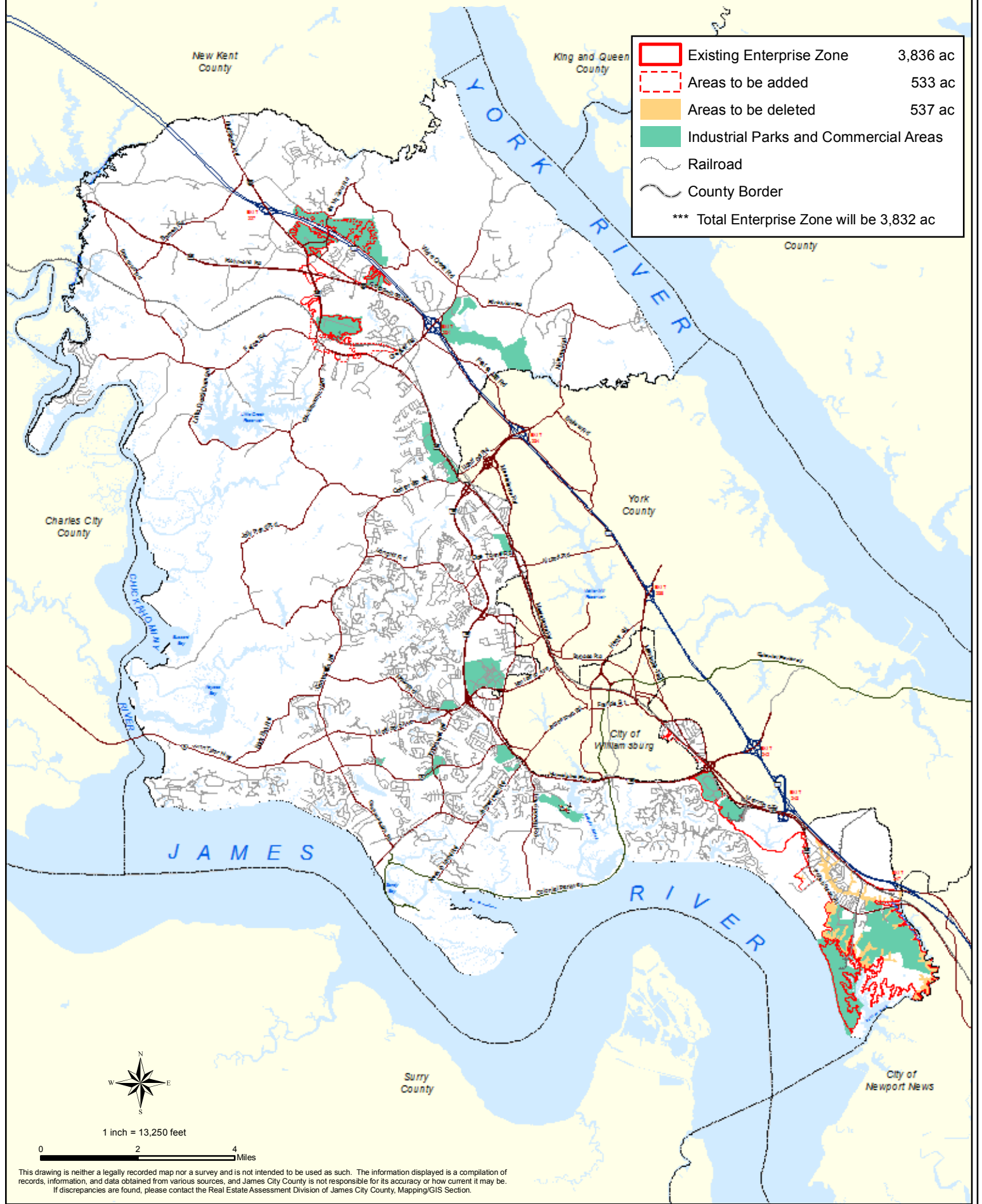
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Robert C. Middaugh  
Clerk to the Board

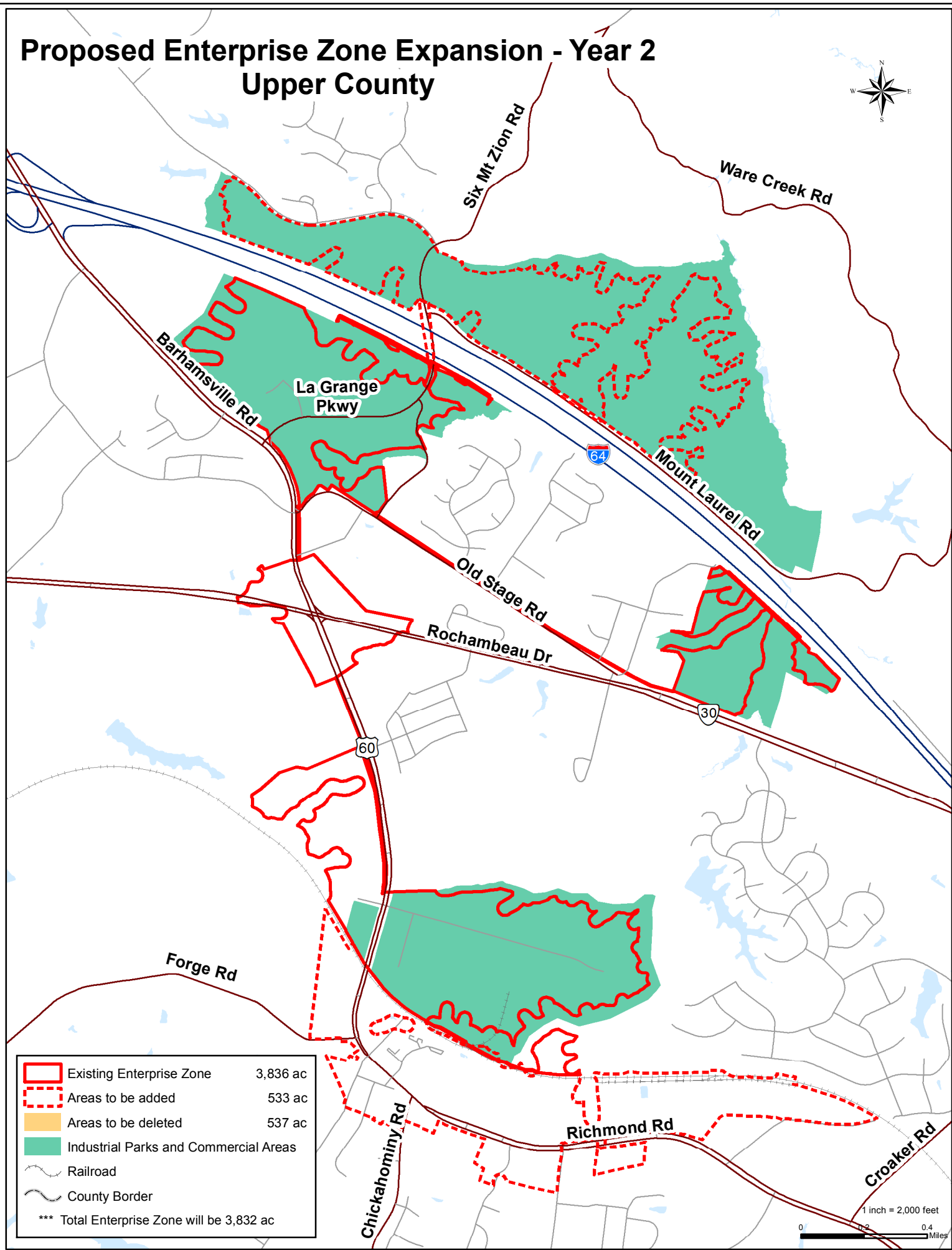
Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ExpEnterZne\_res

# Proposed Enterprise Zone Expansion - Year 2



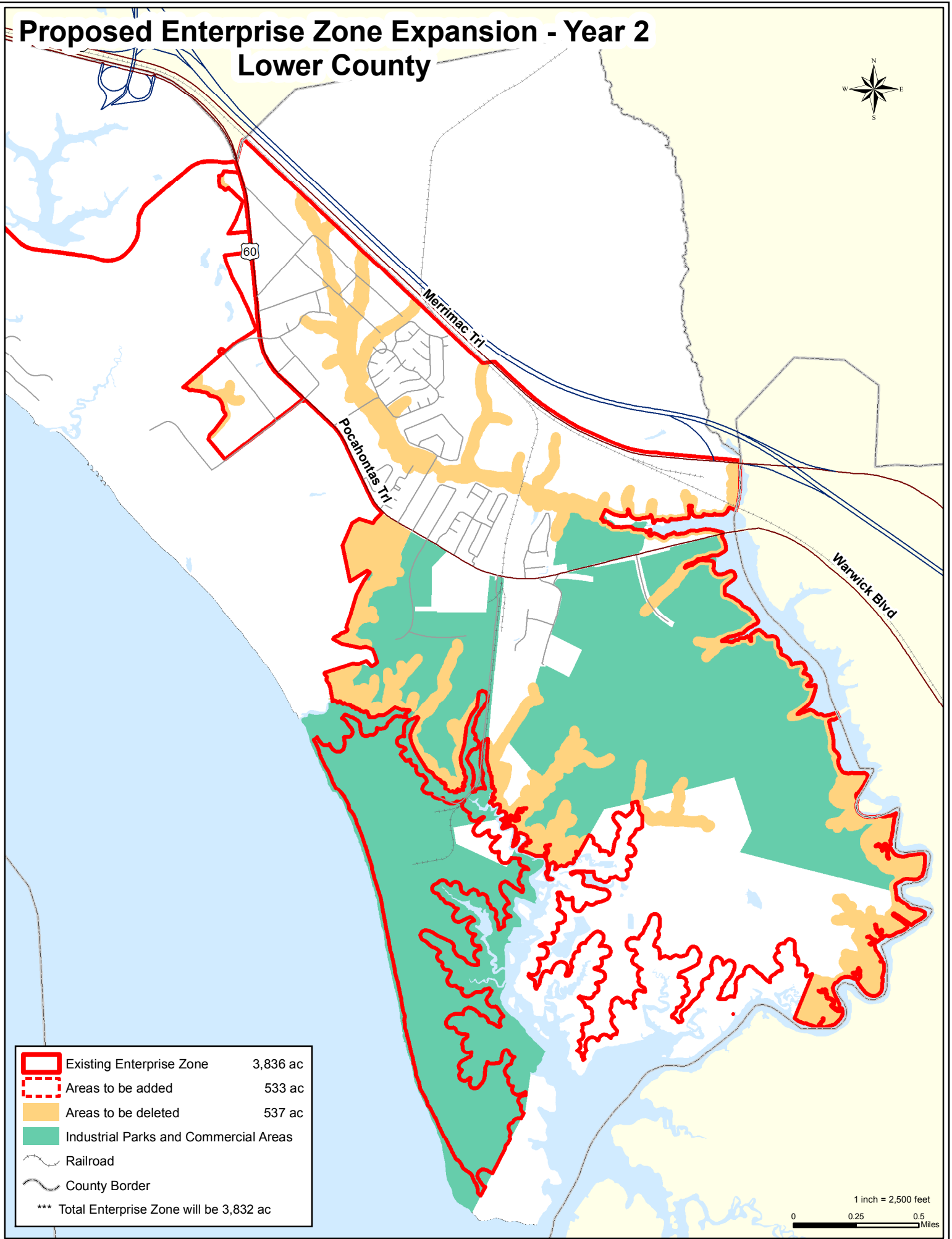
# Proposed Enterprise Zone Expansion - Year 2 Upper County



1 inch = 2,000 feet  
0 0.2 0.4 Miles



# Proposed Enterprise Zone Expansion - Year 2 Lower County



## MEMORANDUM COVER

**Subject:** Case Nos. ZO-0011-2011, ZO-0012-2011, and ZO-0013-2011. Procedural Descriptions, Submittal Requirements and Administrative Items, and Nonconformities

**Action Requested:** Shall the Board approve the proposed amendments to the procedural descriptions, submittal requirements and administrative items, and Nonconformities ordinance?

**Summary:** Staff has developed final ordinance language, policies, and guidelines for items that fall under the broader spectrum of procedural descriptions, submittal requirements and administrative items within the Zoning Ordinance. Highlights of the proposed changes include removal of the administrative fees list, reorganization of submittal information for cases requiring legislative approval, clarification of items required to be submitted as part of site plan applications; adding and defining the word “structure” in the Nonconformities section; creation of Traffic Impact Analysis (TIA) and Environmental Constraint Policies, and a Fiscal Impact Analysis Worksheet to improve the predictability and consistency of information submitted with legislative applications.

At an advertised public hearing on May 2, 2012, the Planning Commission recommended approval of the Procedural Descriptions, Submittal Requirements, and Administrative Items ordinance revisions, the proposed Traffic Impact Analysis Policy, the Fiscal Impact Analysis Worksheet, the Environmental Constraints Analysis policy, the fee schedules, and the Nonconformities section of the ordinance by a vote of 7-0. Staff recommends that the Board of Supervisors approve the above-referenced materials as proposed.

**Fiscal Impact:** Not applicable.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Ordinances:
  - a. Article I, In General;
  - b. Article III, Site Plan;
  - c. Article VII, Nonconformities;
2. Policies/Resolutions:
  - a. Traffic Impact Analysis (with revisions per VDOT comments);
  - b. Traffic impact Analysis (clean copy)
  - c. Environmental Constraints Analysis for Legislative Cases;
3. Fiscal Impact Analysis Worksheet;
4. Fee Schedules;
5. Unapproved minutes of the May 2, 2012 Planning Commission meeting; and
6. Clean copies of above Ordinances (in

**Agenda Item No.: I-2a**

**Date: June 12, 2012**

Reading File)

ZO11-12-13\_2011\_cvr

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Jose Ribeiro, Senior Planner

SUBJECT: Case Nos. ZO-0011-2011, ZO-0012-2011, and ZO-0013-2011. Procedural Descriptions, Submittal Requirements and Administrative Items, and Nonconformities

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Staff has developed final ordinance language, guidelines and policies for items that fall under the broader spectrum of procedural descriptions, submittal requirements and administrative items with the Zoning Ordinance. Below is a general list of items proposed for amendment and/or introduced as part of the review of these sections of the Zoning Ordinance.

Procedural Descriptions, Submittal Requirements, and Administrative Items:

- Article I, In General (Section 24-1 through 24-31)
- Article III, Site Plan (Section 24-142 through 24-170)
- Article VII, Nonconformities (Section 24-628 through 24-643)
- Traffic Impact Analysis (Policy)
- Fiscal Impact Analysis (Worksheet/Guidelines)
- Environmental Constraints Analysis (Policy)

The Policy Committee discussed the above items on February 23, 2011, and the Board of Supervisors reviewed these items at a work session on February 28, 2012. The attached materials are associated with Stage III, final review of the ordinance text. The list below represents a brief summary of each of the above items and any changes incorporated following the February 28, 2012, Board work session.

**Procedural Descriptions, Submittal Requirements, and Administrative Items**

Staff made revisions to items contained within Article I (In General) and Article III (Site Plan), including the removal of Section 24-7 (Administrative fees), the reorganization of items under Section 24-23 (Submittal requirements for legislative cases), and amendments to Section 24-143 (Site plan submittal requirements). New and revised definitions and illustrations which will accompany some of the definitions in order to clarify their meaning will be submitted for review at a later time. The amendments made to Section 24-143 were previously considered by the Planning Commission and approved by the Board of Supervisors as part of their review of Commercial Districts. No additional changes are being proposed to this section.

Revisions to Article VIII, Nonconformities included defining the term “structure” and adding references to “nonconforming uses” throughout the ordinance for clarity. The County Attorney’s Office has expressed concern that the current ordinance does not specifically reference nonconforming structures when discussing nonconforming status. Additional references and more concise language were added upon the recommendation of the Policy Committee.



### **Changes made by staff following the February 28, 2012, Board of Supervisors work session.**

Section 24-23(2) of Article I was amended after the February Board work session to clarify the criteria used by the Planning Director to determine if a final development plan is consistent with an approved master plan.

### **Changes made by staff following the May 2, 2012, Planning Commission meeting**

Staff has made minor revisions to the TIA Policy based on recently submitted comments by the Virginia Department of Transportation (VDOT). Staff notes that VDOT's comments do not alter the substance of the policy as considered for approval by the Planning Commission on May 2. Rather, these revisions provide for a more comprehensive policy document. A summary of changes to the TIA Policy are discussed below under the Traffic Impact Analysis Policy section.

### **Traffic Impact Analysis Policy**

A Traffic Impact Analysis (TIA) is a study which assesses the effects of a proposed development's projected traffic on the transportation network. Currently, submission of a TIA is required by the zoning ordinance during the review of any legislative application that is expected to generate 100 or more weekday peak hour trips or located on a road with a Level of Service (LOS) "D" or lower; however, the ordinance does not currently define or provide any guidance to an applicant regarding the scope of work or expected results of the TIA. To increase predictability and to make expectations clear, staff has drafted a policy document to define the required elements and expected results of a TIA for legislative applications.

The following general information has been modified or added to the TIA Policy per VDOT's suggestions:

- Reference to "527 TIA" has been revised to "VDOT Traffic Impact Statement (VTIS)";
- Under Section IV and V of the policy, terms such as "Land Development Department", "certified" and "licensed" were added for clarification;
- Under Section VI of the policy, items such as "project description" and "background information" were added along with information pertaining to projected trip generation. Terms such as Taper Warrant Analysis, Intersection and Stopping Sight Distance Analysis and Signal Warrant Analysis were added to sub-item B of this section.

### **Environmental Constraints Analysis Policy**

Three items have been drafted: a policy document, a short list of environmental requirements to be amended to Section 24-145 of the ordinance (Site plan requirements), and an environmental checklist. The proposed policy covers expectations in terms of environmental submittal requirements for legislative cases. The amendment to Section 24-145 provides clarifications as to what type of environmental information should be provided for administrative cases. The environmental checklist contains this same information but will be made available as part of the site plan application.

### **Fiscal Impact Study Worksheet**

Staff drafted a fiscal impact study worksheet which will be made available as part of rezoning applications, specifically residential and mixed-use, at no cost to applicants. The worksheet has been reviewed by Mr. John McDonald, James City County Financial and Management Services Director, Mr. Donald Messmer of the Wessex Group, Mr. Russell Seymour, James City County Economic Development Director, Ms. Michele

DeWitt, City of Williamsburg Economic Development Director, and by Mr. Tim Cross, York County Principal Planner, with positive input.

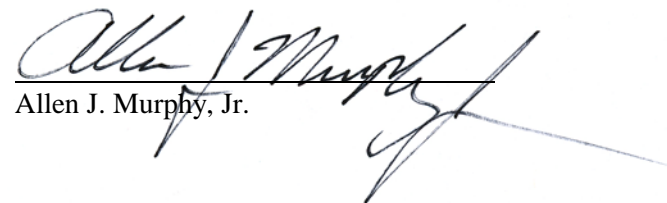
**RECOMMENDATION:**

At an advertised public hearing on May 2, 2012, the Planning Commission recommended approval of the Procedural Descriptions, Submittal Requirements, and Administrative Items ordinance revision, the proposed Traffic Impact Analysis (TIA) Policy, the Fiscal Impact Analysis Worksheet, the Environmental Constraints Analysis policy, the fee schedules, and the Nonconformities section of the Ordinance by a vote of 7-0. Staff recommends that the Board of Supervisors approve the above-referenced materials as proposed.



Jose Ribeiro

CONCUR:



Allen J. Murphy, Jr.

JR/tlc  
ZO11-12-13-2012\_mem

**Attachments:**

1. Ordinances:
  - a. Article I, In General (Section 24-1 through 24-31);
  - b. Article III, Site Plan (Section 24-142 through 24-170);
  - c. Article VII, Nonconformities (Section 24-628 through 24-643);
2. Policies/Resolutions:
  - a. Traffic Impact Analysis (with revisions per VDOT comments);
  - b. Traffic impact Analysis (clean copy)
  - c. Environmental Constraints Analysis for Legislative Cases;
3. Fiscal Impact Analysis Worksheet;
4. Fee Schedules;
5. Unapproved minutes of the May 2, 2012 Planning Commission meeting; and
6. Clean copies of above Ordinances (in Reading File)

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; SECTION 24-7, ADMINISTRATIVE FEES; SECTION 24-8, CERTIFICATE OF OCCUPANCY; SECTION 24-9, SPECIAL USE PERMITS; SECTION 24-10, PUBLIC HEARING REQUIRED; SECTION 24-12, REVOCATION OF SPECIAL USE PERMITS; SECTION 24-13, AMENDMENT OF CHAPTER; AND SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-3, Purpose of chapter; zoning map; Section 24-7, Administrative fees; Section 24-8, Certificate of occupancy; Section 24-9, Special use permits; Section 24-10, Public hearing required; Section 24-12, Revocation of special use permits; Section 24-13, Amendment of a chapter, and Section 24-23, Submittal requirements.

**Article I. In General**

**Sec. 24-1. Short Title.**

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”

**Sec. 24-3. Purpose of chapter; zoning map.**

(a) The Board of Supervisors hereby enacts this chapter, together with the zoning map and all accompanying data thereon or affixed thereto ~~and~~ which is and shall remain on file in the office of the county administrator, and which is hereby incorporated in and made a part of this chapter for the purpose of promoting the health, safety and general welfare of the public, and for the further purpose of accomplishing the objectives of sections 15.2-2200, 15.2-2280 and 15.2-2283 of the Code of Virginia.

(b) This chapter is designed ~~so as~~ to give reasonable consideration to each of the following purposes, where applicable:

- (1) To provide for adequate light, air, convenience of access and safety from fire, flood, *impending structure failure* and other dangers;
- (2) To reduce or prevent congestion in the public streets;
- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To protect against one or more of the following: Overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health or property from fire, flood, *impending structure failure*, panic or other dangers;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) To provide for the preservation of agricultural and forestal lands- *and other lands of significance for the protection of the natural environment.*

**Sec. 24-4. Exclusive nature of the chapter.**

This chapter shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.



**Sec. 24-5. Zoning administrator; administration and enforcement of chapter.**

This chapter shall be administered and enforced by the zoning administrator who shall be appointed by the governing body. The zoning administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

**Sec. 24-6. Duty of those authorized to issue licenses and permits to conform to chapter.**

All departments, officials and public employees of this jurisdiction who or which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

**Sec. 24-7. Administrative fees.**

- (a) Fees shall be charged *and collected* at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. ~~The following fees shall be charged and collected at the time of application:~~ *Fees shall be charged in accordance with the fee schedule document approved by the James City County Board of Supervisors.*

<u>Procedure</u>	<u>Fee</u>
(1) Rezoning	\$1,200.00 plus \$75.00 per acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with a rezoning shall pay a rezoning fee only)	\$1,000.00 plus \$30.00 per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot	100.00
c. Family subdivision under section 24-214	100.00

d. ~~Amendment to a special use permit~~ ..... 400.00

e. ~~Wireless communications facilities under division 6~~ ..... 1,500.00

~~(3) Master plan review:~~

a. ~~Initial review of any Residential Cluster, Mixed Use or a PUD~~

~~with less than 400 acres (PUD's with 400 acres or more shall~~

~~pay a rezoning fee only)~~..... 200.00

b. ~~Revision of approved plan:~~

1. ~~Residential Cluster~~ ..... 75.00

2. ~~R 4, PUD, Mixed Use~~..... 150.00

~~(4) Site Plan Review:~~

a. ~~Administrative review:~~

1. ~~Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus \$0.024  
per sq. ft. of nonresidential building area.~~

b. ~~Planning commission review:~~

1. ~~Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus  
\$0.024 per sq. ft. of nonresidential building area.~~

c. ~~Amendment to an approved plan:~~

1. ~~Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004  
per sq. ft. of nonresidential building area.~~

- ~~4. Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.~~
- ~~d. Zoning administrator and fire department review only, \$20.00.~~
- ~~e. Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.~~
- ~~(5) Sign permits, \$5.00 per square foot of gross sign area.~~
- ~~(6) Appeals to the board of zoning appeals, \$500.00.~~
- ~~(7) Application for a height limitation waiver to the Board of Supervisors, \$200.00~~
- ~~(8) Application for administrative variance, \$250.00~~
- ~~(9) Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.~~
- ~~(10) Conceptual plan review, \$25.00.~~
- ~~(11) Zoning verification request, \$100.00.~~
- ~~(12) Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.~~
- (b) Payment of any permit fees established in section 24-7 shall be waived for the County, any entity created solely by the County and those regional entities to which the County is a party provided that: (1) The other parties to the regional entity similarly waive fees; and (2) The regional entity has locations in more than one locality.

**Sec. 24-8. Certificate of occupancy.**

(a) Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the ~~zoning administrator~~ *building official*. Such a certificate shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. The certificate shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter and all applicable codes and ordinances. Upon the request of the holder of a permit, the ~~zoning administrator~~ *building official* may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(b) The ~~zoning administrator~~ *building official* shall not issue a temporary certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing either a letter of credit, certified check, cash escrow or cash payment approved by the county attorney.

**Sec. 24-9. Special use permits.**

In order to provide for good zoning practices, ~~and~~ the purpose the zoning district seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, special use permits, limited as to location by the district regulations, are permitted as set forth under the terms of this chapter. In considering an application for a special use permit in those districts allowing them, the planning commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed ~~exception~~ *special use permit*. They shall also

take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant.

The planning commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter. After a public hearing, if the planning commission determines the above considerations have been protected, the planning commission shall recommend to the Board of Supervisors that the special use permit be granted. The Board of Supervisors shall consider the recommendation of the planning commission and after a public hearing and a determination that the above considerations have been protected shall grant the special use permit. In those instances where the planning commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the impositions of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and/or hours of operation, in addition to those expressly stipulated in this chapter and the commission may make their recommendation or the Board of Supervisors may grant the special use permit contingent upon the impositions of such requirements or conditions. An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied- *by the Board of Supervisors*.



**Sec. 24-10. Public hearing required.**

Prior to issuance of a special use permit a public hearing shall be held by the planning commission and by the Board of Supervisors; provided, however, that a special use permit for a manufactured home, temporary classroom trailer, *or* a family subdivision may be issued after a public hearing is held by the Board of Supervisors only. Whenever the planning commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the Board of Supervisors for such permit.

**Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.**

(a) *General requirements.* A special use permit issued by the Board of Supervisors shall be required for:

- (1) Any convenience store;
- (2) Any commercial building or group of buildings which exceeds 10,000 square feet of floor area; or
- (3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or

- (4) Automobile and gasoline service stations.

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

- (1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds 5,000 square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates 75 or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

- a. Common ownership or control of the parcels under consideration by the same person(s) or entity (ies), or similar or related entities;
- b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
- c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity (ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;
- (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;
- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or

- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.

**Sec. 24-12. Revocation of special use permits.**

(a) The governing body may, by resolution, initiate a revocation of a special use permit. When initiated, the revocation process shall be handled as would a new application for a special use permit, following the procedures set forth in section 24-9 of this chapter.

(b) After review by the ~~planning office~~ *planning director* and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special use permit. Grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety and welfare since adoption of the special use permit; or
- (2) Repeated violations of this chapter, including any conditions attached to the special use permit, by the owner/operator of the use; or
- (3) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the special use permit; or
- (4) Improper public notice of the special use permit public hearing(s) when the permit was considered by the planning commission or the governing body; or
- (5) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the governing body when approving the special use permit.

**Sec. 24-13. Amendment of chapter.**

As provided for by section 15.2-2286(7) of the Code of Virginia, the Board of Supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein

established; any such amendment may be initiated by resolution of the Board of Supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the proposed zoning map amendment, addressed to the Board of Supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (1) The planning commission and the Board of Supervisors shall each hold at least one public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of ~~the~~ hearing at which persons affected may appear and present their views, not less than ~~six~~ five days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) When a proposed amendment of the zoning ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 ~~but less than 500~~ parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement; provided, that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the

inadvertent failure by the representative of the planning commission to give written notice to the owner, owners or their agent of any parcel involved. Such notice shall be sent in accordance with section 15.2-2204 of the Code of Virginia.

- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the Board of Supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report 100 days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission for action shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (5) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one-year period from the date the similar petition was decided- *by the Board of Supervisors.*

**Sec. 24-14. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.



**Sec. 24-15. Purpose of this article.**

It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

**Sec. 24-16. Proffer of conditions.**

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Board of Supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map.

**Sec. 24-17. Enforcement and guarantees as to conditions.**

The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
- (2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

- (3) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

**Sec. 24-18. Records.**

The zoning map of the county shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

**Sec. 24-19. Petition for review of decision.**

(a) Any zoning applicant who is aggrieved by a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the Board of Supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken. The Board of Supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the

owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board of Supervisors, after notice of appeal has been filed with him, that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

**Sec. 24-20. Amendments and variations of conditions.**

(a) Conditions proffered and accepted as part of an amendment of the zoning ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(b) There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to section 24-13 of this chapter.

**Sec. 24-21. Relation of section to other laws.**

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other county ordinances.

**Sec. 24-22. Penalties; sanctions, injunctive relief, fines.**

(a) Violating, causing or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner lessee, employee or other similar position, shall be unlawful and is subject to the following:

(1) *Criminal sanctions.* Upon conviction, shall be guilty of a misdemeanor and shall be fined not less than \$10.00, nor more than \$1,000.00. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

(3) *Civil fines:*

a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle .....\$100.00
2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county in violation of section 24-67, per sign..... 100.00
3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense ..... 100.00

4. Installing, placing or maintaining a dish antennae in  
violation of section 24-34, per offense ..... 50.00
  5. Failure to meet the tree replacement requirements for any  
buffer or setback for timbering in accordance with  
section 24-43, per offense ..... 100.00
- b. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than \$3,000.00.
- c. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. Enforcement of the Uniform Statewide Building Code;
  2. Activities related to land development or activities related to the construction or repair of buildings and other structures;
  3. Violations of the erosion and sedimentation control ordinance;
  4. Violations of any provisions of a local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or
  5. Violations resulting in injury to any person or persons.
- (b) Civil or criminal action may be brought in conjunction with an action for injunctive relief. However, the offense designated for civil penalties above shall be in lieu of criminal enforcement.



**Sec. 24-23. Submittal requirements.**

(a) The following *information* shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

- (1) ~~Community impact statement containing:~~ *The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:*

~~a. Infrastructure information:~~

- ~~1. a.~~ A traffic impact ~~study~~ *analysis* for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the ~~peak hour~~ *hours* of the operation ~~and/or, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled Trip Generation, or those projects with an entrance or exit onto a roadway with a level of service "D" or lower~~ *shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy.* ~~The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director.~~ Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the Board of Supervisors after reviewing the applicant's traffic impact ~~study~~ *analysis*; and

- 2.b. A water and sewer impact study for all projects with an anticipated average daily flow greater than ~~30,000 gallons~~, *15,500 gallons* and/or for proposed residential projects containing ~~100~~ *50* lots or more. *Water Conservation information in accordance with Water Conservation Guidelines Policy;* and
- 3.c. ~~A conceptual stormwater management plan showing approximate location, footprint, and type of BMP;~~ *Environmental information in accordance with the Environmental Constraints Analysis for Legislative Cases;* and
- 4.d. An adequate public facilities report in accordance with *Board of Supervisors* policy: *to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy; and*
- e. *Additional on-site and off-site public facilities or services which would be required as a result of the development; and*
- b. ~~Quality of life information~~
- 1.f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
- 2.g. An environmental inventory in accordance with the James City County Natural Areas *Resource* policy; and
- 3.h. A fiscal impact analysis, *using the worksheet and assumptions provided by the planning division,* when the proposal includes residential dwelling units. *The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be*

*prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and*

*i. Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines.*

- (2) ~~Master plan prepared in accordance with section 24-484(b)(1)-(5).~~ The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-ways *(with an indication of whether public or private)*, accesses, opens spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities.

*The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:*

- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;*
- b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);*
- c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;*
- d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;*
- e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and*

f. *If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:*

<i>Type of Development</i>	<i>Area Designation</i>
<i>Single family</i>	<b>A</b>
<i>Multi family</i>	<b>B</b>
<i>Apartments</i>	<b>C</b>
<i>Commercial uses</i>	<b>E</b>
<i>Wholesale and warehouse uses</i>	<b>F</b>
<i>Office uses</i>	<b>G</b>
<i>Light industrial uses</i>	<b>H</b>
<i>Institutional or public uses</i>	<b>I</b>
<i>Areas of common open space, with recreation areas noted</i>	<b>J</b>
<i>Structures containing a mixture of uses</i>	<b>M*</b>
<i>Other structures, facilities or amenities</i>	<b>X</b>

*\*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.*

*A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal.*

The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the Board of Supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final ~~site~~ **development** plans

may be approved after approval of a master plan by the Board of Supervisors. All final-site *development* plans shall be consistent with the master plan, but may deviate from the master plan if ~~the zoning administrator concludes, after reviewing written comments from the planning director, the~~ *planning director concludes that* the site *development* plan does not; ~~alter the basic concept or character of the development or conflict with any conditions placed on the special use permit.~~

- a. *Significantly affect the general location or classification of housing units or buildings as shown on the master plan;*
- b. *Significantly alter the distribution of recreation or open space areas on the master plan;*
- c. *Significantly affect the road layout as shown on the master plan;*
- d. *Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.*

If the ~~zoning administrator~~ *planning director* determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. *For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.*

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~section 24-7 of this chapter.~~ *the fee schedule document approved by the James City County Board of Supervisors.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezonings” policy as adopted by the Board of Supervisors- *and any additional policies as deemed necessary by the planning director.*



- (c) Unless otherwise required by this chapter, upon written request by the applicant, the ~~director of planning~~ *planning director* may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be ~~germaine~~ *germane* to the application.

**Sec. 24-24. Additional requirements for submittal.**

Each person or entity submitting an application for consideration under the provisions of section 24-23 including a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, shall attach to such application a signed statement from the county treasurer certifying that for property listed in the application all real estate taxes owed to the county have been paid in full. The statement of certification from the county treasurer shall be valid for 30 days. Should the application be submitted more than 30 days after the treasurer has certified payment of taxes, a new certification from the treasurer shall be required.

**Sec. 24-25 - 24-31. Reserved.**

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Mary K. Jones, Chairman  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; SECTION 24-7, ADMINISTRATIVE FEES; SECTION 24-8, CERTIFICATE OF OCCUPANCY; SECTION 24-9, SPECIAL USE PERMITS; SECTION 24-10, PUBLIC HEARING REQUIRED; SECTION 24-12, REVOCATION OF SPECIAL USE PERMITS; SECTION 24-13, AMENDMENT OF CHAPTER; AND SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-3, Purpose of chapter; zoning map; Section 24-7, Administrative fees; Section 24-8, Certificate of occupancy; Section 24-9, Special use permits; Section 24-10, Public hearing required; Section 24-12, Revocation of special use permits; Section 24-13, Amendment of a chapter, and Section 24-23, Submittal requirements.

**Article I. In General**

**Sec. 24-1. Short Title.**

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”

**Sec. 24-3. Purpose of chapter; zoning map.**

(a) The Board of Supervisors hereby enacts this chapter, together with the zoning map and all accompanying data thereon or affixed thereto ~~and~~ which is and shall remain on file in the office of the county administrator, and which is hereby incorporated in and made a part of this chapter for the purpose of promoting the health, safety and general welfare of the public, and for the further purpose of accomplishing the objectives of sections 15.2-2200, 15.2-2280 and 15.2-2283 of the Code of Virginia.

(b) This chapter is designed ~~so as~~ to give reasonable consideration to each of the following purposes, where applicable:

- (1) To provide for adequate light, air, convenience of access and safety from fire, flood, *impending structure failure* and other dangers;
- (2) To reduce or prevent congestion in the public streets;
- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To protect against one or more of the following: ~~Over~~crowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health or property from fire, flood, *impending structure failure*, panic or other dangers;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) To provide for the preservation of agricultural and forestal lands- *and other lands of significance for the protection of the natural environment.*

**Sec. 24-4. Exclusive nature of the chapter.**

This chapter shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.

**Sec. 24-5. Zoning administrator; administration and enforcement of chapter.**

This chapter shall be administered and enforced by the zoning administrator who shall be appointed by the governing body. The zoning administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

**Sec. 24-6. Duty of those authorized to issue licenses and permits to conform to chapter.**

All departments, officials and public employees of this jurisdiction who or which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

**Sec. 24-7. Administrative fees.**

- (a) Fees shall be charged *and collected* at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. ~~The following fees shall be charged and collected at the time of application:~~ *Fees shall be charged in accordance with the fee schedule document approved by the James City County Board of Supervisors.*

<u>Procedure</u>	<u>Fee</u>
(1) Rezoning	\$1,200.00 plus \$75.00 per acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with a rezoning shall pay a rezoning fee only)	\$1,000.00 plus \$30.00 per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot	100.00
c. Family subdivision under section 24-214	100.00

d. ~~Amendment to a special use permit~~ ..... 400.00

e. ~~Wireless communications facilities under division 6~~ ..... 1,500.00

~~(3) Master plan review:~~

a. ~~Initial review of any Residential Cluster, Mixed Use or a PUD~~

~~with less than 400 acres (PUD's with 400 acres or more shall~~

~~pay a rezoning fee only)~~..... 200.00

b. ~~Revision of approved plan:~~

1. ~~Residential Cluster~~ ..... 75.00

2. ~~R 4, PUD, Mixed Use~~..... 150.00

~~(4) Site Plan Review:~~

a. ~~Administrative review:~~

1. ~~Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus \$0.024  
per sq. ft. of nonresidential building area.~~

b. ~~Planning commission review:~~

1. ~~Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus  
\$0.024 per sq. ft. of nonresidential building area.~~

c. ~~Amendment to an approved plan:~~

1. ~~Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.~~

2. ~~Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.~~

3. ~~Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004  
per sq. ft. of nonresidential building area.~~

- ~~4. Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.~~
- ~~d. Zoning administrator and fire department review only, \$20.00.~~
- ~~e. Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.~~
- ~~(5) Sign permits, \$5.00 per square foot of gross sign area.~~
- ~~(6) Appeals to the board of zoning appeals, \$500.00.~~
- ~~(7) Application for a height limitation waiver to the Board of Supervisors, \$200.00~~
- ~~(8) Application for administrative variance, \$250.00~~
- ~~(9) Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.~~
- ~~(10) Conceptual plan review, \$25.00.~~
- ~~(11) Zoning verification request, \$100.00.~~
- ~~(12) Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.~~
- (b) Payment of any permit fees established in section 24-7 shall be waived for the County, any entity created solely by the County and those regional entities to which the County is a party provided that: (1) The other parties to the regional entity similarly waive fees; and (2) The regional entity has locations in more than one locality.



**Sec. 24-8. Certificate of occupancy.**

(a) Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the ~~zoning administrator~~ *building official*. Such a certificate shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. The certificate shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter and all applicable codes and ordinances. Upon the request of the holder of a permit, the ~~zoning administrator~~ *building official* may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(b) The ~~zoning administrator~~ *building official* shall not issue a temporary certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing either a letter of credit, certified check, cash escrow or cash payment approved by the county attorney.

**Sec. 24-9. Special use permits.**

In order to provide for good zoning practices, ~~and~~ the purpose the zoning district seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, special use permits, limited as to location by the district regulations, are permitted as set forth under the terms of this chapter. In considering an application for a special use permit in those districts allowing them, the planning commission and the Board of Supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed ~~exception~~ *special use permit*. They shall also

take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant.

The planning commission and the Board of Supervisors should consider whether the proposed establishment or use will adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter. After a public hearing, if the planning commission determines the above considerations have been protected, the planning commission shall recommend to the Board of Supervisors that the special use permit be granted. The Board of Supervisors shall consider the recommendation of the planning commission and after a public hearing and a determination that the above considerations have been protected shall grant the special use permit. In those instances where the planning commission or the Board of Supervisors find that the proposed use may be likely to have an adverse affect, they shall determine whether such affect may be avoided by the impositions of special requirements or conditions, including, but not limited to, location, design, construction, equipment, maintenance and/or hours of operation, in addition to those expressly stipulated in this chapter and the commission may make their recommendation or the Board of Supervisors may grant the special use permit contingent upon the impositions of such requirements or conditions. An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied- *by the Board of Supervisors*.

**Sec. 24-10. Public hearing required.**

Prior to issuance of a special use permit a public hearing shall be held by the planning commission and by the Board of Supervisors; provided, however, that a special use permit for a manufactured home, temporary classroom trailer, *or* a family subdivision may be issued after a public hearing is held by the Board of Supervisors only. Whenever the planning commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the Board of Supervisors for such permit.

**Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.**

(a) *General requirements.* A special use permit issued by the Board of Supervisors shall be required for:

- (1) Any convenience store;
- (2) Any commercial building or group of buildings which exceeds 10,000 square feet of floor area; or
- (3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or

- (4) Automobile and gasoline service stations.

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

- (1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds 5,000 square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates 75 or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

- a. Common ownership or control of the parcels under consideration by the same person(s) or entity (ies), or similar or related entities;
- b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
- c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity (ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;
- (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;
- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or

- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.

**Sec. 24-12. Revocation of special use permits.**

(a) The governing body may, by resolution, initiate a revocation of a special use permit. When initiated, the revocation process shall be handled as would a new application for a special use permit, following the procedures set forth in section 24-9 of this chapter.

(b) After review by the ~~planning office~~ *planning director* and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special use permit. Grounds for revocation shall include, but not be limited to, the following:

- (1) A change in conditions affecting the public health, safety and welfare since adoption of the special use permit; or
- (2) Repeated violations of this chapter, including any conditions attached to the special use permit, by the owner/operator of the use; or
- (3) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the special use permit; or
- (4) Improper public notice of the special use permit public hearing(s) when the permit was considered by the planning commission or the governing body; or
- (5) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the governing body when approving the special use permit.

**Sec. 24-13. Amendment of chapter.**

As provided for by section 15.2-2286(7) of the Code of Virginia, the Board of Supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein

established; any such amendment may be initiated by resolution of the Board of Supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefor of the property which is the subject of the proposed zoning map amendment, addressed to the Board of Supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (1) The planning commission and the Board of Supervisors shall each hold at least one public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of ~~the~~ hearing at which persons affected may appear and present their views, not less than ~~six~~ five days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) When a proposed amendment of the zoning ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 ~~but less than 500~~ parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement; provided, that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the



inadvertent failure by the representative of the planning commission to give written notice to the owner, owners or their agent of any parcel involved. Such notice shall be sent in accordance with section 15.2-2204 of the Code of Virginia.

- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the Board of Supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report 100 days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission for action shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (5) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one-year period from the date the similar petition was decided- *by the Board of Supervisors.*

**Sec. 24-14. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

**Sec. 24-15. Purpose of this article.**

It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

**Sec. 24-16. Proffer of conditions.**

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Board of Supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map.

**Sec. 24-17. Enforcement and guarantees as to conditions.**

The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
- (2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

- (3) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

**Sec. 24-18. Records.**

The zoning map of the county shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

**Sec. 24-19. Petition for review of decision.**

(a) Any zoning applicant who is aggrieved by a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the Board of Supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken. The Board of Supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the

owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the Board of Supervisors, after notice of appeal has been filed with him, that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

**Sec. 24-20. Amendments and variations of conditions.**

(a) Conditions proffered and accepted as part of an amendment of the zoning ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(b) There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to section 24-13 of this chapter.

**Sec. 24-21. Relation of section to other laws.**

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other county ordinances.

**Sec. 24-22. Penalties; sanctions, injunctive relief, fines.**

(a) Violating, causing or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner lessee, employee or other similar position, shall be unlawful and is subject to the following:

(1) *Criminal sanctions.* Upon conviction, shall be guilty of a misdemeanor and shall be fined not less than \$10.00, nor more than \$1,000.00. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

(3) *Civil fines:*

a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle .....\$100.00
2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county in violation of section 24-67, per sign..... 100.00
3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense ..... 100.00

4. Installing, placing or maintaining a dish antennae in  
violation of section 24-34, per offense ..... 50.00
  5. Failure to meet the tree replacement requirements for any  
buffer or setback for timbering in accordance with  
section 24-43, per offense ..... 100.00
- b. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than \$3,000.00.
- c. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. Enforcement of the Uniform Statewide Building Code;
  2. Activities related to land development or activities related to the construction or repair of buildings and other structures;
  3. Violations of the erosion and sedimentation control ordinance;
  4. Violations of any provisions of a local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or
  5. Violations resulting in injury to any person or persons.
- (b) Civil or criminal action may be brought in conjunction with an action for injunctive relief. However, the offense designated for civil penalties above shall be in lieu of criminal enforcement.



**Sec. 24-23. Submittal requirements.**

(a) The following *information* shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

- (1) ~~Community impact statement containing:~~ *The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:*

~~a. Infrastructure information:~~

- ~~1- a.~~ A traffic impact ~~study~~ *analysis* for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the ~~peak hour~~ *hours* of the operation ~~and/or, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled Trip Generation, or those projects with an entrance or exit onto a roadway with a level of service "D" or lower~~ *shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy.* ~~The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director.~~ Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the Board of Supervisors after reviewing the applicant's traffic impact ~~study~~ *analysis*; and

- 2.b. A water and sewer impact study for all projects with an anticipated average daily flow greater than ~~30,000 gallons~~, *15,500 gallons* and/or for proposed residential projects containing ~~100~~ *50* lots or more. *Water Conservation information in accordance with Water Conservation Guidelines Policy;* and
- 3.c. ~~A conceptual stormwater management plan showing approximate location, footprint, and type of BMP;~~ *Environmental information in accordance with the Environmental Constraints Analysis for Legislative Cases;* and
- 4.d. An adequate public facilities report in accordance with *Board of Supervisors* policy; ~~to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy;~~ and
- e. *Additional on-site and off-site public facilities or services which would be required as a result of the development;* and
- b. ~~Quality of life information~~
- 1.f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
- 2.g. An environmental inventory in accordance with the James City County Natural Areas *Resource* policy; and
- 3.h. A fiscal impact analysis, *using the worksheet and assumptions provided by the planning division,* when the proposal includes residential dwelling units. *The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be*

*prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and*

*i. Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines.*

- (2) ~~Master plan prepared in accordance with section 24-484(b)(1)-(5).~~ The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-ways *(with an indication of whether public or private)*, accesses, opens spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities.

*The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:*

- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;*
- b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);*
- c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;*
- d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;*
- e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and*

f. *If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:*

<i>Type of Development</i>	<i>Area Designation</i>
<i>Single family</i>	<b>A</b>
<i>Multi family</i>	<b>B</b>
<i>Apartments</i>	<b>C</b>
<i>Commercial uses</i>	<b>E</b>
<i>Wholesale and warehouse uses</i>	<b>F</b>
<i>Office uses</i>	<b>G</b>
<i>Light industrial uses</i>	<b>H</b>
<i>Institutional or public uses</i>	<b>I</b>
<i>Areas of common open space, with recreation areas noted</i>	<b>J</b>
<i>Structures containing a mixture of uses</i>	<b>M*</b>
<i>Other structures, facilities or amenities</i>	<b>X</b>

*\*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.*

*A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal.*

The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the Board of Supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final ~~site~~ **development** plans

may be approved after approval of a master plan by the Board of Supervisors. All final-site *development* plans shall be consistent with the master plan, but may deviate from the master plan if ~~the zoning administrator concludes, after reviewing written comments from the planning director, the~~ *planning director concludes that* the *site development* plan does not; ~~alter the basic concept or character of the development or conflict with any conditions placed on the special use permit.~~

- a. *Significantly affect the general location or classification of housing units or buildings as shown on the master plan;*
- b. *Significantly alter the distribution of recreation or open space areas on the master plan;*
- c. *Significantly affect the road layout as shown on the master plan;*
- d. *Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.*

If the ~~zoning administrator~~ *planning director* determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. *For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.*

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~section 24-7 of this chapter.~~ *the fee schedule document approved by the James City County Board of Supervisors.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezonings” policy as adopted by the Board of Supervisors- *and any additional policies as deemed necessary by the planning director.*

- (c) Unless otherwise required by this chapter, upon written request by the applicant, the ~~director of planning~~ *planning director* may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be ~~germaine~~ *germane* to the application.

**Sec. 24-24. Additional requirements for submittal.**

Each person or entity submitting an application for consideration under the provisions of section 24-23 including a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, shall attach to such application a signed statement from the county treasurer certifying that for property listed in the application all real estate taxes owed to the county have been paid in full. The statement of certification from the county treasurer shall be valid for 30 days. Should the application be submitted more than 30 days after the treasurer has certified payment of taxes, a new certification from the treasurer shall be required.

**Sec. 24-25 - 24-31. Reserved.**

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Mary K. Jones, Chairman  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE III, SITE PLAN, BY AMENDING SECTION 24-143, WHEN SITE PLANS REQUIRED; SECTION 24-144, PREAPPLICATION IN CONFERENCE AND SUBMISSION OF CONCEPTUAL PLAN; SECTION 24-145, SITE PLAN SUBMITTAL REQUIREMENTS; SECTION 24-148, PROCEDURE FOR COMMISSION REVIEW OF SITE PLANS; SECTION 24-149, PROCEDURE FOR REVIEW OF SITE PLANS BY THE COMMISSION'S DESIGNEE(S); SECTION 24-150, PROCEDURES FOR ADMINISTRATIVE REVIEW OF SITE PLANS; SECTION 24-151, REVIEW CRITERIA GENERALLY; SECTION 24-153, SUBMITTAL OF REVISED SITE PLAN GENERALLY; SECTION 24-155, ACTION UPON COMPLETION OF REVIEW OF REVISED SITE PLAN; SECTION 24-156, TERM OF VALIDITY OF FINAL APPROVAL; SECTION 24-157, AMENDMENT OF APPROVED SITE PLANS; SECTION 24-158, FINAL "AS-BUILT" PLANS REQUIRED; AND SECTION 24-159, COMPLIANCE WITH SITE PLAN REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article III, Site Plan, by amending Section 24-143, When site plans required; Section 24-144, Preapplication conference and submission of conceptual plan; Section 24-145, Site plan submittal requirements; Section 24-148, Procedure for commission review of site plans; Section 24-149, Procedure for review of site plans by the commission's designee(s), Section 24-150, Procedures for administrative review of site plans; Section 24-151, Review criteria generally; Section 24-153, Submittal of revised site plan generally; Section 24-155, Action upon completion of review of revised site plan; Section 24-156, Term of validity of final approval; Section 24-157, Amendment of approved site plans; Section 24-158, Finals "as built" plans required; and Section 24-24-159, Compliance with site plan required.



Chapter 24 Zoning

Article III. Site Plan

**Sec. 24-142. Statement of intent.**

(a) The purpose of this article is to encourage sound and innovative design and to ensure that land is used in a manner that is efficient, in harmony with neighboring property and the environment, and in accordance with the Comprehensive Plan and provisions of this chapter or other parts of the James City County Code.

(b) Nothing herein shall require the approval of any development, use or plan, or any feature thereof, which shall be found by the commission or the zoning administrator to constitute a danger to the public health, safety or general welfare, or which shall be determined to be a violation of federal, state or county laws or regulations.

**Sec. 24-143. When site plans required.**

Site plans shall be required for the following major uses and additions and expansions thereto:

- (1) ~~Multiple~~Multi-family dwellings *with a combined total of four units or more*; except for the addition of individual private decks and fences accessory thereto;
- (2) ~~Townhouses or condominiums~~Apartment; except for the addition of individual private decks and fences accessory thereto;
- (3) ~~Churches, temples, synagogues or cemeteries~~*Places of public assembly, such as houses of worship, temples, synagogues, cemeteries, and public meeting halls*;
- (4) Docks, marinas, wharves, piers, bulkheads and the like or any overwater structures, except private overwater piers and boat houses accessory to a single-family dwelling;
- (5) ~~Business~~Commercial or industrial buildings or developments;
- (6) Manufactured home parks;
- (7) Campgrounds;
- (8) Public parks or recreation facilities;

- (9) Public utilities, public service or transportation uses, transmission mains, buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, transformer or substations, or power transmission lines;
- (10) Schools or public buildings;
- (11) Hospitals or nursing homes;
- (12) ~~Towers;~~ *Wireless communications facilities;*
- ~~(13) Two or more two-family dwellings on the same parcel;~~
- ~~(14)~~ *(13)* Three or more single-family dwellings on the same parcel; or
- ~~(15)~~ *(14)* Off-street parking areas or any additions to existing off-street parking areas except for single-family residences.

**Sec. 24-144. Preapplication conference and submission of conceptual plan.**

(a) Before filing an application for approval of a site development plan, the applicant is advised to confer with the planning director or his designee, and such other agencies of the county, state and/or federal governments as the planning director suggests to be advisable concerning the general proposal.

(b) Prior to the submission of a site plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the planning director, or his designee; such action does not constitute the submission of a site plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within 21 calendar days of submittal of a *conceptual* plan which meets all applicable submittal criteria.

(c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final site plan approval by the zoning administrator; such action does not constitute site plan approval or preliminary approval. ~~Submittal of a site plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the requirements of section 24-148.~~  
Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

- (d) Conceptual plans shall, at a minimum, ~~show:~~ *identify or contain:*
- (1) ~~Property lines;~~ *Project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties;*
  - (2) ~~Building locations and orientation;~~ *Vicinity and location maps and site address;*
  - (3) ~~Building locations on adjacent properties;~~ *County tax parcel identification number, site boundary, and parcel size information;*
  - (4) ~~Location of parking area(s);~~ *Building locations and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as those associated with Resource Protection Areas (RPA) and CCC (Community Character Corridors);*
  - (5) ~~Landscape areas/buffers;~~
  - (6)(5) Entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.);
  - (7)(6) Greenway connections (on-site and those adjacent to the subject property);
  - (8)(7) *Narrative description of the P* ~~Proposed use of site;~~
  - (9) ~~Building/landscape setbacks per James City County ordinance;~~
  - (10) ~~Site zoning and zoning of surrounding properties;~~
  - (8) *Location of stormwater management facilities;*
  - (12) ~~Graphic scale;~~
  - (13)(9) *Recorded E* ~~asements~~ (conservation, utility, *rights-of-way*, etc.);
  - (14)(10) Unique natural/visual features (viewsheds, water features, wetlands, *etc.*) ~~RPA buffer, known archaeological sites, etc.);~~
  - (15)(11) ~~Unique natural/visual features to be preserved (mature specimen trees, known archeological sites, etc.);~~
  - (16)(12) List of currently binding proffers or SUP conditions;
  - (17)(13) Location of entry signs; and

~~(18)~~(14) ~~Existing Topography of site using county base mapping (two (2) foot contour or greater with the prior approval of the Engineering and Resource Protection Director) or other mapping sources or resources.~~

- (e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.

**Sec. 24-145. Site plan submittal requirements.**

- (a) Site plans shall, at a minimum, *identify or* contain:

- (1) ~~Title of project;~~ *Project title, title block, north arrow, legend, graphic scale, zoning, parcel identification number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;*
- (2) Name of engineer, architect, landscape architect, planner and/or licensed surveyor;
- (3) ~~Vicinity and~~ *Location of site by an inset map at a scale no less than one inch equals to 2,000 feet;*
- (4) ~~Indication of the scale, north arrow, zoning, parcel number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;~~
- ~~(5)~~(4) Boundary survey of site;
- (6) ~~All existing and proposed streets and easements, their names, numbers, and width; existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;~~
- ~~(7)~~(5) Location, type and size of all entrances to the site. *All existing and proposed streets and easements, their names, numbers and width;*
- (6) *Existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;*

- ~~(8)~~(7) Existing topography *using county base mapping (two (2) foot contour or greater with the prior approval of the Engineering and Resource Protection Director), or other mapping sources or resources*, and proposed finished contours.
- (8) *Spot elevations shown at topographic low and high points;*
- (9) A landscaped plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas; areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes; and size and type of trees to be removed having a minimum diameter breast height of 12 inches;
- (10) *A tree preservation plan and a phased clearing plan in accordance with sections 24-87 and 24-90;*
- (11) *An outdoor lighting plan in accordance with section 24-130;*
- ~~(10)~~(12) Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, calculations indicating the number of parking spaces required and the number provided;
- ~~(11)~~(13) Number of floors, floor area, height and location of each building;
- ~~(12)~~(14) For a multi-family *or apartment* ~~residential~~ development, the number, size and type of dwelling units and the location, type and percentage of total acreage of recreation facilities;
- ~~(13)~~(15) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights and fire hydrants; and showing the locations of garbage and trash disposal facilities;
- ~~(14)~~(16) Provisions for the adequate control of stormwater drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures;
- ~~(15)~~(17) Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multi-family ~~residential~~ *or apartment* developments;
- ~~(16)~~(18) Bylaws of homeowner association where applicable;

- ~~(17)~~(19) Copies of notification to adjacent property owners; ~~and~~.
  - ~~(18)~~(20) Copy of conceptual plan ~~reviewed under the requirements of section 24-144.~~ (if applicable);
  - (21) *Narrative description of compliance of plan to any proffers or special use permit conditions; and*
  - (22) *The following environmental information about the site proposed for development including:*
    - a. *All existing easements, disturbed area, impervious cover, and percent impervious estimates;*
    - b. *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable hydrologic soils group A & B);*
    - c. *Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);*
    - d. *Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, impervious cover minimized);*
    - e. *County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and*
    - f. *Description of Better Site Design or Low Impact Development (LID) techniques if being used.*
- (b) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, the zoning administrator may waive those requirements.
- (c) The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form.
- ~~(d) If the submitted site plan does not have an approved conceptual plan, as set forth in section 24-144, then the site plan shall be reviewed by the commission under the requirements of section 24-148.~~

**Sec. 24-146. Public access to site plan.**

(a) It shall be the responsibility of the applicant for site plan approval to notify all adjoining property owners, advising them of the submission of plans to the county and that plans are on file and available for review in the planning division. No site plan shall be reviewed until the applicant presents evidence to the satisfaction of the planning director, or his designee, that all property owners contiguous to and sharing a common property line with such applicants or whose property lies directly across from the proposed development have been notified in writing prior to the time the site plan is reviewed. Evidence that such notice was sent by mail to the last-known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance.

(b) All site plans shall be kept on file in the planning division and will be available for review by all interested persons during normal business hours for no less than five working days prior to receiving preliminary approval. This five-day period shall begin at the time the applicant has submitted sufficient evidence to the planning director that all adjacent property owners have been notified as required in this article.

**Sec. 24-147. Criteria for review.**

(a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:

(1) The site plan proposes:

- a. a multifamily development of 10 or more units which is not subject to a binding legislatively approved master plan; or
- b. a shopping center; or
- c. a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet which are not predominantly to be used as a warehouse, distribution center, office, or for other industrial or manufacturing purpose. The term predominantly shall be defined as 85 % of the total square of the building or more.



- (2) There are unresolved conflicts between the applicant, adjacent property owners and/or any departmental reviewing agency. Unresolved conflicts shall be defined as disagreements in the interpretation or application of ordinance requirements which have a material impact on the proposed developments off-site impacts and/or density, as determined by the planning director.
- (b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the economic development director determines to create or significantly expand a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.
- (c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator under the terms of section 24-150.

**Sec. 24-148. Procedure for commission review of site plans.**

- (a) The applicant shall submit to the planning director or his designee, ten copies of the site plan and pay the appropriate application fee. Site plans shall first be reviewed by the DRC who shall forward a recommendation to the commission. In order for site plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such site plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.
- (b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review *comments and* requirements by other agencies: *and determine consistency with all applicable zoning ordinance requirements, policies and regulations*. The DRC shall consider the composite report and the site plan and make a recommendation to the commission.
- (c) The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the site plan. The site plan may be granted preliminary approval with conditions that must

be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(d) The applicant may, at their discretion, submit an enhanced conceptual plan for review by the planning division, other agencies of the county, state and/or federal government as deemed necessary by the planning director ~~and the DRC~~ in advance of preparation of fully engineered plans. The planning division shall prepare a composite report on the proposed plans which shall include review *comments and* requirements by other agencies and determine consistency with all applicable zoning ordinance requirements, policies and regulations. The *composite report and the* enhanced conceptual plan ~~and the planning division's composite report~~ shall be ~~reviewed~~ *considered* by the DRC *at one of its regularly scheduled monthly meetings* ~~when it meets~~ to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, such notice shall state the specific reasons for disapproval. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the planning division- *and other agencies as deemed necessary by the planning director*. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legend, north arrows and ~~plan~~ *graphic* scale labeled;
- (2) Vicinity and location maps and site address;
- (3) Site owner and developer information;

- (4) County tax parcel number, site boundary and parcel size information;
- (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);
- (6) Adjacent property information;
- (7) Existing site features such as property lines, roads, buildings, ~~roads~~, driveways, and utilities;
- (8) Existing topography using county base mapping (five (5) foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
- (9) Existing and proposed rights-of-way and easements;
- (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
- (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
- (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
- (13) Location and size of existing water mains and proposed connection point(s);
- (14) Proposed location of water meters, waterlines, and fire hydrants;
- (15) Proposed building usage and number of floors;
- (16) Preliminary water demands based on proposed use and required fire flow;
- (17) Fire flow test performed to determine adequate capacity;
- (18) Location of all existing or proposed private wells;
- (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
- (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
- (21) Verification of sewer flow acceptance;
- (22) Location of primary and secondary onsite disposal system;
- (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;

- (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
- (25) Proposed build out year and phasing information;
- (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
- (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
- (28) Proposed design features or elements for which waivers will be sought;
- (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
- (30) Applicable FEMA FIRM panel information and zone designations;
- (31) County watershed, subwatershed and catchment;
- (32) Identify if the site is subject to the county's Special Stormwater Criteria (SSC);
- (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
- (34) Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
- (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;
- (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;

- (37) Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
- (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
- (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
- (40) Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
- (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.

**Sec. 24-149. Procedure for review of site plans by the commission's designee(s).**

- (a) The applicant shall submit to the planning director, or his designee, ten copies of the site plan and pay the appropriate application fee.
- (b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review *comments and* requirements by other agencies and submit the report to the Commission's designees for consideration.
- (c) The Commission's designees shall consider the planning division's report and either grant preliminary approval, defer, disapprove or refer the site plan back to the ~~DRC development review committee and full Commission~~. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall provide written notice to the applicant of the Commission's designee's decision. Such notice shall state any actions, changes, conditions or additional

information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

**Sec. 24-150. Procedures for administrative review of site plans.**

(a) The applicant shall submit to the planning director, or designee, ten copies of the site plan and pay the appropriate application fee. Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall transmit county staff comments to the applicant within 45 days of the initial submittal of plans meeting all applicable submittal criteria. No plan shall be approved until all staff and other agency comments are satisfied.

(b) The site plan may be granted preliminary approval *with conditions that must be satisfied prior to final approval* by the planning division or deferred. ~~It or~~ may also be approved or disapproved by the zoning administrator. ~~The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator.~~ The planning division shall notify the applicant of any action taken on the site plan within ten working days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.

**Sec. 24-151. Review criteria generally.**

~~The planning director, zoning administrator, the planning commission, or its designee(s), the planning director and the zoning administrator shall examine~~ *review* and consider site plans with respect to:

- (1) Intensity of land use including developable acreage, density and adequate provisions for open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan *Development Standards*;
- (2) Design and layout of the site including *all existing and proposed* buildings, *exterior* signs, recreation facilities, garbage and trash disposal facilities, sedimentation and erosion controls, storm drainage,

stormwater management, sanitary sewage disposal and water supply ~~exit and entrance points~~ *locations* on the site including line sizes, areas to be landscaped with approximate arrangement and plant types and sizes indicated, and provisions for pedestrian and vehicular traffic movements within and adjacent to the site. Particular emphasis shall be placed upon the review of on-site aesthetics; public safety features; environmental, historic and vegetative preservation; efficient layout of buildings, parking areas *and* off-street loading and unloading and movement of people, goods and vehicles (including emergency vehicles) from access roads within the site, between buildings and vehicles. Vehicular access to the site shall be designed to aid overall traffic flow and to permit vehicles, *including emergency vehicles*, *a safe means of* ingress and egress;

- (3) Design standards contained in this chapter as they relate to traffic circulation, parking, *lighting*, performance standards, location of structures, *building and landscape* setbacks, ~~yards, bulk, yard~~ *requirements*, height and building coverage *limits* shall apply, where applicable, to site plan approval.

The design criteria established in the county subdivision ordinance and applicable standards of the State Department of Transportation shall apply where appropriate to site plan approval.

#### **Sec. 24-152. Term of validity for preliminary approval.**

Preliminary approval of a site plan shall be valid for a period of one year. A revised site plan must be presented and properly filed with the planning director, or his designee, and receive final approval from the zoning administrator prior to the termination date of the preliminary approval.

#### **Sec. 24-153. Submittal of revised site plan generally.**

Ten copies of a revised site plan shall be submitted to the planning director, or his designee, who shall, within 30 days, review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The planning director, or his designee, shall review each subsequent submittal of revised plans within 21 days. The planning director shall provide a set of all submittals to ~~relevant~~ *applicable* agencies or departments for their review and written



comments. The revised site plan shall be submitted on separate sheets ~~or overlays~~ as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the planning director or his designee. The revised site plan shall, at a minimum, contain those items set forth in ~~subsection 24-145(a)(1) through (17)~~ (22).

**Sec. 24-154. Reserved.**

**Sec. 24-155. Action upon completion of review of revised site plan.**

Upon final approval of the site plan by the zoning administrator, the planning director or his designee shall transmit two approved sets of plans to the developer, owner or authorized project agent, ~~and one~~ *One* copy of any correspondence and *an approved set of* plans is to be retained *on file* ~~by the planning director or his designee~~ *by the records management division*.

**Sec. 24-156. Term of validity of final approval.**

(a) Final approval of a site plan submitted under the terms of this article shall ~~expire~~ *be valid from the date of approval for a period of* five years ~~after the date of such approval~~. During that period, all building permits shall be obtained or the development shall be put into use. When building permits have been issued, the site plan approval shall run concurrently with the building permit term of validity for only those buildings and improvements covered by a *the* permit(s).

(b) ~~The approved final site plan shall be valid for a period of five years from the date of approval. For so~~ *as* long as the final site plan remains valid in accordance with the provisions of this section, no change or amendment to any county ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare: *as determined by the planning director and by the building safety and permits director*.

(c) Application for minor modifications to approved site plans made during the five-year term of validity shall not constitute a waiver of provisions of this section nor shall the approval of such minor modifications extend the ~~period~~ *term* of validity *of the originally approved site plan*. Any minor modification shall be made in accordance with section 24-157.

(d) The provisions of this section shall not be construed to affect any litigation nonsuited and thereafter refiled; the authority of the governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; the application to parcels of land subject to final site plans, to the greatest extent possible, of the provisions of the county's Chesapeake Bay Preservation ordinance, or any county ordinance adopted to comply with the requirements of the federal Clean Water Act Section 402(p) Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.

**Sec. 24-157. Amendment of approved site plans.**

(a) Upon application, an approved site plan may be amended with the approval of the zoning administrator, provided that such proposed amendment does not:

- (1) Alter a recorded plat;
- (2) Conflict with the specific requirements of this article;
- (3) Change the general character or content of an approved development plan or use;
- (4) Have an appreciable affect on adjoining or surrounding property;
- (5) Result in any substantial change of major external access points;
- (6) Increase the approved number of dwelling units or height of buildings; ~~or~~
- (7) Decrease the specified yards and open spaces or specified parking and loading spaces; *or*
- (8) *Increase specified parking and loading spaces.*

(b) Amendments not in accordance with subsections (a)(1) through ~~(7)~~(8) of this section shall be considered as new site plans and resubmitted for approval. Approval of an amendment under this section shall not extend the term of validity of the original approved site plan.

**Sec. 24-158. Final "as-built" plans required.**

For all projects subject to site plan review in accordance with section 24-143, a copy of final "as-built" plans and specifications for all water and sewer facilities and fire hydrants shall be submitted to the James City Service Authority prior to the issuance of any ~~permanent~~ *final* certificate of occupancy *by the building safety and permits division*.

**Sec. 24-159. Compliance with site plan required.**

(a) *Inspection and supervision during development:*

- (1) Unless otherwise specifically provided in this chapter, the construction standards for all ~~off-site and on-site~~ *on-site and off-site* improvements required by this chapter, the site plan or other documents approved by the county shall conform to county design and construction standards. The director of building safety and permits or his agents shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.
- (2) The owner or agent shall notify the director of building safety and permits in writing three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.
- (3) The stormwater division shall, after approval of the plan and specifications, inspect construction of all stormwater installations, including but not limited to BMPs, storm drains, channels, inlets, and outfalls to assure conformity with the approved plans to the maximum extent possible.
- (4) The owner or agent shall provide adequate supervision on the site during installation of all required improvements and have a responsible superintendent or foreman, together with one set of the approved plans, profiles and specifications available at the site at all times when the work is being performed.

(b) *Sanctions, penalties and relief.* Any person, firm or corporation, whether as principal, agent, owner, lessee, employee or similar position, who violates or fails to comply with any provision of this article, permits such violation or erects any structure or uses any land or structure prior to preliminary approval or contrary to a

site plan shall be subject to criminal sanctions, civil penalties and/or injunctive relief as provided in section 24-22.

**Sec. 24-160. Administrative review fees.**

Submittal of a site plan and subsequent revisions proposed by the applicant shall be accompanied by a fee as specified in section 24-7.

**Secs. 24-161 - 24-170. Reserved.**

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Mary K. Jones, Chairman  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ZO11-12-13-2012-1b\_ord

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE VII, NONCONFORMITIES, BY AMENDING AND RENAMING SECTION 24-628, NONCONFORMING USES WITH NEW NAME STATEMENT OF INTENT; BY AMENDING SECTION 24-631, PERMITTED CHANGES OF NONCONFORMING USES; SECTION 24-633, EXPANSION/IMPROVEMENTS TO NONCONFORMING USE; AND BY AMENDING AND RENAMING SECTION 24-634, RESTORATION/REPLACEMENT OF A NONCONFORMING USE WITH NEW NAME RESTORATION/REPLACEMENT OF A NONCONFORMING USE OR STRUCTURE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VII, Nonconformities, by amending Section 24-628, Statement of intent; Section 24-631, Permitted changes of nonconforming uses; Section 24-633, Expansion/improvements to nonconforming uses; and Section 24-634, Restoration/replacement of a nonconforming use or structure.

Article VII. Nonconformities.

**Sec. 24-628. ~~Nonconforming uses~~ *Statement of intent*.**

(a) *Purpose and intent.* The purpose of this article is to regulate nonconforming uses *and structures* in a manner consistent with sound planning and zoning principles. The general intent is that, over time, nonconforming uses will be discontinued in favor of uses conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses need not be entirely static and that under certain circumstances nonconforming uses *and structures* may change according to law and the provisions of this chapter.

(b) *Term defined.* The term "nonconforming use" shall mean any activity using land, building, sign, lot, and/or structure for purposes which were legally established prior to the effective date of this chapter, or subsequent amendment to it, and which would not be permitted to be established in a zoning district in which it is located by the currently adopted regulations- *"Nonconforming structure" shall mean any structure not in conformance with current ordinance regulations.*

(c) *Status.* The nonconforming status of any nonconforming use shall adhere solely to the use of the land and not to the owner, tenant or other holder of any legal title to the property or the right to make use thereof.

(d) *Accessory or incidental uses.* A use that is accessory or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.

**Sec. 24-629. Continuation of nonconforming uses.**

(a) A nonconforming use may continue as it existed when it became nonconforming provided however, if any nonconforming use is discontinued for a period of two years, it shall lose its nonconforming status and any further use shall be required to conform to the provisions of this chapter. A nonconforming use shall not be changed unless provided for in section 24-631 of this article.

(b) Operation of only an accessory or incidental use to the principal nonconforming use during the two-year period shall not operate to continue the principal nonconforming use.

(c) No use accessory to a principal nonconforming use shall be continued after nonconforming status is lost for the principal use.

**Sec. 24-630. Verification of nonconforming uses needed prior to any change in a nonconforming use.**

(a) Prior to the approval of any change in, or restoration of, a nonconforming use permitted by section 24-631 of this ordinance, the lawful status of the use shall be verified in writing by the zoning

administrator. The zoning administrator may also verify in writing the lawful status of a nonconforming use not proposed to change upon the request of the owner of the property on which the use is located or upon the request of a neighboring property owner.

(b) In verifying the lawful status of a nonconforming use, the zoning administrator shall determine the following:

- (1) Whether the use is, in fact, a lawful nonconforming use as defined by this chapter; and, if so, then:
- (2) The location and gross floor area (in square feet) of all buildings associated with the nonconforming use; and
- (3) The location, use and size of all structures other than buildings associated with the nonconforming use; and
- (4) The area of land (in square feet) devoted to all aspects of the nonconforming use (including buildings, parking, outside storage, travel ways, open spaces, etc.); and
- (5) A description of the principal use(s) and all accessory uses that make up the lawful nonconforming use as a whole.

(c) All signs associated with the nonconforming use shall be brought into full compliance with the current zoning ordinance requirements for the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process.

(d) *Classification of use.* If such determination results in the use, or any portion, being verified as a lawful nonconforming use, the zoning administrator shall classify the overall nonconforming use of the property based on the zoning district in which the use would be a permitted use. If the use would be permitted in more than one zoning district, the assigned classification shall be based on the zoning district that is the least intense of all districts where the use would be permitted. The assignment of such a zoning classification shall not operate to change the zoning of the property on which the nonconforming use is located, but shall be used only in determining the applicable criteria for change of the nonconformance use under the provisions of section 24-633.



(e) *Basis for administrator's decision.* The decision of the zoning administrator shall be based on information provided by the owner of the property on which the nonconforming use is located, on information provided by other persons with knowledge of the property and on any other information available to the zoning administrator as public record. Such information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and/or the property on which the use is located.

**Sec. 24-631. Permitted changes of nonconforming uses.**

(a) A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this article and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval under this chapter) otherwise required by law.

(b) A nonconforming use may change to a conforming use.

(c) A nonconforming use may change to a more restricted nonconforming use upon approval by the zoning administrator. The zoning administrator's approval shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use and shall not be given until the nonconforming status of the use has been verified in accordance with section 24-630 of this article. In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

- (1) Whether the proposed use will change the size and scope of the existing use and the magnitude of such change;
- (2) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, lighting, odor, noise and similar impacts;

- (3) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and
- (4) How the quantum overall effect of the factors evaluated in preceding subsections (c)(1), (c)(2) and (c)(3) relate to the purpose, policies and objectives of this chapter.

*(d) Upon approval of the change to a “more restricted” use, site plan approval as set forth in section 24-143 is required when structural modifications or additions are necessary.*

**Sec. 24-632. Repairs and maintenance to nonconforming uses.**

A nonconforming use may be repaired, provided such repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming.

**Sec. 24-633. Expansion/improvements to nonconforming uses.**

(a) *Restriction for structure.* A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity; provided, that current parking requirements shall be adhered to upon such extension.

(b) *Restriction for area.* Any permitted expansion shall occur only on the lot occupied by the nonconforming use *or structure* and no area of any lot not originally devoted to the nonconforming use shall be utilized for any aspect of such expansion *notwithstanding the combination of lots to bring a nonconforming structure into compliance.*

(c) *One-family dwellings.* For a nonconforming one-family dwelling use, the dwelling may be expanded without limitation, except as provided for in this chapter. In addition, new or expanded residential accessory structures and uses (such as a storage shed, garage, swimming pool, etc.) may be permitted subject to the provisions of this chapter. Expansion of the dwelling and new or expanded accessory structures and uses shall meet all current zoning requirements, including height, yard and

setbacks, for the zoning district in which they are located or the R-1 zoning district if such dwelling is not located in a zoning district where a residential use is permitted. In no case shall a nonconforming one-family dwelling be modified to accommodate additional dwelling units.

(d) *Business or industrial uses.* For uses in any district where the activity is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.

(e) *Businesses or industrial uses not connected to public water and sewer.* Expansion of a use meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.

(f) *Expansion allowance resulting from right-of-way dedication.* Existing business or industrial uses which are permitted within any district and which have been made nonconforming with respect to open space, perimeter landscape requirements or setback requirements as a result of a right-of-way dedication to the county or the Virginia Department of Transportation without compensation shall be allowed to expand in accordance with the current zoning ordinance under the conditions which existed prior to the dedication.

(g) *Miscellaneous changes.* Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses *or structures* may be permitted, subject to the following standards:

- (1) Such changes shall not increase the land area occupied by any aspect of the nonconforming use and shall not increase the gross floor area of any nonconforming structure; and,

(2) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.

(h) *Expansion required by law.* Improvements may be made to the nonconforming use *or structure* for the sole purpose of accessibility or public safety when such improvements are necessitated by a local, state, or federal law. Such improvements may be approved by the zoning administrator and are not subject to paragraphs (d) and (g) of this section.

**Sec. 24-634. Restoration/replacement of a nonconforming use *or structure*.**

(a) A nonconforming use *or structure* damaged by casualty may be restored in accordance with the provisions of this section, provided such restoration has started within 12 months of the date of the casualty and is complete within 24 months of the date of the casualty. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.

(b) Nonconforming uses other than buildings and signs (such as, but not limited to, underground storage tanks, private sewage disposal systems and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

(c) Such restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes unless approved under the provisions of section 24-633 of this article, nor shall such restoration include any expansion unless approved under the provisions of section 24-633.

Such restoration may include changes that make the use *or structure* less nonconforming than it was prior to the casualty.

(d) Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from property and replacement of that unit with another comparable manufactured home that meets the current HUD manufactured housing code. Such replacement unit shall retain the valid nonconforming status of the prior unit. For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements and which was:

- (1) Located in the county prior to April of 1969, or any replacement thereof;
- (2) Located pursuant to a conditional use permit, either with or without an expiration date;
- (3) Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- (4) A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

(e) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.

**Sec. 24-635. Moving a nonconforming use.**

No structure used as a part of a nonconforming use shall be moved to any other lot unless such lot is properly zoned to permit the use, nor shall such a structure be moved within the lot on which it exists, unless a relocation is specifically provided for in other sections of this article.

**Sec. 24-636. Use of nonconforming lots.**

(a) Any unimproved lot of record existing on the effective date of this chapter located in any district that is nonconforming as to the lot area, lot width or lot depth, or combination thereof, required in the zoning district in which the lot is located may be used for any permitted use in such zoning district, unless specifically prohibited, provided all other requirements of the zoning district are met or the board of zoning appeals establishes setbacks, side, and rear yards in accordance with section 24-650(c).

(b) In addition to the changes that may be allowed to nonconforming lots by this chapter, nonconforming lots may change as follows:

- (1) A nonconforming lot may be increased in lot size, lot width or both to make the lot less nonconforming;
- (2) The boundaries of a lot that is nonconforming as to lot size or lot width, or both, may be adjusted along with the boundaries of any contiguous conforming lot, provided such adjustment does not make the conforming lot nonconforming and does not make the nonconforming lot more nonconforming;
- (3) When a nonconforming lot is changed as set forth in subsections (b)(1) and (b)(2), or when two or more nonconforming lots are assembled to create a conforming lot, a plat of subdivision shall first be filed and approved in accordance with law.

**Sec. 24-637. Appeals.**

Administrator's decision; appeal to board of zoning appeals. The decision of the zoning administrator under section 24-631(c), section 24-630(c), and section 24-633(a)(3) shall be final after 30 days unless an appeal is filed to the board of zoning appeals in accordance with section 24-663 of this chapter.

**Secs. 24-638 - 24-643. Reserved.**

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Mary K. Jones, Chairman  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June,  
2012.

ZO11-12-13-2011-1c\_ord



## **Traffic Impact Analysis Submittal Requirements Policy**

### **I. General**

In 2006, the traffic impact analysis ~~regulations~~ submittal requirements, known as ~~the~~ “Chapter 527” “VDOT Traffic Impact Statement (VTIS),” was approved by the General Assembly of Virginia to expand the role of the Virginia Department of Transportation (VDOT) in the land planning and development review process. Accordingly, James City County requires submission of all Traffic Impact Analyses (TIA’s) ~~or VTIS~~ be in conformance with the aforementioned regulations. In addition, all TIA’s shall conform to the current versions of the Manual of Uniform Traffic Control Devices (MUTCD), the VDOT Road Design Manual, VDOT Access Management Regulations and Standards, the American Association of State Highway and Transportation Officials (AASHTO) and the Institute of Transportation Engineers (ITE) manuals unless otherwise approved by the Planning Director.

### **II. Applicability**

Submission of a TIA shall be required when one or more of the following apply:

- A project expects to generate 100 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual’s trip generation rates.
- A project has an entrance or exit onto a roadway with a Level of Service “D” or lower, ~~operation.~~

Note: VDOT has different requirements that trigger a ~~527-TIA~~ ~~TIA~~ ~~TIA/VTIS~~ other than County Ordinance. Should a TIA be required by VDOT, but not be triggered by County requirements, this policy would not be applicable and no additional TIA is required.

### **III. Exceptions**

A TIA does not have to be updated/submitted if a ~~TIA or 527-TIA~~ ~~TIA/VTIS~~ was previously submitted for a rezoning or Special Use Permit and all assumptions made in the TIA remain valid.

### **IV. Procedure**

A scoping meeting with VDOT’s *Land Development Department* and Planning Division staff is required for any proposal that requires the submission of a TIA. A scoping meeting is required when the proposed development generates more than 100 peak hour site trips. At this meeting the Planning Director will determine the minimum scope of work and if additional analyses pursuant to Section VI B are applicable. Fifteen paper copies and a digital copy of the TIA shall be submitted during application of the project with the County.

### **V. Who Prepares**

A TIA should be prepared by a *licensed* professional engineer or a *certified* transportation planner. Generally, a licensed engineer prepares a TIA; however, for smaller applications, the Planning Director may approve TIAs that have not been certified by an engineer.



## VI. Contents of a Traffic Impact Analysis

A. The Traffic Impact Analysis shall at minimum include the following:

- Executive Summary.
- Introduction:
  - *Project description information to include proposed use<sup>1</sup>, zoning of the property, number of units, type of units, Institute of Transportation Engineers (ITE) Code.*
  - *Background information to include functional classification of the roadway, speed limit of the roadway, existing Annual average daily traffic (AADT).*
- Analysis of Existing Conditions.
- Analysis of Future Conditions without Development.
- Projected Trip Generation *information to include daily trips, AM peak hour enter, exit, and total; PM peak hour enter, exit, and total.*
- Analysis of Future Conditions with Development *(including growth rate and procedure).*
- ~~Signal Warrant Analysis~~
- Improvements necessary to achieve an overall Level of Service “C” on adjacent roadways/signalized intersections. The Planning Director may approve movements in certain lane groups with LOS “D” in urban environments.
- Conclusions.

## B. Supplemental Analysis

As determined at the scoping meeting, the Planning Director may also request the following analysis as a component of the TIA:

- Weaving Analysis.
- Merge and Diverge Analysis.
- Corridor Traffic Signal Progression Analysis.
- Queuing/Turn Lane/~~Taper Warrant~~ Analysis.
- Expanded Study Area.
- Examination of Transit and Travel Demand Management Measures.
- Accident/Safety Analysis.
- *Intersection and Stopping Sight Distance Analysis.*
- ~~Sight Distance Analysis~~
- *Signal Warrant Analysis.*

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<sup>1</sup> *If multiple uses are allowed in a section, the highest traffic generator shall be used in the analysis.*

## **RESOLUTION**

### **TRAFFIC IMPACT ANALYSIS SUBMITTAL REQUIREMENTS POLICY**

WHEREAS, the Traffic Impact Analysis Submittal Requirements Policy ("Policy") is designed to provide guidance to applicants regarding the minimum submittal requirements for a Traffic Impact Analysis (TIA); and

WHEREAS, the Policy is consistent with the Virginia Department of Transportation's Traffic Impact Statement (VTIS) submittal requirements; and

WHEREAS, the Policy Committee endorsed the Policy on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the Policy on \_\_\_\_\_ by a vote of \_\_\_\_\_.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Traffic Impact Analysis Submittal Requirements Policy.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ZO11-12-13-2011-2b\_res

## **RESOLUTION**

### **ENVIRONMENTAL CONSTRAINTS ANALYSIS FOR LEGISLATIVE CASES**

WHEREAS, in order to fully understand the impacts of a development on the local environment, consistent information should be provided to Planning staff and members of the Planning Commission and Board of Supervisors prior to approval of a legislative case (special use permits and rezonings); and

WHEREAS, a thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints; and

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

Any application for a use requiring a special use permit and/or rezoning, shall be accompanied by an Environmental Constraints Analysis containing, at a minimum, the information below. All or portions of the Environmental Constraints Analysis may be excluded from legislative cases application as determined by the planning director.

#### **I. Hydrologic Features:**

1. Location of all bodies of water such as streams, ponds, lakes, impoundments, rivers;
2. Name of watershed in which the project is located;
3. Approximate location of tidal and non-tidal wetlands (e.g. sinkholes, wetland, springs, seeps, etc);
4. Approximate location of perennial and intermittent streams;
5. Description of receiving streams; and
6. Floodplain delineation for 100 and 500-year storm events including tidal flooding, if applicable.

#### **II. Physical Features:**

1. Approximate location of steep slopes greater than 25 percent based on County GIS or better source (all sources must be referenced). The scale for which this shall be provided is at the discretion of the engineering and resource protection director;
2. Soils, especially prime agricultural lands and Hydrologic Soil Groups (HSG) A&B, based on the County soil survey;
3. Soils erodability based on the County soils survey;
4. Areas of forest, woodland cover and wildlife corridors; and
5. Pre-development topography based on County GIS or alternate source approved by the engineering and resource protection director (all sources must be referenced).

**III. Prohibited or Restricted Development Areas:**

1. Location of required buffers and existing conservation easements;
2. Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy;
3. Location of trees to be preserved in accordance with the Chesapeake Bay Preservation Ordinance; and
4. Preliminary location of Resource Protection Areas and legal wetlands.

**IV. Existing and Proposed Changes to the Site:**

1. The nature of existing and approved but not yet built development(s) on the site;
2. Location of surrounding properties and neighborhoods;
3. Proposed limit of disturbance and a disturbance area estimate;
4. Calculation of existing and proposed pervious and impervious areas (e.g. parking areas, roads, sidewalks, buildings, etc);
5. If used, description of Better Site Design or Low Impact Development techniques (e.g. pervious pavement, walks, infiltration areas, etc.);
6. Description of how disturbance is being minimized, indigenous vegetation is being preserved, and impervious cover is being reduced; and
7. Proposed conceptual stormwater management plan, including pre and post-development discharge analysis.

**V. Narrative Analysis of Environmental Constraints and Recommended Environmental Measures to Conform with the Proposed Environmental Analysis**

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ZO11-12-13-2011-2c\_res

Version 04.02.12



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

## FISCAL IMPACT WORKSHEET AND ASSUMPTIONS

Please complete all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions please contact the Planning Office at (757) 253-6685 or [planning@james-city.va.us](mailto:planning@james-city.va.us).

- 1a) PROPOSAL NAME \_\_\_\_\_
- 1b) Does this project propose residential units? Yes \_\_\_\_\_ No \_\_\_\_\_ (if no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes \_\_\_\_\_ No \_\_\_\_\_ (If no, skip Sec. 3)

### Fiscal Impact Worksheet Section 2: Residential Developments

- 2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, how many?) \_\_\_\_\_

### Residential Expenses – School Expenses

- 2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses
	\$5920.16	\$2176.06	\$8096.22	\$

#### **Residential Expenses - Non-School Expenses**

2d) TOTAL POPULATION GENERATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	Total Population Generated
	2.19	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

Total Population Generated	Per-Capita Non-School Expenses	Total Non-School Expenses
	\$640.98	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses	Non-School Expenses	Total Residential Expenses
\$	\$	\$

#### **Residential Revenues**

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single Family Detached		\$	\$
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$	0.0077	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$	0.15	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$	.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	\$2000/acre (prorated)	\$

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
		.0077	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

<b>Total Residential Revenues</b>	\$
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2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

### **Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments**

#### **Commercial and Industrial Expenses**

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? \_\_\_\_\_  
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

#### **Commercial & Industrial Revenues**

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business Name	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
Total:		N/A	\$



3g) **TOTAL SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

<b>Tax Type</b>	<b>Projected Gross Sales</b>	<b>Sales Tax Rates</b>	<b>Sales Taxes Paid</b>
Retail Sales		<b>0.01 of Gross Retail Sales</b>	
Prepared Meals		<b>0.04 of Prepared Sales</b>	
Hotel, Motel		<b>0.02 of Gross Sales*</b>	
<b>Total:</b>	<b>N/A</b>	<b>N/A</b>	<b>\$</b>

\* Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

3h) **TOTAL BUSINESS LICENSES FEES PAID.** Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

<b>Proposed Business Name(s)</b>	<b>Business Type* (see exhibit sheet)</b>	<b>Projected Total Gross Sales</b>	<b>Business License Rate</b>	<b>Annual Business License Fees Paid</b>
	Professional Services		<b>0.0058</b>	
	Retail Services		<b>0.0020</b>	
	Contractors		<b>0.0016</b>	
	Wholesalers		<b>0.0005</b>	
	Exempt*		<b>No fee due</b>	
	Other Services		<b>0.0036</b>	
	<b>Total</b>	<b>N/A</b>	<b>N/A</b>	<b>\$</b>

3i) **TOTAL COMMERCIAL AND INDUSTRIAL REVENUES.** *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

<b>Total Commercial and Industrial Revenues</b>	<b>\$</b>
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3j) **COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

<b>Total Commercial Expenses</b>	<b>Total Commercial Revenues</b>	<b>Total Commercial Fiscal Impact</b>
		<b>\$</b>

3k) **TOTAL PROPOSED FISCAL IMPACT.** *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

<b>Residential Fiscal Impact</b>	<b>Commercial Fiscal Impact</b>	<b>Total Proposed Fiscal Impact</b>
		<b>\$</b>

### **Fiscal Impact Analysis Worksheet Section 4: Current Land Use**

#### **Current Residential Use** (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

#### **Residential Expenses - School Expenses**

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

#### **Residential Expenses - Non-School Expenses**

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.08	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$762.14	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
\$	\$	\$

### **Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0077	\$

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

<b>Total Current Residential Revenues</b>	\$
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

### **Current Commercial Use**

**Current Commercial Expenses** (if there are no current businesses or commercial properties, skip to (5k).

5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties?  
 \_\_\_\_\_ (include all businesses that rent or lease space at the location).

5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

### **Current Commercial Revenues**

5c) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.jccgov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

5f) **TOTAL CURRENT SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		<b>0.01 of Gross Retail Sales</b>	
Prepared Meals		<b>0.04 of Prepared Sales</b>	
Hotel, Motel		<b>0.02 of Gross Sales*</b>	
Total:	<b>N/A</b>	<b>N/A</b>	\$

\* Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

5g) **TOTAL CURRENT BUSINESS LICENSES FEES PAID.** *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		<b>\$0.0058</b>	
Retail Sales		<b>\$0.0020</b>	
Contractors		<b>\$0.0016</b>	
Wholesalers		<b>\$0.0005</b>	
Manufacturers		<b>No tax</b>	
Other Services		<b>\$0.0036</b>	
Total:	<b>N/A</b>	<b>N/A</b>	\$

5h) **TOTAL CURRENT COMMERCIAL REVENUES.** *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

<b>Total Current Commercial Revenues</b>	\$
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5i) **CURRENT COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) FINAL COMMERCIAL FISCAL IMPACT. *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
		\$

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
		\$

### **Fiscal Impact Worksheet Section 6: Phasing**

#### **Residential Phasing**

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

#### **Commercial Phasing**

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

#### **Final Phasing Projections**

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

### **Fiscal Impact Worksheet Section 7: Employment**

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

## **DEFINITIONS AND ASSUMPTIONS**

**Apartment** – A building used, or intended to be used as the residence of three or more families living independently of each other. Tenants have no equity in the dwelling.

**Assessment Value** – Assessment value is assumed to be within 1% of market value. Market value drives assessment value.

**Buildout** – All data and assumptions reflect the fiscal impact of the proposal at buildout.

**Commercial Expense Rate** – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method, businesses are collectively responsible for contributing 15% of the non-school budget (\$ 10,391,694). Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.0045. This rate assumes that the costs of providing County services to a business are directly correlated with that business's property assessment. This assumes more valuable properties have generally more intense uses, incurring greater County expenses.

**Condominium** – A building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis.

**Contractor** - Any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys, or highways, any excavation of earth, rock, or other materials, any construction of sewers, and any installation of interior building components.

**Direct Impact** – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools, and, as such, does not make a determination whether any type of development “should” happen based solely on that proposal's fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic, or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the State, remain uncouncted.

**Dwelling** – Any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, and tourist cabins.

**Exempt** – Certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes, and gasoline sales.

**Fees & Licenses** – All fees collected by the County, including business & professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses, and motor vehicle licenses, are deducted from the per-capita and per-business budgetary costs of each department that collects them.

**Fiscal Impact Analysis** – The County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County's budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from myriad sources, often within the County, which were difficult to verify. The fiscal impact worksheet allows consistency across multiple fiscal impact studies.

**Fiscal Impact Worksheet** – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

**Non-School Expenses** – Non-school expenses include all FY10 non-school budget spending. Non-school expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County's non-school spending.

**Manufacturing** – Assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances, or purposes.

**Market Value** – Market value is assumed to be within 1% of assessment value. Market value drives assessment value.

**Manufactured Home** – A manufactured home is a structure not meeting the specifications or requirements or a manufactured home, designed for transportation, after fabrication. The only manufactured homes counted in the Student Generation figure are those in designated manufactured home parks. Manufactured homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

**Phasing** – All residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after Board of Supervisors approval.

**Professional Services** - Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture,



law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission.

**Proportional Valuation Impact** – Proportional valuation impact assumes that a proposed residential or commercial project’s fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial.

James City’s proportional valuation is calculated using the County’s Real Estate Mapping GIS program. The program calculated a aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base, and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees, and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses.

Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

**Per-Business Expense Rate** – The per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

**Per Capita Evaluation Method** – This worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per-capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

**Per Capita** – Per capita calculations divide each department’s spending, minus fees and State contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

JCC Population 2010	Dwelling Units 2010
67009*	30221**

\*US Census 2010 Population Count

\*\*JCC Codes Compliance Division Housing Unit Count + Apartment Count

**Per Student** – Per student calculations divide County contributions to WJCC Schools, minus State educational contributions, by the total number of K-12 students living in James City and also

attending WJCC Schools. Total students are determined from Williamsburg James City County Schools 2009-2010 School Year enrollment reports.

**Per Business** – Per business calculations divide each departments spending, minus fees and State contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

<b>Total Number of JCC Businesses</b>	<b>5400*</b>
<b>Percentage of Property Tax Assessments</b>	<b>15%**</b>

\*James City County Commissioner of the Revenue

\*\*Commercial impacts are calculated on a proportional variation process

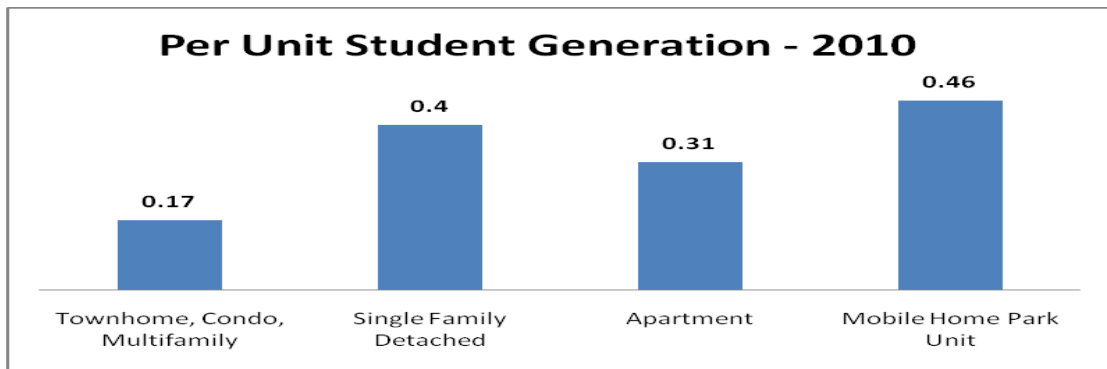
**Proffer** – Proffers paid for schools can only be applied toward the capital expense portion of per-student school expenses. (See Board of Supervisors' Proffer Policy.)

**Retail Services** – Display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses, and other uses.

**Single Family Detached Dwelling** – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit.

**State Contributions** – The State contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

**Student Generation Rate** - The student generation rate the number of students produced by a individual dwelling unit per year. Different domestic units produce students at different rates. Using WJCC enrollment figures, an address was found for WJCC student residing in James City County. Using the James City County Real Estate Division's Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division's Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions were determined this way, along with the same method for counting students from apartments and manufactured home parks.



**FEE SCHEDULE**  
**JAMES CITY COUNTY – PLANNING DIVISION**  
**101A Mounts Bay Road - P. O. Box 8784, Williamsburg, Virginia 23187-8784**  
Make checks payable to James City County Treasurer

DATE \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_

RECEIVED FROM \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

**CONCEPTUAL PLAN**

PLANNING REVIEW

\$25 \_\_\_\_\_

JCSA (543-0000)

**REZONING\* (3340)**

5 acres or less

\$1,200 plus \$75 per acre \_\_\_\_\_

\$100 \_\_\_\_\_

More than 5 but no more than 10 acres

\$1,200 plus \$75 per acre \_\_\_\_\_

\$150 \_\_\_\_\_

More than 10 acres

\$1,200 plus \$75 per acre \_\_\_\_\_

\$200 \_\_\_\_\_

\* Not to exceed \$15,000/proffer amendments pay base fee only

**SPECIAL USE PERMIT (3340)**

General (General special use permits processed with -  
a rezoning shall pay a rezoning fee only)

\$ 1,000 plus \$30 per acre\*\* \_\_\_\_\_

\$200 \_\_\_\_\_

Manufactured Home

\$ 100 \_\_\_\_\_

N/A

Family Subdivision under Section 24-214

\$ 100 \_\_\_\_\_

\$ 50 \_\_\_\_\_

Amendment/ Renewal to a Special Use Permit

\$ 400 \_\_\_\_\_

\$ 50 \_\_\_\_\_

Wireless Communication Facilities under Division 6

\$1,500 \_\_\_\_\_

\*\* Not to exceed \$5,000

**MASTER PLAN (3340)**

Initial review - Residential Cluster, Mixed Use or a PUD  
with less than 400 acres (PUDs more than 400 acres  
shall pay a rezoning fee only)

\$200 \_\_\_\_\_

\$600 \_\_\_\_\_

Revision of approved plan

Residential Cluster

\$ 75 \_\_\_\_\_

\$600 \_\_\_\_\_

R-4, PUD, Mixed Use

\$ 150 \_\_\_\_\_

\$600 \_\_\_\_\_

**PUBLIC HEARING APPLICANT DEFERRAL REQUEST**

\$350 \_\_\_\_\_ per request

**SITE PLAN (3340)**

Administrative review

Residential structures or improvements

\$600 plus \$60 per unit \$ \_\_\_\_\_

\$200 plus \$5 per unit

\$ \_\_\_\_\_

Nonresidential structures or improvements

\$600 plus \$0.024 per sq. ft. of building area  
\$ \_\_\_\_\_

\$200 plus \$0.004 per sq. ft. of building  
area \$ \_\_\_\_\_

Mixed Use structures or improvements

\$600 plus \$60 per residential unit plus \$0.024 per  
sq. ft. of nonresidential building area \$ \_\_\_\_\_

\$200 plus \$5 per residential unit plus  
\$0.004 per sq. ft. of nonresidential  
building area \$ \_\_\_\_\_

Planning Commission and/or DRC Review

Residential structures or improvements

\$1,800 plus \$60 per unit \$ \_\_\_\_\_

\$200 plus \$5 per unit \$ \_\_\_\_\_

Nonresidential structures or improvements

\$1,800 plus \$0.024 per sq. ft. of building area  
\$ \_\_\_\_\_

\$200 plus \$0.004 per sq. ft. of building  
area \$ \_\_\_\_\_

Mixed Use structures or improvements

\$1,800 plus \$60 per residential unit plus \$0.024 per  
sq. ft. of nonresidential building area \$ \_\_\_\_\_

\$200 plus \$5 per residential unit plus  
\$0.004 per sq. ft. of nonresidential  
building area \$ \_\_\_\_\_

Amendment to an approved plan

Residential structures or improvements

\$100 plus \$10 per residential unit \$ \_\_\_\_\_

\$ 50 plus \$2 per residential unit

\$ \_\_\_\_\_

Nonresidential structures or improvements

\$100 plus \$0.004 per sq. ft. of building area  
\$ \_\_\_\_\_

\$50 plus \$0.001 per sq. ft. of building  
area \$ \_\_\_\_\_

Mixed Use structures or improvements

\$100 plus \$10 per residential unit plus \$0.004 per  
sq. ft. of nonresidential building area  
\$ \_\_\_\_\_

\$50 plus \$2 per residential unit plus  
\$0.001 per sq. ft. of nonresidential  
building area \$ \_\_\_\_\_

Residential or nonresidential structures or improvements  
where number of dwelling units, building area, pavement,  
or open space is not changed more than 15 percent

\$100 \_\_\_\_\_

\$ 25 \_\_\_\_\_

Zoning Administrator/Fire Dept. review only

\$ 20 \_\_\_\_\_

N/A

Facility Review

N/A

\$1,500 per Wastewater  
or Well Facility \$ \_\_\_\_\_

Each additional review after second resubmission

\$250 \_\_\_\_\_

**EROSION & SEDIMENT CONTROL (3375)**

Residential subdivisions

\$70 per lot \$ \_\_\_\_\_

N/A

All other land disturbing activities  
(residential site plan)

\$840 per acre for the first 15 acres plus \$560 for each  
additional acre over 15 acres \$ \_\_\_\_\_

N/A

All other land disturbing activities  
(non-residential site plan)

\$600 per acre for the first 15 acres plus \$400 for each  
additional acre over 15 acres \$ \_\_\_\_\_

N/A

**TOTAL AMOUNT** \_\_\_\_\_

CHECK NO. \_\_\_\_\_

CASH \_\_\_\_\_

CREDIT CARD \_\_\_\_\_

PREPARED BY \_\_\_\_\_

**FEE SCHEDULE**  
**JAMES CITY COUNTY – Planning and Zoning Enforcement Divisions**  
**101A Mounts Bay Road - P. O. Box 8784, Williamsburg, Virginia 23187-8784**  
Make checks payable to James City County Treasurer

DATE \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_

RECEIVED FROM \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

Planning and Zoning Enforcement Reviews

JCSA (543-0000)

**SUBDIVISIONS (3340)**

Major/Minor Subdivision

No public improvements required

\$200 per plan plus \$70 per lot for each lot over 2  
\$ \_\_\_\_\_

\$25 \_\_\_\_\_

Public improvements required

\$250 per plan plus \$70 per lot for each lot over 2  
\$ \_\_\_\_\_

\$150 per plan plus \$25 per  
lot for each lot over 2  
\$ \_\_\_\_\_

Townhouse or condominium subdivisions  
that have undergone site plan review

\$ 50 \_\_\_\_\_

N/A

Facility Review

N/A

\$1,500 per Wastewater or  
Well Facility \$ \_\_\_\_\_

Additional review fee after second resubmittal

\$250 \_\_\_\_\_

**SIGN PERMITS (3340)**

\$ \_\_\_\_\_

**1% State Levy \$ \_\_\_\_\_**  
**(002-501-0050)**

**BOARD OF ZONING APPEALS (3340)**

\$500 \_\_\_\_\_

**ADMINISTRATIVE VARIANCE (3340)**

\$250 \_\_\_\_\_

**Zoning Verification Request**

\$100 \_\_\_\_\_

**HEIGHT LIMITATION WAIVER (3340)**

\$200 \_\_\_\_\_

N/A

**AGRICULTURAL & FORESTAL DISTRICT (3340)**

New application

\$100 \_\_\_\_\_

N/A

Withdrawal

\$ 50 \_\_\_\_\_

N/A

**EROSION & SEDIMENT CONTROL (3375)**

Residential subdivisions

\$70 per lot \$ \_\_\_\_\_

N/A

All other land disturbing activities  
(residential site plan)

\$840 per acre for first 15 acres plus \$560 for each  
additional acre over 15 acres \$ \_\_\_\_\_

N/A

All other land disturbing activities  
(non-residential site plan)

\$600 per acre for first 15 acres plus \$400 for each  
additional acre over 15 acres \$ \_\_\_\_\_

N/A

**DUPLICATION (0214)**

Miscellaneous

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

Zoning Ordinance

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

Zoning Ordinance Amendment Subscription

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

Subdivision Ordinance

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

Comprehensive Plan

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

Land Use Map

\$ \_\_\_\_\_ plus tax \_\_\_\_\_

TOTALS

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**TOTAL AMOUNT** \_\_\_\_\_

CHECK NO. \_\_\_\_\_

CASH \_\_\_\_\_

PREPARED BY \_\_\_\_\_

UNAPPROVED MINUTES OF THE  
MAY 2, 2012 PLANNING COMMISSION MEETING

B. ZO-0011-2011, Procedural Descriptions, ZO-0012-2011, Submittal Requirements, ZO-0013-2011, Nonconformities

Mr. Jose Ribeiro stated that staff reviewed ordinance language for broad topics under Procedural Descriptions, Submittal Requirements, and Administrative Items. Under Article I – In General, staff proposes removing the fee schedule from the Ordinance and creating a more comprehensive legislative case submittal list, including two new policies and fiscal guidelines. Under Article III – Site Plan, staff proposes changes to enhance the readability and better comprehension of submittal information requirements. For Article VII – Nonconformities, the term ‘structure’ and its definition were added to clarify nonconforming status. Staff’s Traffic Impact Analysis (TIA) policy more clearly defines the required elements and expected results of a TIA for legislative applications. The Environmental Constrains policy provides a clearer understanding as to the type of information expected to be submitted with legislatively reviewed applications. Staff has also developed a set of fiscal impact guidelines to standardize review of fiscal impact studies, although applicants will be able to submit additional materials. Mr. Ribeiro stated staff recommends approval of the two ordinance updates, the proposed policies and the fiscal impact guidelines.

Mr. O’Connor asked how to address disparities between the County’s fiscal impact worksheet and an applicant’s supplement fiscal analysis.

Mr. Ribeiro stated the intent the fiscal impact worksheet is to standardize information across different developments. He stated there are different methodologies for fiscal impacts, and the ordinance allows applicants to submittal additional materials. The guidelines are not intended as a pass-or-fail test for the applicant. Staff will present both sets of information to the Commission.

Mr. Adam Kinsman stated theses are policies, and staff is giving a suggested set of guidelines an applicant can use. He stated applicants are free to provide their own version. It is up to the Commission’s and the Board’s discretion to determine how much weight to give either one.

Mr. O’Connor opened the public comment session.

There being none, Mr. O’Connor closed the public comment session.

Mr. Maddocks moved for approval of the Zoning Ordinance amendments.

In a unanimous roll call vote, the Commission recommended approval of the zoning ordinance amendments (7-0).

## MEMORANDUM COVER

**Subject:** Case No. ZO-0014-2011. Exterior Signage

**Action Requested:** Shall the Board approve the proposed amendments to the Exterior Signage ordinance?

**Summary:** Staff has been working on amendments to the Exterior Signage ordinance as part of the comprehensive review of the Zoning Ordinance. Highlights of proposed changes include additional graphics to explain lighting, gross sign area, and shopping center signs; amendments to the definitions of back-lit and flashing signs; allowing shopping centers to split monument signage on either side of a principal entrance; including the ability to have tenant names on shopping center signs in certain circumstances; and codifying an existing agreement with the Virginia Department of Transportation (VDOT) relative to signs within the right-of-way.

The Planning Commission reviewed the majority of these changes in October 2011, but the ordinance was not forwarded to the Board at that time because of a request to solicit more business owner feedback. Staff and the Office of Economic Development held a meeting in March to present the proposed ordinance to certain business interests and receive input.

At an advertised Public Hearing on May 2, 2012, the Planning Commission recommended approval of the Exterior Signage ordinance by a vote of 6-1 with the following inclusions: 1) Figure 1d to further explain gross sign area and 2) clarification to Section 24-70(f)(7) to say that the shopping center name is at least 1/3 of the total sign area.

Staff recommends approval of the Exterior Signage ordinance as proposed.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance
3. Unapproved Minutes of the May 2, 2012, Planning Commission Meeting
4. Clean Copy of above Ordinance (in Reading File)

**Agenda Item No.: I-2b**

**Date: June 12, 2012**

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Leanne Reidenbach, Senior Planner II

SUBJECT: Case No. ZO-0014-2011. Exterior Signage

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The general intent of this ordinance is to regulate exterior signage in a way that ensures the equitable distribution of public space for the purpose of communication while protecting the health, safety, and general welfare of the community. More specifically, these regulations should protect property values, protect the historic and natural character of the community, protect the safety of the traveling public and pedestrians, and promote the creation of an attractive and harmonious community.

Staff has been working on certain amendments to the Exterior Signage ordinance. The Policy Committee reviewed a framework for the changes in March 2011 and subsequently reviewed a draft ordinance in September 2011. The Planning Commission recommended approval of the sign ordinance on October 5, 2011, but after the meeting staff was requested to consult additional members of the business community regarding the potential changes. Additionally, a separate amendment that permits tenant names on some shopping center signs (Case No. ZO-0015-2011) was also originally reviewed by the Planning Commission in October 2011, but the request was withdrawn prior to the official vote at the November Commission meeting. That amendment is now incorporated into the overall proposed ordinance changes.

In March 2012 staff held a meeting in conjunction with the Office of Economic Development to provide information to business members of the CEO Roundtable and to solicit feedback on the proposed ordinance changes. Staff has done additional research and made changes to the ordinance in light of this meeting. The biggest suggestion was to look at the maximum size of the multi-tenant shopping center signs to make sure signs are legible. A Strike-through version of the ordinance to be used in consideration of adoption is attached, while a clean version of the proposed ordinance to be used for reference is included in the reading file. Aside from minor grammatical changes, a summary of all of the amendments is included below:

**Definitions.**

- Removed the Development Review Committee (DRC) review requirement for back-lit and lighted channeled letters in Community Character Areas (CCA) and 150 feet from Community Character Corridors (CCC) from the definitions section.
- Clarified the definition for flashing sign.  
*These changes will make administration of the ordinance more consistent as there is conflicting information in Sections 24-70 and 24-71 that require Planning Director's review for back-lit and lighted channeled letters in CCCs and CCAs.*
- Added graphics to visually show sign types and how to measure the gross sign area.  
*Helps sign companies understand how sign area will be measured prior to submitting a permit. The Planning Commission requested that an additional graphic be added for further clarification on measuring freestanding signs where letters are mounted individually. This is included as Figure 1d.*



**Section 24-70.**

- Allowed freestanding monument-style shopping center identification signage to be split on either side of a principal entrance and setting setback and height requirements. The sign area will still be capped at 32 square feet.

*This change will align commercial signage with what is currently permitted for residential subdivision signage and provide an attractive alternative to double-sided monument or pole-mounted identification signs.*

- Included the ability for shopping centers in areas that are zoned and designated for mixed use and governed by a Design Review Board to have individual tenant names on a freestanding sign at each shopping center entrance. If a developer wishes to take advantage of this sign type, they must have a shopping center signage plan approved by the Planning Director.

*This change addresses the unique issues of a Mixed Use community where stores cannot generally be seen from a main corridor. Including tenant names on the sign will help direct drivers to the best entrance into the mixed use area for the store they wish to visit. The sign area for these types of signs is increased to 42 square feet to ensure that the text is legible for passing drivers. The number of tenant names is not limited, but the shopping center name is required to be at least 1/3 of the size of the sign so that it is still prominent on the sign. Forty-two square feet is still relatively small in terms of signage permitted on a higher speed road in other Virginia localities. As a comparison, the sign area for the monument sign for High Street would measure about 45 square feet under James City County's definition.*

- Amended CCA and CCC regulations to allow sign-mounted lighting. Staff has also added graphics to illustrate new commercial signage and options for external lighting.

*The sign ordinance was amended in 2006 to permit sign-mounted lighting in Mixed Use districts. Expanding the option for sign-mounted lighting to other zoning districts will provide additional options for sign design to the property owner. Graphics will help make the ordinance easier for users to understand.*

**Section 24-73.**

- Added a seven-foot height limit for directional signage.

*Currently, there is no height limitation for directional signage. Setting the height at seven feet will increase uniformity of directional signage and will match height regulations on other sign styles (such as directory signs).*

**Section 24-79.**

- Removed penalties and codified an existing agreement between the County and VDOT allowing County staff to remove any signs located within VDOT's right-of-way and charge the sign owner for that removal.

*Penalties for ordinance violations are already covered under Section 24-22. Additionally, codifying a current practice will make this practice more predictable for businesses to understand what type of advertising is permitted and not permitted.*

**RECOMMENDATION:**

At an advertised Public Hearing on May 2, 2012, the Planning Commission recommended approval of the Exterior Signage ordinance by a vote of 6-1 with the following inclusions: 1) Figure 1d to further explain gross sign area and 2) clarification to Section 24-70(f)(7) to say that the shopping center name is *at least* 1/3 of the total sign area.

Staff recommends approval of the Exterior Signage ordinance as proposed.

  
Leanne Reidenbach

CONCUR:

  
Allen J. Murphy, Jr.

LR/nb

ZO14-11ExtSgn\_mem

Attachments:

1. Ordinance
2. Unapproved Minutes of the May 2, 2012, Planning Commission Meeting
3. Clean Copy of above Ordinance (in Reading File)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, BY AMENDING SECTION 24-65, STATEMENT OF INTENT; SECTION 24-66, DEFINITIONS; SECTION 24-70, FREESTANDING SIGNS; SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; SECTION 24-77, EXCEPTIONS; AND BY AMENDING AND RENAMING SECTION 24-79, VIOLATIONS AND PENALTIES WITH NEW NAME VIOLATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 3, Exterior Signs, by amending Section 24-65, Statement of intent; Section 24-66, Definitions; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs; Section 24-77, Exceptions, and Section 24-79, Violations.

## **Chapter 24. Zoning**

### **ARTICLE II. SPECIAL REGULATIONS**

#### **DIVISION 3. EXTERIOR SIGNS**

##### **Sec. 24-65. Statement of intent.**

The purpose of this article is to regulate exterior signs ~~so as~~ to protect the health, safety, and general welfare of the community; to protect property values; to protect the historic and natural character of the community; to protect the safety of the traveling public and pedestrians; to promote the creation of an attractive and harmonious community; and to ensure the equitable distribution of public space for the purpose of communication.

**Sec. 24-66. Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Back-lit or channeled lettered sign.* Any sign in which only the letters, characters, or figures are internally lighted. The background of the sign shall be opaque and shall not be internally illuminated. ~~The development review committee shall review and approve all back-lit or channeled lettered signs that are proposed within 150 feet of the existing or proposed right of way of a community character corridor or within a community character area.~~

*Blade sign.* A two-sided flat sign that projects more than 18 inches from, and that is mounted perpendicularly to, a vertical building wall. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.

*Building face sign.* Any sign attached to and erected parallel to the face of or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.

*Double-faced sign.* A sign with two parallel or nearly parallel faces, back-to-back, and located not more than 24 inches from each other.

*Flashing sign.* An illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and/or color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. Signs which display only the time of day and temperature *or changeable LED signage used to advertise a single gas price* shall not be considered a flashing sign *when the message is changed fewer than four times in a 24 hour period.*

*Freestanding sign.* A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a freestanding sign.

*Gross sign area.* That area within a line including the outer extremities of all letters, figures, characters and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in a sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of signs with more than two faces shall be computed by multiplying one-half the circumference of the footprint of the sign by the height of the sign. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

*Figures 1a through 1d: How to measure gross sign area:*

 = Gross Sign Area

*Figure 1a- Building mounted signs where letters are mounted individually and the sign uses external illumination or internally illuminated channel letters*



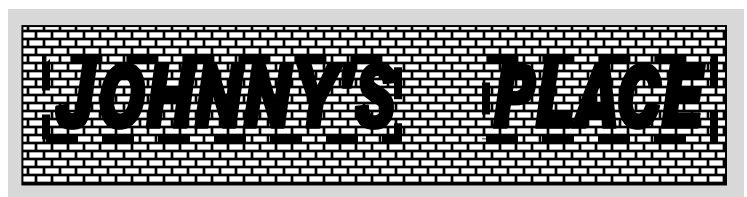
*Figure 1b- Building mounted signs where the entire sign area is internally illuminated*



*Figure 1c- Freestanding sign where letters/logos are mounted as a connected group*



*Figure 1d: Freestanding sign where letters/logos are mounted individually*



*Illuminated sign.* Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

*Indirectly illuminated sign.* A sign which does not produce artificial light from within itself, but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself.

*Internally illuminated sign.* A sign of translucent or transparent material with the source of illumination, exposed or shielded, enclosed within the face or supporting structure of the sign. This term shall not apply to a sign in which only the letters, characters, or figures are internally lighted and the background of the sign is opaque.

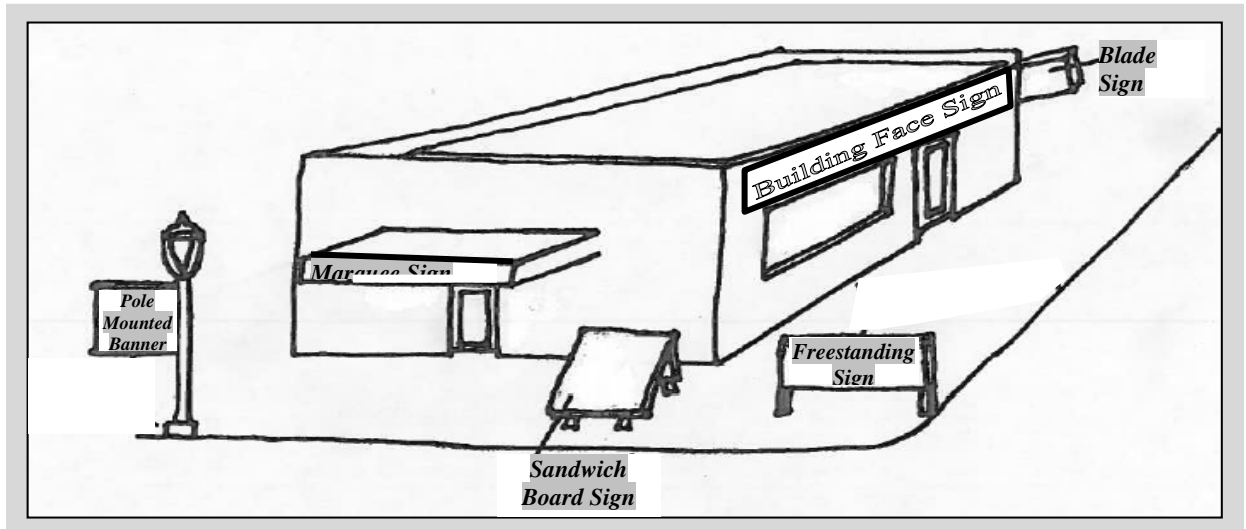
*Marquee sign.* Any sign attached to or hung from a marquee. For the purpose of this article, a "marquee" is a covered structure projecting from and supported by a building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

*Projecting sign.* A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term "projecting sign" includes a marquee sign.

*Shopping center.* A group of ~~three~~<sup>four</sup> or more commercial establishments having a minimum combined total square footage of 25,000 square feet, planned, constructed, and/or managed as a single entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

*Sign.* A structure, display or device that is arranged, intended, designed or used as an advertisement, announcement, identification, description, information or direction.

*Figure 2- Types of signs*



**Sec. 24-67. Permits.**

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this chapter:

- (1) *Required application; inspection of signs.* No sign, unless herein exempted, shall be erected, constructed, structurally altered or relocated, except as provided in this article and in these regulations, until a permit has been issued by the administrator or his designee. Before any permit is issued, an application provided by the administrator or his designee shall be filed together with two sets of drawings and specifications, one to be returned to the applicant, as such may be necessary to advise and acquaint the administrator or his designee fully with the location in relation to adjacent buildings, construction, materials, manner of illuminating or securing or fastening, and number of signs applied for and the wording of the sign or advertisement to be carried on the sign.
- (2) *Electrical permit.* All signs which require electricity or are electrically illuminated shall require a separate electrical permit and an inspection.

- (3) *Permit time limit.* All signs shall be erected on or before the expiration of six months from the date of issuance of the permit, otherwise the permit shall become null and void and a new permit shall be required.
- (4) *Permit number.* Each sign requiring a permit shall be clearly marked with the permit number and the name of the person or firm placing the sign on the premises.
- (5) *Fees required.* For all sign permits, fees shall be required in accordance with section 24-7 of this chapter.

**Sec. 24-68. Content of signs.**

No exterior sign shall advertise a product, service, business activity or institution which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. The content or advertising message carried by signs hereafter erected shall be limited to one or more of the following:

- (1) The identification of a building or its owners or occupants of the premises.
- (2) Information concerning any lawful business-related activities on the premises and/or goods or services offered in connection therewith, or information concerning any lawful, nonbusiness, nonservice-related activities or messages on or off the premises.
- (3) Information concerning the sale, rental or lease of the premises.
- (4) Information on directional signs as prescribed in section 24-73 (e).

**Sec. 24-69. Residential subdivision signs.**

(a) *Requirements.* For identification of residential subdivisions, no sign intended to be read from any public right-of-way adjoining the district shall be permitted except for:

- (1) An identification sign, not exceeding 32 square feet in area, for each principal entrance. Such sign shall be bound by all other provisions of this section and shall also conform with the following criteria:
  - a. If freestanding, such sign shall not exceed a height of 15 feet above natural grade.



- b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
  - c. If the sign is located at the corner of two rights-of-way, the sign may be placed no closer than ten feet to the corner property lines.
- (2) Two identification signs for each principal entrance whereby the cumulative size of the signs at each entrance does not exceed 32 square feet in area. The signs shall be placed on each side of the principal entrance and shall also conform to the following criteria:
- a. Each sign shall not exceed a height of eight feet above natural grade.
  - b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
  - c. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.
- (b) *Special requirements for subdivision identification signs located within community character areas or along community character corridors.* The planning director shall review and approve residential subdivision signs, supporting structures, and entrance features to be placed within a community character area or along roads designated as community character corridors as identified by the James City County Comprehensive Plan. An applicant may appeal the decision of the planning director to the Development Review Committee (DRC). The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's request based on the review criteria outlined in this section.

Plans indicating the location of the sign(s), supporting structure(s), location and type of landscaping, and entrance features relative to surrounding streets, lots, and other features of the subdivision shall be provided to the administrator or his designee along with the application and drawings as specified in section 24-67 (1).

In reviewing the plans for subdivision signs, supporting structures, and entrance features, the following criteria shall be considered in deciding whether to approve the residential subdivision sign application:

- (1) *Scale.* The scale of the sign(s), supporting structure(s), and entrance features shall be consistent with, and complement, the adjacent properties and the road(s) on which the subdivision is located.
  - (2) *Materials, colors, and construction.* The materials, colors, and construction of the sign(s), supporting structure(s), and entrance features shall complement the character of the road on which the subdivision is located and shall not detract from the aesthetics of adjacent properties.
  - (3) *Landscaping.* An appropriate mix of deciduous and evergreen trees and/or shrubs shall be provided that enhance the appearance of the sign(s), supporting structure(s), and associated entrance features.
  - (4) *Safety.* The sign(s) and entrance features shall be located in such a manner that they do not impair the safety of motorists, pedestrians, or bicyclists.
- (c) *Content of residential identification signs.* Aside from identifying the name of the subdivision, additional information pertaining to the subdivision such as marketing and sales information may be included on the sign. The information shall be an integral part of the sign(s) and in no case shall the size of the sign(s) exceed the size permitted by section 24-69 (a)(1) and (2).

**Sec. 24-70. Freestanding signs.**

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

- (a) ~~*Sign location and setbacks.*~~ One freestanding sign shall be permitted on each street frontage- *if in compliance with the following regulations:*

*(1) Sign location and setbacks.* Such signs may only be placed on the property within ~~the~~ required ~~yard~~ ~~sign~~ setbacks, ~~and~~ ~~Sign~~ setbacks ~~and~~ shall be located at least five feet from any property line.

~~(b)~~—(2) *Sign area.* Such signs shall not exceed:

- ~~(1)~~*a.* 32 square feet per face if located less than 75 feet from the road right-of-way;
- ~~(2)~~*b.* 50 square feet per face if located 75 to 150 feet from the road right-of-way; or
- ~~(3)~~*c.* 60 square feet per face if located more than 150 feet from the road right-of-way.

~~(c)~~(3)*Sign height.* Such signs shall not exceed an overall height of 15 feet above natural grade.

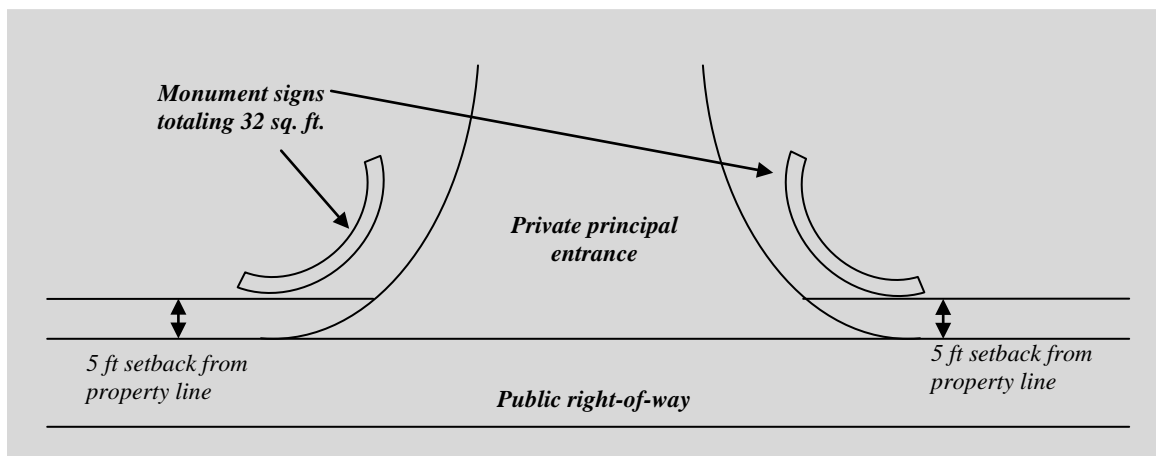
*(b) Two freestanding monument-style identification signs shall be permitted on each street frontage if in compliance with the following regulations:*

*(1) Sign location and setbacks.* The signs shall be placed on each side of the principal entrance. Such signs may only be placed on the property within the required sign setbacks. Sign setbacks shall be located at least five feet from any property line. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.

*(2) Sign area.* The cumulative size of the signs at each entrance shall not exceed 32 square feet in area.

*(3) Sign height.* Each sign shall not exceed an overall height of eight feet above natural grade.

*Figure 3- Two freestanding signs placed at a principal entrance*

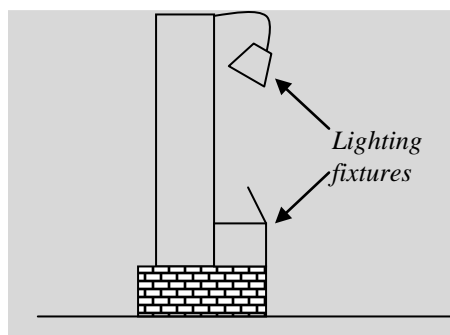


~~(d)~~(c) *Sign lighting.*

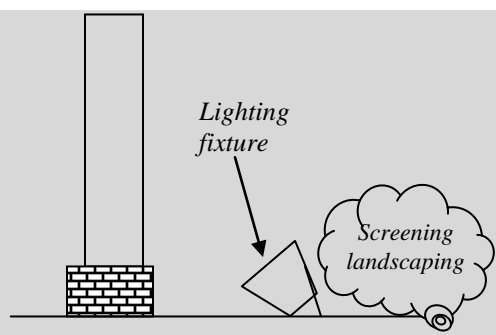
- (1) Internally illuminated signs shall be prohibited in the following cases:
  - a. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
  - b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (2) Illuminated signs within community character areas and along community character corridors, as defined above in ~~(d)~~(c)(1) a. and b. are permitted ~~so~~ *as* long as they comply with the following:
  - a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement ~~so~~ *as* long as they are constructed in accordance with section 24-73(m). An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
  - b. externally illuminated by *either sign-mounted lighting or* ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, *the* bulbs, lenses, and globes shall not be visible from the road right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

*Figure 4- Options for sign mounted lighting*

*Figure 4a- Sign mounted lighting (side view)*



*Figure 4b- ground mounted lighting (side view)*



(3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.

~~(c)~~ (d) *Signs for individual stores, businesses or professions on the same property.* Individual stores, businesses or professions on the same property, exclusive of shopping centers, shall combine signs on a single standard and the square footage of the combined signs shall not exceed 32 square feet per face.

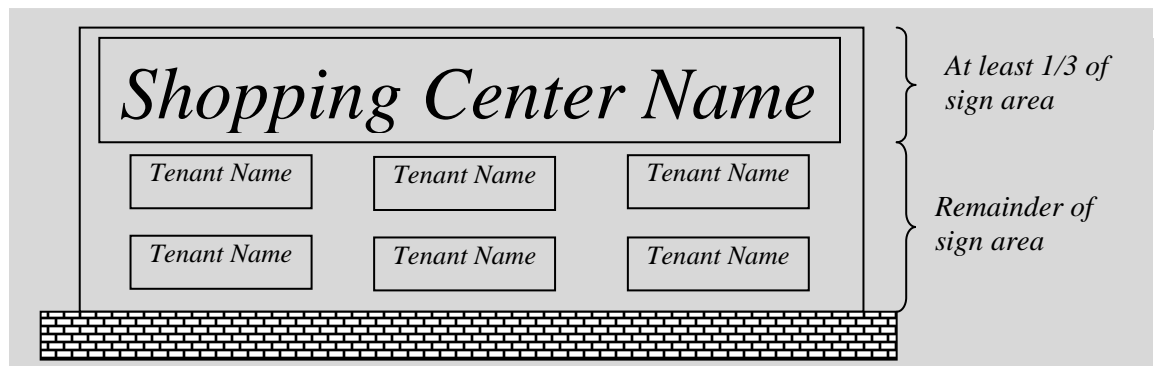
~~(c)~~ (e) *Shopping center signs.* Shopping centers shall be permitted ~~one~~ **up to two** freestanding signs per major street frontage **as permitted above in (a) and (b).** A freestanding shopping center sign shall display only the shopping center name. Individual shops and businesses in shopping centers may have building face signs as provided for in section 24-71 or specially designed signs consistent with the overall development plan for the shopping center and approved as a part thereof by the planning commission.

(f) *Alternative shopping center sign. In lieu of (e) above, shopping centers may be permitted one maximum 42 square foot freestanding sign per primary entrance which indicates individual stores and includes the shopping center name if in compliance with the following regulations:*

- (1) *The shopping center is located in a mixed-use zoning district and on property designated as mixed use on the James City County Comprehensive Plan;*
- (2) *The property is regulated by a design review board with approved architectural and design standards;*

- (3) *The property is guided by a master plan of development approved by the board of supervisors; and*
- (4) *The signs are consistent with the overall development plan and approved by the planning director or his designee as part of a comprehensive signage plan for the entire shopping center.*
- (5) *Sign location and setbacks. Such signs may only be placed on the property within required sign setbacks. Sign setbacks shall be located at least five feet from any property line.*
- (6) *Sign height. Such signs shall not exceed an overall height of 15 feet above natural grade.*
- (7) *Assignment of space. The shopping center name shall comprise at least 1/3 of the sign area. The remaining area of the sign may be used for individual tenants located internal to the shopping center.*

*Figure 5- Alternative shopping center sign*



#### **Sec. 24-71. Building face signs.**

In zones where business or manufacturing is permitted, a building face sign shall also be permitted. The signs shall be in compliance with the following regulations:

- (a) *Sign location and area.* The building face sign(s) shall be placed on the front facade of the building, except in cases outlined below in subsections (d) and (g). The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller. The front facade of the building shall be considered the side that has the main public entrance.

For industrial uses in the M-1, M-2, PUD-C, and RT Zoning Districts, the applicant may request an exception from the planning director to allow the building face sign(s) to exceed 60 square feet. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in this section. For the purposes of this section, industrial uses shall mean any industrial use that involves the manufacture and/or assembly of products or components/parts for products. In addition to the submittal requirements outlined in section 24-67, the applicant shall provide scale drawings of the building elevation(s) and proposed sign(s). A conceptual plan shall also be submitted which shows the location of the sign relative to the existing and proposed landscaping, sight lines, distances from right-of-ways, and other pertinent site features.

In reviewing an exception request, the following criteria shall be considered in deciding whether to approve the request.

- (1) *Scale and proportion.* The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public right-of-ways. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure, with additional size aimed primarily at making the use identifiable from an adjoining public road. In no case shall the size of the sign exceed ten percent of the building's wall surface upon which the sign is placed.
- (2) *Materials, lighting, colors, and construction.* The materials, lighting, and colors of the sign shall not negatively impact adjacent properties or the aesthetics of the adjacent public roads. No exceptions will be granted for signs located within 150 feet of the road right-of-way of roads designated community character corridors.
- (b) *Sign mounting.* Such signs shall be mounted flat against the building on the side measured above.

(c) *Sign lighting.*

(1) Internally illuminated signs shall be prohibited in the following cases:

- a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
- b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (c)(1)a. and b., shall be signs composed of:

- a. back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
- b. shall be externally illuminated in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way.

(3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.

(d) *Additional signs for buildings facing onto public rights-of-way or parking lots.* When the same building faces onto a public right-of-way or parking lot on the rear or side of the building, an additional sign may be erected at the public entrance on that side. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.



(e) *Additional signs for buildings in excess of 40,000 square feet.* If the footprint of an individual store exceeds 40,000 square feet in size and contains major retail departments (i.e. bakery, restaurant, pharmacy, etc.), four additional building face signs advertising these retail departments, in addition to the main identification sign, may be permitted. The size of these individual sign(s) shall not exceed one square foot of sign area for each linear foot of the retail department's interior facade or 75 percent of the size of the main building face sign, whichever is smaller.

(f) *Exterior signs for stores within an enclosed shopping mall.* If there are individual stores located within an enclosed shopping mall and the stores are not directly accessible from the outside, each of the interior stores shall be allowed to display one exterior wall sign in accordance with the following regulations:

- (1) The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the unit's front facade or 60 square feet, whichever is smaller.
- (2) The sign shall be mounted flat against the building at one of the mall's public entrances.

(g) *An option for building face signs.* An owner may elect to relocate the building face sign, which would typically be placed above the building's main public entrance, on the side of the building that faces the public road right-of-way or parking lot. This provision would only apply if the side of the building facing the public road right-of-way or parking lot has no public entrance. This provision would not allow for additional building face signs beyond the maximum number permitted by section 24-71; it only provides the applicant an option on which side of the building to place the building face sign. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.

**Sec. 24-72. Review criteria for back-lit/channeled lettered signs within community character areas and along community character corridors.**

In reviewing applications for signs containing back-lit or channeled letters, the following criteria shall be used in deciding whether to approve the application.

(a) *Scale and proportion.* The scale of the sign and proportion of lettering, characters, and figures shall be of a scale, size, and character in keeping with the historic and/or rural ambience of the county and Williamsburg.

(b) *Materials, colors, and construction.* The materials, colors, and construction shall complement the character of surrounding development and shall be in keeping with the historic and/or rural ambience of the county and Williamsburg.

(c) *Intensity and quantity of lighting.* The area of the sign that is lit shall be a small proportion of the overall size of the sign. The lighting used shall be of a subdued nature and shall not dominate the streetscape.

**Sec. 24-73. Special regulations for certain signs.**

(a) *Logos, trademarks, murals, etc.* Any logo, trademark, mural, copyright or recognizable symbol pertaining to the use or business contained within the building painted on any face of the building shall be treated as a building face sign.

(b) *Flags as signs.* Flags used as signs shall be allowed by permit, provided that the same are installed in a permanent fashion, are maintained in good repair and will not constitute a hazard to vehicular or pedestrian traffic.

(c) *Signs on entrance marquees or canopies.* Signs on entrance marquees or canopies shall be allowed, provided that the total area of such signs if constructed alone or in combination with other building signs does not exceed the maximum allowable dimensions and square footage as set forth in section 24-71 (a) above.

(d) *Signs on corner lots.* Except for those provided for under section 24-69 ~~and 24-70~~, signs on corner lots shall not be closer than 50 feet to the corner of the lot. In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate ~~site~~ **sight** distance and good visibility is maintained for all motorists and pedestrians traveling the intersection, the administrator or his designee may permit setbacks of less than 50 feet.

(e) *Directional signs.* Directional signs may be allowed upon the determination of the administrator or his designee that the sign(s):

- (1) Are necessary to permit vehicular traffic to locate distinctive places of historical significance, businesses, campgrounds, industries, ~~and~~ residential areas, or other activities which are located off the state primary roads;
- (2) Show only the name and/or logo, mileage and direction; and
- (3) Do not exceed ten square feet in size *or seven feet in height*.

(f) *Freestanding signs on properties adjacent to and visible from residential districts.* On properties adjacent to residential districts, any freestanding sign, visible from an adjacent residential district, shall be limited to 32 square feet in area. The top of the freestanding sign shall not exceed 15 feet above grade. If illuminated, freestanding signs within these areas shall be signs composed of:

- (1) Back-lit or lighted channeled letters; or
- (2) Shall be externally illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way. The ground-mounted lights shall be concealed by landscaping.

In either case, there shall be no glare cast upon any adjacent property or public or private right-of-way. The freestanding sign shall be lit only during the normal operating hours of the associated use.

(g) *Signs for new commercial, industrial, and institutional construction projects.* Temporary nonilluminated signs may be erected in connection with new commercial, industrial, and institutional development and displayed on the premises during such time as the actual construction work is in progress. The signs shall also conform with the following criteria:

- (1) The maximum number and size of signs shall be:
  - a. A maximum of three signs with a cumulative sign area not to exceed 24 square feet; or,
  - b. A maximum of one sign with a sign area not to exceed 32 square feet.

(2) The sign(s) shall only be placed along one of the property's street frontages.

(h) *Home occupation signs.* Reference section 24-74 (10).

(i) *Setback reductions in mixed-used districts.* In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate sight distance, and good visibility is maintained for all motorists and pedestrians traveling the intersection, the zoning administrator or his designee may permit setbacks of less than ~~5~~*five* feet on any lot in a mixed-used district.

(j) *Blade signs in mixed-use districts.* Blade signs are permitted in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors.

Blade signs must adhere to the following limitations and requirements:

- (1) There shall be no more than one sign per public entrance to any given building;
- (2) The sign(s) shall be positioned at the public entrance(s) of the building;
- (3) An individual blade sign shall be no more than 12 square feet in area;
- (4) The sign shall be mounted such that the bottom edge of the sign is not less than eight feet from the finished grade directly underneath it;
- (5) Blade signs shall be unlit, or externally illuminated in such a way that bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
- (6) Blade signs that extend over a public right-of-way are subject to the prior approval of the controlling public entity. If approved, the developer shall provide positive proof of insurance for each sign mounted over the public right-of-way, or an alternate liability instrument deemed suitable by the controlling public entity;
- (7) All blade signs shall obtain the prior approval of the design review board for the mixed-use project before they are installed.

(k) *Pedestrian-scale directional signs in mixed-use districts.* Small, free-standing signs designed to direct pedestrian traffic to locations of interest within the development may be placed in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors. Pedestrian-scale directional signs must adhere to the following limitations and requirements:

- (1) Such individual signs shall be no more than 24 square feet in total area, and may not have more than two faces. Only one side of a double-faced sign shall be included in a computation of sign area;
  - (2) The top edge of a pedestrian-scale directional sign shall be no more than seven feet above finished grade;
  - (3) Any lighting that is used shall be externally mounted and either supported solely from the sign structure, or ground-mounted. The ground-mounted lights shall be concealed by landscaping. Lighting shall be directed only onto the sign's face. Bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
  - (4) Signs shall generally include elements such as the name and logo of the overall development, maps, and the business names, logos, and directional information for businesses that are located within the development;
  - (5) The number, relative positioning, and placement of each sign in a given mixed-used development shall be subject to the prior approval of the design review board and the planning director, or his designee.
- (l) *Pole-mounted banners.* Seasonal and/or holiday banners that are affixed to light poles that generally identify a season and/or holiday and advertise or promote the development as a whole (by including only the development name and/or logo), rather than individual enterprises, are permitted, subject to the prior approval of the zoning administrator, or his designee. Banners shall be mounted such that the bottom edge of any given

banner is not less than eight feet from the finished grade directly beneath it. Banners are permitted only in shopping centers, (as defined in section 24-66), or in mixed-use districts.

(m) *Digital or LED signage.* Digital or LED signage advertising gas price in ~~Community Character~~ ~~Corridors and Community Character Areas~~ must adhere to the following requirements:

- (1) Signs shall only advertise gas pricing on premises;
- (2) Sign shall be of monument style and of a brick or stone foundation;
- (3) Digital/LED displays shall be limited to advertising a single gas price and each digital character may not exceed one square foot and may not accommodate more than 50 percent of the total sign area;
- (4) Digital/LED lighting shall be of one color that does not mimic emergency services lighting;
- (5) There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso-footcandle diagram may be required with permit submission;
- (6) Sign copy neither flashes nor scrolls;
- (7) Any portion of the sign other than the gas pricing component requires the review and approval of the planning director in accordance with section 24-70;
- (8) Signage must otherwise comply with the provisions of this chapter.

(n) *Sandwich board signs.* Sandwich board signs may be permitted in areas designated for commercial use located in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved Master Plan of development, all of which shall be approved by the board of supervisors. Alternatively, such signs may be located in other areas where there exists approved design guidelines adopted by the board of supervisors when such signs comply with said guidelines.

Sandwich board signs must adhere to the following requirements:

- (1) One sandwich board sign displaying menu items or daily specials on the premises shall be permitted at each public entrance of a business location.
- (2) Such sign(s) shall not exceed 12 square feet in area and five feet in height.
- (3) Sign(s) shall be located on premises or no more than ten feet from the seating area or access door and shall not block the flow of pedestrian traffic.
- (4) Any such sign shall be removed at close of business each day.

**Sec. 24-74. Exemptions.**

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code:

- (1) Official traffic signs, historical markers, provisional warning signs or sign structures when erected or required to be erected by a governmental agency and temporary signs indicating danger;
- (2) Traffic signs authorized by the Virginia Department of Transportation to be placed on a street right-of-way;
- (3) Changing of the copy on a bulletin board, poster board, display encasement, reader board or billboard;
- (4) Temporary nonilluminated signs, not more than six square feet in area, advertising residential real estate for sale or lease and located on the premises, one such sign for each street frontage;
- (5) Temporary nonilluminated signs, not more than six square feet in area, advertising commercial real estate for sale or lease and located on the premises, provided such signs conform to the following regulations:
  - a. One sign is permitted for each street frontage per parcel.
  - b. The maximum height of the sign shall not exceed eight feet.
  - c. The sign shall be erected in such a manner that it does not obstruct views of existing signs.
- (6) Temporary nonilluminated signs, not more than ten square feet in area, erected in connection with new single-family residential construction work and displayed on the premises during such time as the

actual construction work is in progress, one such sign for each parcel. Reference section 24-73 (g) for construction signs for commercial, industrial, and institutional projects;

- (7) Nonilluminated signs warning trespassers or announcing property as posted, not to exceed two square feet per sign in residential, commercial and industrial areas, and four square feet per sign in agricultural areas;
- (8) Sign on a truck, bus or other vehicle, while in use in a normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle (to which signs are attached) in designated customer or employee parking at the place of business.
- (9) Mailboxes and similarly located signs identifying a private residence;
- (10) Home occupation signs not to exceed four square feet. Such signs shall:
  - a. Not be illuminated.
  - b. Be attached to the dwelling.
- (11) Signs within a business or manufacturing district or within a nonresidential development in any zoning district which are not visible from a public road or abutting property line;
- (12) Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building, to be located on the rear or sides of a building on a parcel containing four or more buildings;
- (13) Signs placed upon the exterior of a structure indicating the location of restrooms, bathhouses, entrances or exits;
- (14) Signs not to exceed six square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety. Such signs shall be adjacent to the facility;
- (15) Temporary signs not to exceed 12 square feet per face erected for a period of up to 60 days, advertising seasonal agricultural products for sale within the general agricultural district;



- (16) One special notice placard, not to exceed four square feet in size, attached to a building or to a freestanding sign indicating credit cards which are accepted on the premises; group affiliations of which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members;
- (17) Signs conveying political, ideological, religious, social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith; provided such signs shall not exceed 32 square feet in size; and provided, that any such signs related to or connected with political campaigns shall not be maintained for longer than 90 days and shall be removed within ten days after the election to which they pertain.
- (18) Off-premises, directional, temporary, and generic open-house realty signs may be erected in any zoning district in accordance with the following regulations:
  - a. The function of such signs shall be limited to directional purposes, as opposed to the advertisement of an individual realtor or realty firm. The signs shall be generic in style and color. No specific realtor or realty firm name(s) shall appear on such signs provided; however, the registered trademark of the National Association of Realtors, the equal housing opportunity logo, and identification as provided for in (19) h. below shall be permitted.
  - b. Such signs shall refer only to real estate open houses whose purpose is to sell, lease, or rent residential property.
  - c. No such sign shall exceed three square feet in area and three feet in height.
  - d. Such signs shall be located only at intersections where a turning movement is indicated, and only at intersections where at least one of the streets is within the residential area in which the subject property for sale, lease or rent is located.
  - e. No more than two such signs shall be located at any one intersection, nor shall such signs at the same intersection point in the same direction.

- f. Such signs shall be temporarily displayed only when the residential unit is open for public viewing under the direction of an on-site representative of the owner.
- g. Such signs shall be placed only on private property and only with the express consent of the owner of said property.
- h. Each sign shall have an identification tag either attached or permanently affixed to the signs which contains the name, address, and phone number of the sign's owner. The identification tag shall not exceed four square inches in area.

**Sec. 24-75. Prohibited signs.**

The following signs are specifically prohibited:

- (1) Off-premise signs or off-premise billboards, unless otherwise permitted by section 24-73 (e) or specifically exempted by section 24-74.
- (2) Flashing, animated and rotating signs or appurtenances to signs which are nonstationary.
- (3) Displays of intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger, such as are customarily used by police, fire or ambulance vehicles or for navigation or traffic-control purposes.
- (4) Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights that might reasonably confuse a motorist when viewed from a normal approach position of a vehicle at a distance of up to 300 feet.
- (5) Internally illuminated signs shall be prohibited in the following cases:
  - a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or

- b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (6) Signs which are not an integral part of the building design but fastened to and supported by or on the roof of a building or projecting over or above the roof line or parapet wall of a building, except as otherwise provided herein.
- (7) Signs placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
- (8) Signs attached to trees, utility poles or other unapproved supporting structure.
- (9) Signs which are portable or otherwise designed to be relocated or are constructed on a chassis or carriage with permanent or removable wheels, except for those permitted by section 24-74 (18).
- (10) Signs attached, painted on, or affixed to vehicles used primarily for display and/or advertising purposes parked in designated customer or employee parking at the place of business.
- (11) Pennants, banners, flags and other displays used for marketing or advertising except as provided in sections 24-73 (b) and 24-73 (l).

**Sec. 24-76. Temporary signs.**

The administrator or his designee, upon application, may issue temporary permits for the following signs and displays when in his opinion the use of such signs and displays would be in the public interest and would not result in damage to private property. Such permits shall be valid for a period of up to 30 days following issuance:

- (1) Signs or banners of not more than 32 square feet advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization.

- (2) Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.
- (3) Special decorative displays used for purposes of advertising the opening of a new store, business or profession.

**Sec. 24-77. Exceptions.**

(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

- (1) One freestanding sign not to exceed 60 square feet per face;
- (2) One building face sign not to exceed an area equal to one square foot multiplied by the length or width of the building in industrial zones, provided that the face on which the sign shall be mounted is at least 500 feet from any road or street right-of-way;
- (3) One freestanding sign not to exceed 32 square feet per face and not to exceed 30 feet in height;
- (4) One sign to be placed on the roof of the building not to exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller; ~~or~~
- (5) A second freestanding sign not to exceed 32 square feet on parcels which contain more than 400 feet of road frontage and more than one main entrance, provided that such lot is not a corner lot; ~~or~~
- (6) One additional building face sign not to exceed the building unit's front façade or 60 square feet, whichever is smaller, when the unit is located in a ~~Mixed-Use~~ district and an area designated for commercial uses on the binding master plan as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved binding master plan of development, all of which shall be approved by the board of supervisors. The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public rights-

of-way. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure.

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, distance between driveways, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or
- (3) In addition to the provisions for granting sign limitation waivers under (b)(1) and (2) of this subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with subsection (a)(4) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property; and
- (4) That in subsections (b)(1), (2), and (3) above such waiver is consistent with traffic safety and all other provisions of this article.

**Sec. 24-78. Abandoned signs.**

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. Such sign, if not removed within 30 days from the termination of occupancy by such business, shall be considered to be in violation of this chapter, and shall be removed at the owner's expense.

If the owner shall fail to comply with this requirement, then written notice shall be given by the administrator to the owner advising of the violation. If such signs are then not removed within ten days, the administrator shall cause such removal and charge the cost to the owner of the premises.

**Sec. 24-79. Violations and penalties.**

Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days' written notice of the violation to the owner, ~~tenant or lessee~~ of the property. ~~The violation of any provision of this article concerning the posting of a sign on public property or public right of ways is a misdemeanor subject to punishment pursuant to section 24-22. The violation of any other provisions of this article is subject to a civil penalty under section 24-22. In addition, if such violation is not corrected within five days after receipt of the notice of violation, except violations involving portable signs, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate. If the violation involves a portable sign, such sign shall be removed immediately, and if not, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate. Removal of a sign shall not affect any proceedings instituted prior to removal of such sign.~~ *Removal of signs in VDOT right-of-way and prosecution of violations for signs located in VDOT right-of-way shall be in accordance with the procedures set forth by agreement between the county and VDOT.*

**Secs. 24-80 - 24-85. Reserved.**

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ZO14-11ExtSgn\_ord

UNAPPROVED MINUTES OF THE  
MAY 2, 2012 PLANNING COMMISSION MEETING

B. ZO-0014-2011 Exterior Signs

Ms. Reidenbach stated after the Commission approved an earlier version of the amended sign ordinance in October 2011, a request was made to consult more of the business community. She stated suggestions from a March 2012 roundtable meeting are incorporated into the proposed ordinance changes. The ordinance clarifies definitions for ‘backlit’ or ‘channeled-letter’ signs and flashing signs and includes graphics for gross sign area calculations. New provisions allow shopping centers to split signage on either side of the main entrance and tenant names on shopping center signs in Mixed Use areas governed by design guidelines and a design review board. These signs could be increased up to 42 square feet. Community Character Corridor and Area language has been amended to allow sign-mounted lighting. A height limit for directional signage has been established. A current practice through an agreement with the Virginia Department of Transportation regarding the removal of and penalties for signs in the right-of-way has been codified. Staff also proposes adding an additional figure to clarify the gross sign area calculation for free-standing signs based on Commissioner comments received earlier in the afternoon. Ms. Reidenbach stated staff recommends approval of the proposed sign ordinance with the addition of the extra figure.

Mr. Maddocks asked if the changes have made the ordinance more or less stringent.

Mr. Reidenbach stated the changes have added flexibility for the business community and opened up new options for signage in certain areas.

Mr. Allen Murphy stated it would be less stringent.

Mr. Al Woods asked how the County compared to other local jurisdictions.

Ms. Reidenbach stated that she had only researched areas where changes were proposed – primarily for including tenant names on signage. She noted that most other localities allow tenant names on signs and allow even larger signage than currently proposed. The proposed changes would allow designs similar to the freestanding signs at the entrance to High Street in Williamsburg, which is about 45 square feet.

Mr. O’Connor opened the public comment session.

Mr. Vernon Geddy, representing FCP Settler’s Market, stated his client was in support of the tenant name provision in Mixed Use areas with design review, which would apply to his client. He stated the stores in mixed use areas are not visible from the thoroughfare, and it is helpful for customers to see names at entrances. Major retail tenants want to know they have a presence on the main road. He showed the Commission a graphic of proposed tenant signage.



Mr. Jim Castillo, Development Director for Settler's Market, stated that signage is part of the decoration of a commercial product. He stated most people seem to dislike signage, but the ordinance language gives the New Town Design Review Board (DRB) final say in whether the sign is appropriate. The proposed signage provisions will be a useful tool to direct people to where they want to go within the development. The New Town development is inwardly focused and has its back to the traffic on the main roads. Tenant signage, such as that showed by Mr. Geddy, would be informational and not distracting. The signage would direct passers-by to the struggling New Town retail industry.

Mr. Maddocks asked Mr. Castillo if the ordinance amendments would help New Town businesses.

Mr. Castillo stated he liked the ordinance a lot and believed that it would be a benefit.

Mr. O'Connor closed the public hearing.

Mr. Krapf stated that the addition of illustrations go a long way to clarify the ordinance.

Mr. Krapf moved for approval of the sign ordinance amendments.

Mr. Chris Basic stated he had some concerns. He stated that business visibility is good, but the Commission is not a design review board. It serves the entire County. The size of the font required to allow drivers to see the sign depends on the number of lanes and speeds of the road. Based on Monticello Ave., the signs would have to be larger to be able to be visible and otherwise could add visual clutter without adding the desired benefit of visibility.

Mr. George Drummond stated it was difficult to find businesses in New Town. He stated the signage will help New Town businesses, especially with the current economic climate. He said would support the amendments.

Ms. Robin Bledsoe stated she lives in New Town and is continually asked directions to locate businesses. She stated she would support the amendments.

Mr. Krapf asked if the number of monument signs allowed were related to the number of site entrances.

Ms. Reidenbach stated the ordinance would allow one sign per entrance. She stated there are no restrictions on which tenant signs could be at which entrances or how many tenant names could be on one sign. That was left up to the developer/owner and tenant. One-third of the sign must be the development name.

Mr. Krapf asked if staff discussed font size relative to the number of traffic lanes.

Ms. Reidenbach stated staff researched legibility issues and findings about sign size varied widely. She stated that signs on Monticello - with its four lanes, median, and 45 mile per hour speed limit - would require a large font and significantly larger sign size than proposed in

the ordinance. Staff felt it was a good situation to allow a slightly larger sign than the normal 32 square foot sign permitted to improve legibility given the addition of more text.

Mr. Krapf stated the assumption is that drivers in the two rightward lanes closest to the shopping center would be able to read the signage and would be in a position to actually be able to navigate to turn into the appropriate entrance.

Mr. Woods asked if there was a restriction regarding the number of nameplates. He asked if a shopping center has 16 tenants, could the sign list them all.

Ms. Reidenbach stated all 16 tenants could be on the sign if it could fit them.

Mr. Woods asked if the signs employed a standard font.

Ms. Reidenbach stated each store name could have a different font. She stated the ordinance leaves approval of the sign design and font up to the design review board.

Mr. Woods asked about the trends on those types of controls. He asked what is considered best practices when there are multiple colors and fonts.

Ms. Reidenbach stated most the research she came across focused on color coordination, without finding anything on using different fonts. She noted that the County Attorney's office recommended limiting regulation dealing with aesthetics, which is why the proposed ordinance was crafted to pertain to areas with design review boards.

Mr. Basic stated while the tenant sign presented by Mr. Geddy was attractive, there could be a future sign with 16 tenant names crammed into a 42 square foot sign.

Mr. Maddocks stated there was plenty of structure in the ordinance through both staff and design review board sign reviews.

Ms. Bledsoe asked if the signs were proportional to the number of businesses in an area.

Ms. Reidenbach stated the ordinance sets the maximum sign size as 42 square feet. She stated it is up to the property owner or developer to decide the sign's content.

Mr. Woods stated in New Town, the majority of businesses still would not have signage at the entrances. He stated that was normal in retail development. It was a negotiation with the developer.

Mr. Murphy stated not all the businesses in New Town are in *bona fide* shopping centers.

Mr. Woods stated he was less worried about New Town than other areas.

Ms. Reidenbach stated the tenant signs would only apply in areas zoned and designated Mixed Use with controlling design guidelines.

Mr. Woods asked how many areas qualified.

Ms. Reidenbach stated currently just New Town.

Mr. Basic stated he could imagine complaints from other shopping centers that the changes would only apply to New Town.

Mr. O'Connor stated the different is that New Town has a design review board while a shopping center may not.

Mr. O'Connor asked how shopping centers would direct shoppers without these signs.

Ms. Reidenbach stated New Town uses generic directional signage and vehicle- and pedestrian-scale signage and directories. These options were open to traditional shopping centers as well.

Mr. Murphy stated there is also building face signage on each individual unit frontage and the potential to use blade signs.

Ms. Reidenbach stated there are sandwich board signs as well.

Mr. Woods stated that in an inwardly focused development, with commercial elements and retail that depends on traffic, it becomes difficult for large organizations to be comfortable not having any identity. He asked if the ordinance represented a balancing act.

Mr. Murphy stated yes.

Mr. O'Connor stated the alternative would be more monuments and directional signage, which would be greater clutter.

Mr. Basic asked if WindsorMeade Marketplace was zoned Mixed Use.

Mr. Murphy stated yes.

Mr. Basic stated that would mean that this area could take advantage of the proposed provision to allow tenants on signage.

Ms. Reidenbach stated WindsorMeade Marketplace was also subject to the DRB.

Mr. O'Connor asked if the language stating the shopping center sign would be 1/3 of the total signage actually limited the shopping center name to 1/3 of the total signage.

Mr. Kinsman stated that the way it was written appeared to limit the shopping center signage to 1/3. He stated language 'at least one-third of the sign area...the remaining sign area may be used for individual tenants' could be added.

Ms. Reidenbach stated staff would make that change before the Board meeting.

In a roll call vote, the Commission recommended approval as amended (6-1; Yes: Bledsoe, Drummond, Woods, Maddocks, Krapf, O'Connor; No: Basic).

## MEMORANDUM COVER

**Subject:** Ordinance to Amend and Reordain Chapter 20. Taxation, Section 20-10, Qualifications for exemption and Section 20-12, Application

**Action Requested:** Shall the Board adopt the Ordinance amending Chapter 20, Taxation, Article II, Exemption of Certain Persons From Real Estate Taxes, Section 20-10, Qualifications for exemption and Section 20-12, Application?

**Summary:** The proposed amendments to County Code Sections 20-10 and 20-12 clarify the timeframe for which the valuation of assets and income, the application for exemption, and real estate tax billing period are based. The amendments will eliminate confusion by replacing “year” and “taxable year” with the term “fiscal year.” The amendments will also specify the application period for the exemption. Commissioner Bradshaw will be in attendance to answer any questions the Board may have.

Approval of the attached ordinance is recommended.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance

**Agenda Item No.: I-3**

**Date: June 12, 2012**

## M E M O R A N D U M

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Bryan J. Soukup, County Attorney Law Clerk

SUBJECT: Ordinance to Amend and Reordain Chapter 20, Taxation, Article II, Exemption of Certain Persons from Real Estate Taxes, Section 20-10, Qualifications for Exemption and Section 20-12, Application

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Article II of Chapter 20 of the County Code provides for real estate tax exemptions for citizens who meet specific age, disability, and income requirements. Citizens 65 and older or who are determined to be permanently and totally disabled and who meet specific income limits, asset criteria, and who solely own and occupy the dwelling for which the real estate taxes are assessed are eligible for this exemption.

The amendments to County Code Sections 20-10 and 20-12 clarify the timeframe for which the valuation of assets and income, the application for exemption, and real estate tax billing period are based. The clarification provided by the proposed changes will not impact how these Code sections are applied.

The tax year for real property is based on a *fiscal year* commencing on July 1 and ending on June 30. Currently, the exemption outlined in Article II is based on a “taxable year,” an ambiguous term that could be interpreted as “calendar year” or “fiscal year” thereby, leading to uncertainty as to the billing cycle to which the exemption is subject.

The tax exemption is applied to the fiscal year beginning July 1, immediately following the application period (January 1-June 30). Qualifying income is based on the previous calendar year and assets are valued on December 31 of that preceding calendar year. The exemption itself will apply to the upcoming *fiscal year*.

- For example:  
Applications filed during the period of January 1, 2012, through June 30, 2012, are for relief in the *fiscal year* beginning July 1, 2012, and ending on June 30, 2013. The income asset valuation used during this fiscal year is from calendar year 2011 and is valued as of December 31, 2011.

The amendments in Section 20-10 and 20-12, requested by the Commissioner of Revenue, will more clearly identify the timeframe for application and clarify that fiscal year, not calendar year, is the timeframe for which the tax exemption is applicable. Commissioner Bradshaw will be in attendance to answer any questions the Board may have.

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Bryan J. Soukup

CONCUR:

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Leo P. Rogers

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, EXEMPTION OF CERTAIN PERSONS FOR REAL ESTATE TAXES, SECTION 20-10, QUALIFICATIONS FOR EXEMPTIONS, AND SECTION 20-12, APPLICATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Section 20-10, Qualifications for exemptions; and Section 20-12, Application.

#### Chapter 20. Taxation

##### Article II. Exemption of Certain Persons for Real Estate Taxes

###### **Sec. 20-10. Qualifications for exemption.**

Such exemption may be granted for any *fiscal* year following the date that the head of the household and/or his or her spouse occupying such dwelling, to include permanently sited mobile or manufactured homes, as defined in section 36-85.3 Code of Virginia, 1950, as amended, and owning title or partial title thereto, becomes permanently and totally disabled or reaches the age of 65 and in addition:

- (a) The total combined income as of December 31 of the immediately preceding calendar year, without regard to whether a tax return is actually filed, from all sources of the owners of the dwelling living therein and of the owners' relatives and non-relatives living in the dwelling except for bona fide tenants or bona fide paid care givers of the owners does not exceed \$45,000.00; and
- (b) The net combined financial worth, including equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner,

excluding the value of the dwelling and the land, not exceeding ten acres, upon which it is situated does not exceed \$200,000.00.

**State law reference**-Similar provisions, Code of Va. §58.1-3210 et. seq.

**Sec. 20-12. Application.**

Any person or persons claiming such exemption shall file annually with the commissioner of the revenue of the county, on forms to be supplied by the county, an affidavit setting forth the names of the related persons occupying such real estate; provided, that the total combined net worth, including equitable interests and the combined income from all sources, of the person or persons as specified in section 20-10 does not exceed the limits prescribed in this article.

If such person is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs, or Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled, as defined in section 20-9, and that at least one of the medical doctors has physically examined the applicant.

Such affidavit shall be *annually* filed on or after the first day of January, but not later than the first day of June of ~~each~~ *the fiscal* year *immediately preceding the fiscal year* for which an exemption is sought except that the commissioner of the revenue is authorized to accept affidavits until the last day of June for first-time applicants or in the case of hardships.

The commissioner of the revenue shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to



determine qualifications therefore as specified in this article. In addition, certified tax returns shall be produced by the applicant to establish income or financial worth.

Changes in respect to income, financial worth, ownership of property or other factors occurring during the ~~taxable~~ *fiscal* year for which the ~~affidavit is filed~~ *exemption is sought* and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for ~~the then-current-taxable~~ *that fiscal* year and the ~~taxable~~ *fiscal* year immediately following. A qualified applicant shall not be deemed to have violated any limitation or condition if said applicant sells the property in question for its fair market value, dies during the ~~tax~~ *fiscal* year or is confined to a nursing home or hospital and the property is not used by or leased to others for consideration.

**State law reference**-Similar provisions, Code of Va., §58.1-3213.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

Chp20Tax\_ord

## MEMORANDUM COVER

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

**Action Requested:** Shall the Board approve an ordinance amending Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc. While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law, Generally?

**Summary:** Section 13-7, Adoption of State Law and Section 13-28, Adoption of State Law, Generally incorporate the 2012 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) traffic laws. County Police officers are charging traffic offenders under the County Code which must be readopted each year to reflect the current Virginia Code. A member of the James City County Police Department will be in attendance to answer any questions the Board might have.

Approval of the attached ordinance is recommended.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance

**Agenda Item No.: I-4**

**Date: June 12, 2012**

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Bryan J. Soukup, County Attorney Law Clerk

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

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The attached ordinance incorporates, by reference in the James City County Code (County Code), the 2012 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County police officers are charging traffic offenders under the County Code, which must be updated to reflect the General Assembly's changes that become effective on July 1, 2012. It is necessary that the County Code be amended in order to be in compliance with the changes to State law. A member of the James City County Police Department will be in attendance to answer any questions the Board might have.

Approval of the attached ordinance is recommended.

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Bryan J. Soukup

CONCUR:

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Leo P. Rogers

BJS/gb  
DUI-Amend\_mem

Attachment

ORDINANCE NO.

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

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

Chapter 13. Motor Vehicles and Traffic

Article I. In General

**Sec. 13-7. Adoption of state law.**

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2011~~ 2012, except those provisions and requirements the violation of which constitutes a felony, and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

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

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

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

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

Article 9 (section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2011~~ 2012, are hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section

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

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Mary K. Jones, Chairman  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

DUI-Amend\_ord

## MEMORANDUM COVER

**Subject:** Ordinance to Amend and Reordain Chapter 13. Motor Vehicles and Traffic, Section 13-24, Temporary Removal and Disposition of Vehicles Involved in Accidents

**Action Requested:** Shall the Board adopt the ordinance amending Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-24, Temporary removal and disposition of vehicles involved in accidents?

**Summary:** Section 13-24 authorizes the Police to remove vehicles from the site of a traffic accident to another location within the vicinity of the accident in order to permit the free flow of traffic. The proposed amendment will codify current Police practice, authorized by the Virginia Code, allowing Police to remove vehicles to a separate storage area for safekeeping away from the site of the accident.

Approval of the attached ordinance is recommended.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance

**Agenda Item No.: I-5**

**Date:** June 12, 2012

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Bryan J. Soukup, County Attorney Law Clerk

SUBJECT: Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-24, Temporary Removal and Disposition of Vehicles Involved in Accidents

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The Virginia Code allows local law enforcement authorities two options for removing and disposing of vehicles involved in traffic accidents. Frequently, disabled automobiles that are involved in accidents will remain planted on highways impeding the free flow of traffic.

Currently, County Code Section 13-24 enables Police to remove such vehicles to another location within the vicinity of the accident. The proposed amendments will codify current police practice, already authorized by Virginia Code §46.2-1212, of removing the vehicle to a storage area for safekeeping, at the owner's expense. The towing is performed by companies on a rotating list that meet specific Police Department criteria. Police are required to report the removal of the vehicle to the Virginia Department of Motor Vehicles and to the owner as promptly as possible.

Approval of the attached ordinance is recommended.

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Bryan J. Soukup

CONCUR:

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Leo P. Rogers

BJS/nb  
Chp13MtrVTraf\_mem

Attachment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 13-24, TEMPORARY REMOVAL AND DISPOSITION OF VEHICLES INVOLVED IN ACCIDENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-24, Temporary removal and disposition of vehicles involved in accidents.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

**Sec. 13-24. Temporary removal and disposition of vehicles involved in accidents.**

Whenever a motor vehicle, trailer or semitrailer involved in an accident is found upon a highway in the county and is so located as to impede the orderly flow of traffic, the police may (i) at no cost to the owner or operator remove such motor vehicle, trailer or semitrailer from the highway to some point in the vicinity where such motor vehicle, trailer or semitrailer will not impede the flow of traffic *or (ii) have the vehicle removed to a storage area for safekeeping and shall report the removal to the Virginia Department of Motor Vehicles and to the owner of the vehicle as promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage.*

**State law reference-**Authority of counties to provide by ordinance for the removal and disposition of vehicles involved in accidents, Code of Va., § 46.2-1212.



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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June,  
2012.

Chp13MtrVTraf\_ord

## MEMORANDUM COVER

**Subject:** Courthouse Statue

**Action Requested:** Should the Board of Supervisors authorize the payment of \$12,500 to partially fund a statue at the Courthouse from the Tricentennial Fund?

**Summary:** A resolution to contribute \$12,500 to match a like amount of funding from the City of Williamsburg toward the \$50,000 cost of a statue honoring the contributions of African Americans in the birth of our nation is attached. The statue will complement two others located at the Williamsburg-James City County Courthouse honoring the contributions of the original English settlers and Native Americans.

The attached resolution directs the County Administrator to work with the City to fund the City/County portion of the costs of the statue from other Courthouse funds now currently being managed by the City. These are the Courthouse Maintenance funds derived from fees for Courthouse activities. This account has a current balance of approximately \$230,000 and is the preferred source of funds.

As an alternative and at the discretion of the County Administrator, funding could come, primarily, from an account maintained by the County Treasurer that was established in 1976 to celebrate the country's Bicentennial and named the Tricentennial Fund. That account would close. To supplement those funds, the County Administrator would draw upon the Operating Contingency account balance for approximately \$350.

Finally, at the County Administrator's discretion, he may draw exclusively on the Operating Contingency for the County's share of the contract.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** If a check can be drawn by the City of Williamsburg, the County avoids a donation and any procurement issues relating to the Courthouse statue.

**FMS Approval, if Applicable:** Yes ☒ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.: J-1**

**Date: June 12, 2012**

**MEMORANDUM**

DATE: June 12, 2012

TO: The Board of Supervisors

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

SUBJECT: Courthouse Statue

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At the request of Mr. McGlennon, the attached resolution would authorize the contribution of \$12,500 to match a like amount of funding from the City of Williamsburg toward the \$50,000 cost of a statue honoring the contributions of African Americans in the birth of our nation. The statue will complement two others located at the Williamsburg-James City County Courthouse honoring the contributions of the original English settlers and Native Americans.

The recommended source of funding would be the Courthouse Maintenance Fund managed by the City. That account has a current balance of approximately \$230,000 and would be the source of the City/County contribution of \$25,000.

Another option for funding, at the discretion of the County Administrator, would be from an account maintained by the County Treasurer that was established in 1976 to celebrate the country's Bicentennial and named the Tricentennial Fund. That account currently has approximately \$12,147 as a balance. The attached resolution requests the Treasurer close this account and allows the County Administrator to supplement those funds by drawing on the Operating Contingency account balance to come up with a total of \$12,500. A check in that amount would be forwarded to the City of Williamsburg with the understanding that the amount be matched and used to partially fund the \$50,000 cost of the statue.

Finally, at the discretion of the County Administrator, the County's contribution could be drawn from Operating Contingency, an account with a current balance of approximately \$800,000.

The attached resolution would authorize the expenditure of \$12,500, contingent on a like amount from the City of Williamsburg, and authorizes the Treasurer to close the Tricentennial Fund. It also authorized the County Administrator to seek other funding, in partnership with the City Manager, if such funds are available or from Operating Contingency.

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John E. McDonald

JEM/gb  
CrthoStatue\_mem

Attachment

## **RESOLUTION**

### **COURTHOUSE STATUE**

WHEREAS, the Board of Supervisors of James City County, Virginia, has been requested to partially fund the third of three statues at the Williamsburg-James City County Courthouse ("Courthouse") to honor the contributions of the English settlers, Native Americans, and African Americans for their contributions to the birth of this country; and

WHEREAS, the requested contribution of \$12,500 is 25 percent of the funds needed to complete the statue and would match the contribution of the City of Williamsburg; and

WHEREAS, the preferred funding source is available through the City of Williamsburg with funds dedicated to the Courthouse in the Courthouse Maintenance Fund; and

WHEREAS, as an alternative, a Tricentennial Fund established in 1976 has a current balance of approximately \$12,147 and, with a modest supplement from Operating Contingency, could be used to pay for the County's contribution.

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

1. The Board of Supervisors authorizes the County Administrator to pay \$25,000 as the City/County share to fund the third of three statues at the Courthouse from the Courthouse Maintenance Fund.
2. At the discretion of the County Administrator and as an option, the Board of Supervisors authorizes the Treasurer to close the Tricentennial Fund and deposit all proceeds in the General Fund of the County to offset a substantial portion of the costs of the statue. Any residual would come from Operating Contingency.
3. This resolution shall take effect immediately upon its adoption.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

## MEMORANDUM COVER

**Subject:** Case No. Z-0006-2012. Stonehouse Development Proffer Amendment – Conservation Easement Dedication

**Action Requested:** Shall the Board of Supervisors approve the Stonehouse Development Conservation Easement Proffer Amendment and accept the amended proffers?

**Summary:** Through the process provided for in Virginia Code Section 15.2-2302, Mr. Vernon M. Geddy, III, on behalf of GS Stonehouse Greenland Sub LLC, is seeking the Board of Supervisors approval of an amendment to existing Proffer 10.4 to eliminate the obligation to grant conservation easements to the Williamsburg Land Conservancy (or other land conservation organization), in addition to the County. The applicant proposes to accomplish this by striking Proffer 10.4 in its entirety. All other existing proffers would remain unchanged.

The Planning Commission will consider this item at their June 6, 2012 meeting.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Rezoning Resolution
3. Applicant Request Letter
4. Proffers
5. Williamsburg Land Conservancy Email

**Agenda Item No.: J-2**

**Date: June 12, 2012**

## M E M O R A N D U M

DATE: June 12, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II

SUBJECT: Case No. Z-0006-2012. Stonehouse Development Proffer Amendment – Conservation Easement Dedication

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In 2007, GS Stonehouse Green Land Sub LLC received approval of a master plan and proffer amendment (Case Nos. Z-0004-2007/MP-0004-2007) for the Stonehouse development. The amended proffers include several that relate to environmental protection, including one subsection on conservation easements. Mr. Vernon M. Geddy, III, on behalf of GS Stonehouse Greenland Sub LLC, is seeking approval of an amendment to this proffer to eliminate the obligation to grant conservation easements to the Williamsburg Land Conservancy (WLC) or other land conservation organization, in addition to the County. The existing language is as follows:

Existing Proffer Language

*10.4 Conservation Easements. Owner shall grant a conservation easement to the Williamsburg Land Conservancy or some other County approved land conservation organization over all portions of the Property over which the Owner has granted a natural open space easement to the County for Chesapeake Bay Preservation Ordinance purposes. The terms of the conservation easement shall be consistent with the terms of the County standard natural open space easement required for Chesapeake Bay Preservation Ordinance purposes.*

Instead, the applicant proposes to amend the proffers to strike this subsection altogether. As described in the applicant's letter (Attachment No. 1), the owner is seeking this amendment as the WLC indicated that it does not wish to hold conservation easements over the areas required by the proffer due to time and resource constraints. While not mentioned in the applicant's letter, the applicant has indicated to staff that several other conservation organizations were approached as possible third-party easement grantees, but that these other organizations had similar constraints. The County will still be granted the conservation easements for Chesapeake Bay Preservation Ordinance purposes, but since this will happen as part of a standard practice and procedure during the administrative review process, including this in the proffers would not be necessary.

The applicant's inclusion of WLC (or other third party) in the original proffer language was not at the County's request, and staff has no objection to the proposed proffer amendment since the County's status as easement grantee is preserved. Further, staff is in receipt of an email from the WLC concurring with the proposed amended proffer language.

Recommendation

Staff recommends that the Board of Supervisors confirm that this application meets the provisions of Virginia Code Section 15.2-2302 to waive the public hearing requirement.

Staff recommends approval of this application.

  
Ellen Cook

CONCUR:

\_\_\_\_\_  
Christopher Johnson

EC/nb  
Z-06-12ConEasDed\_mem

Attachments:

1. Application Request Letter dated May 23, 2012
2. Amended Proffer
3. Email from Williamsburg Land Conservancy

## **RESOLUTION**

### **CASE NO. Z-0006-2012. STONEHOUSE DEVELOPMENT PROFFER AMENDMENT –**

#### **CONSERVATION EASEMENT DEDICATION**

WHEREAS, upon finding that the amendment proposed by Case No. Z-0006-2012 Stonehouse Development Proffer Amendment – Conservation Easement Dedication, does not affect use or density, the Board of Supervisors waives any public hearing requirement pursuant to Virginia Code Section 15.2-2302; and

WHEREAS, Case No. Z-0006-2012 proposes to strike Subsection 10.4, Conservation Easements, from the existing proffers and retain all other proffers; and

WHEREAS, the site can be further identified as Parcel Nos. (1-8A) and (1-19) on James City County Real Estate Tax Map No. (13-1); Parcel No. (1-1) on James City County Real Estate Tax Map No. (6-4); Parcel Nos. (1-47) and (1-48) on James City County Real Estate Tax Map No. (12-1); Parcel Nos. (1-12), (4-1C), (1-17), (1-16), (7-1A), (1-2), (1-11), (1-15), and (6-1A) on James City County Real Estate Tax Map No. (5-4); Parcel Nos. (1-22), (1-14), (1-23), (1-21), (1-9), (1-25), (1-20), (1-10), and (1-24) on James City County Real Estate Tax Map No. (5-3); Parcel Nos. (1-25), (1-26), (1-28), and (1-29) on James City County Real Estate Tax Map No. (4-4); Parcel Nos. (1-6), and (1-5) on James City County Real Estate Tax Map No. (6-3); and

WHEREAS, the Planning Commission of James City County, following its consideration on June 6, 2012, recommended \_\_\_\_\_ of Case No. Z-0006-2012, by a vote of \_\_ - \_\_ .

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0006-2012 as described herein and accept the amended proffers.

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Mary K. Jones  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

Z-06-12ConEasDed\_res



**GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.**

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

VERNON M. GEDDY, JR. (1926-2005)

STEPHEN D. HARRIS

SHELDON M. FRANCK

VERNON M. GEDDY, III

SUSANNA B. HICKMAN

RICHARD H. RIZK

ANDREW M. FRANCK

MAILING ADDRESS:

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

[vgeddy@ghflaw.com](mailto:vgeddy@ghflaw.com)

May 23, 2012

Ms. Ellen Cook  
James City County Planning Department  
101-A Mounts Bay Road  
Williamsburg, VA 23185

Re: Stonehouse Proffer Amendment

Dear Ellen:

On behalf of our clients, the GS Stonehouse entities, I am writing to amend the proffer amendment application filed last April by the GS Stonehouse companies and to request that the amendment be placed on the earliest possible agendas for Planning Commission and Board consideration.

As you know, Section 10.4 of the existing Stonehouse proffers requires the owner to grant to the Williamsburg Land Conservancy ("WLC"), or other county approved land conservation organization, a conservation easement over all portions of the property over which the owner has granted the County a natural open space easement, with the conservation easement to be on terms consistent with the standard County natural open space easement.

We have had several discussions about this proffer with WLC. WLC has indicated that it does not wish to hold conservation easements over the areas required by the proffer. Being the easement holder imposes annual inspection requirements and other obligations on WLC that they do not have the time or resources to undertake. The easement areas are often small, isolated parcels and even the larger parcels are not readily accessible. WLC has reviewed the terms of the standard County conservation easement and is satisfied that the land in question will be protected by the conservation easements granted to the County.

Accordingly, we propose to amend the Proffers to eliminate the requirement that a conservation easement be granted to WLC in addition to the County natural open space easement.

Please let me know if you need anything further. Thanks for your help.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vern', with a stylized, cursive flourish.

Vernon M. Geddy, III

VMGIII/rlc

Enclosures

Cc: Mr. Mike Etchemendy (w/enclosure)

Prepared by: Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, Virginia 23185

Return to: James City County Attorney's Office  
101-C Mounts Bay Road  
Williamsburg, Virginia 23185

FIRST AMENDMENT TO  
AMENDED AND RESTATED STONEHOUSE PROFFERS

This First Amendment to Amended and Restated Stonehouse Proffers is made this 31 day of May, 2012 by GS STONEHOUSE GREEN LAND SUB LLC, GS STONEHOUSE GREEN LAND SUB 2 LLC and GS STONEHOUSE GREEN LAND SUB 3 LLC, each being a Delaware limited liability company (together with their respective successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of certain real property in James City County, Virginia within the Stonehouse planned community now zoned PUD-R and PUD-C, and subject to Amended and Restated Stonehouse Proffers dated November 27, 2007, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080007838 (the "Existing Proffers").

B. Owner desires to amend the Existing Proffers as set forth below.

AMENDMENTS TO CONDITIONS

1. Condition 10.4 Natural Open Space Easements of the Existing Proffers is hereby deleted.

2. Except as hereby amended the Existing Proffers remain unchanged and in full force and effect.

Witness the following signatures.

GS STONEHOUSE GREEN LAND SUB LLC

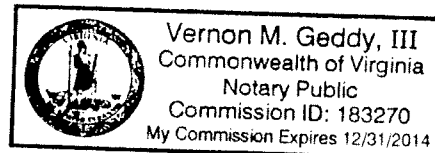
By: [Signature]  
Title: AUTHORIZED REPRESENTATIVE

STATE OF VIRGINIA  
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of May, 2012 by David Bennion, Authorized Representative of GS STONEHOUSE GREEN LAND SUB LLC, a Delaware limited liability company, on behalf of the company.

[Signature]  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_



GS STONEHOUSE GREEN LAND SUB 2 LLC

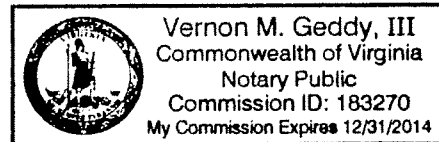
By: [Signature]  
Title: AUTHORIZED REPRESENTATIVE

STATE OF VIRGINIA  
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 31st day of May, 2012 by David Bennion, Authorized Representative of GS STONEHOUSE GREEN LAND SUB 2 LLC, a Delaware limited liability company, on behalf of the company.

[Signature]  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_



GS STONEHOUSE GREEN LAND SUB 3 LLC

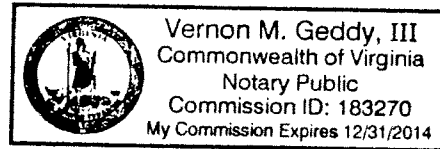
By: *Dub*  
Title: *Authorized Representative*

STATE OF VIRGINIA  
CITY/COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of May, 2012 by David Bennion, Authorized Representative of GS STONEHOUSE GREEN LAND SUB 3LLC, a Delaware limited liability company, on behalf of the company.

*Vern M Geddy III*  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_



**Ellen Cook**

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**From:** Liz Friel [liz@williamsburglandconservancy.org]  
**Sent:** Wednesday, May 23, 2012 11:42 AM  
**To:** Ellen Cook; 'Vernon Geddy'  
**Subject:** Conservancy Executive Committee OKs proffer change  
**Attachments:** Stonehouse Proffers050812.doc

**Approved Motion:**

The Executive Committee of the Williamsburg Land Conservancy supports a revision to the proffers for the overall Stonehouse property with the intent that the Williamsburg Land Conservancy shall not be required to hold, maintain or provide stewardship for natural open space areas within the Stonehouse development.

Let me know if you need anything further.

Elizabeth R. Friel  
Assistant Executive Director  
Williamsburg Land Conservancy  
757.565.0343