

**A G E N D A**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**October 8, 2019**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE**

1. Pledge Leader - Wyatt Sylvester, a 5th grade student at Laurel Lane Elementary and a resident of the Berkeley District

**E. PRESENTATIONS**

1. Neighborhood Speed Awareness Signs - Recognition of Alastair Smith
2. James City County Parks & Recreation State Awards - Virginia Recreation & Park Society
3. VDOT Quarterly Update
4. Colonial Soil & Water Conservation District Report

**F. PUBLIC COMMENT**

**G. CONSENT CALENDAR**

1. Minutes Adoption
2. Grant Award - Kinship Navigator Program - \$67,146
3. Grant Award - Functional Exercise and Education to Thrive Program - \$20,000
4. Authorization to Enter into Memoranda of Understanding with Private Entities for the Provision of Services and Shelter in Times of Emergency
5. Contract Award - Leaf Collection Services - \$210,000
6. Initiation of Review of Zoning Ordinance to include Beekeeping as a Use Permitted in Certain Residential Districts

**H. PUBLIC HEARING(S)**

1. An ordinance to authorize the Williamsburg-James City County public school division to install and operate a video-monitoring system in or on school buses.
2. An ordinance to amend County Code Sec. 9-7 and Sec. 9-8 to require the installation and maintenance of smoke alarms in residential buildings in conformance with Va. Code § 15.2-922.
3. Virginia Department of Transportation Project No. UPC 100920, Croaker Road Widening - Underground Utilities
4. ORD-19-0001. Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions
5. SUP-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage

**I. BOARD CONSIDERATION(S)**

1. Contract Award - Veterans Park Pickleball Court Renovation
2. Z-19-0011. Mason Park Proffer Amendment
3. Initiation of Abandonment of a Portion of Jolly Pond Road
4. Amend Adopted Meeting Calendar to Add Joint CIP Meeting with WJCC Schools and the City of Williamsburg on December 3, 2019 at 9 a.m. at Legacy Hall

**J. BOARD REQUESTS AND DIRECTIVES**

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

**L. CLOSED SESSION**

**M. ADJOURNMENT**

1. Adjourn until 4 p.m. on October 22, 2019 for the Work Session

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Pledge Leader - Wyatt Sylvester, a 5th grade student at Laurel Lane Elementary and a resident of the Berkeley District

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/8/2019 - 9:19 AM

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: John J. McGlennon, Roberts District Supervisor

SUBJECT: Neighborhood Speed Awareness Signs - Recognition of Alastair Smith

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 3:54 PM

**ITEM SUMMARY**

DATE: 9/20/2019

TO: The Board of Supervisors

FROM: John H. Carnifax, Jr., Director of Parks and Recreation

SUBJECT: James City County Parks & Recreation State Awards - Virginia Recreation & Park Society

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**ATTACHMENTS:**

	Description	Type
▣	State Awards-VRPS (Arlana Fauntleroy)	Cover Memo
▣	Presentation	Presentation

**REVIEWERS:**

Department	Reviewer	Action	Date
Parks & Recreation	Carnifax, John	Approved	9/20/2019 - 3:45 PM
Publication Management	Burcham, Nan	Approved	9/20/2019 - 3:46 PM
Legal Review	Kinsman, Adam	Approved	9/20/2019 - 3:53 PM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:08 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:17 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:55 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Arlana Fauntleroy, Recreation Services Administrator

SUBJECT: James City County Parks & Recreation State Awards - Virginia Recreation & Park Society

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James City County Parks & Recreation earned top honors in four award categories bestowed by the Virginia Recreation & Park Society during its annual Conference Awards Ceremony in September 2019. This prestigious state-wide awards program honors individuals, departments, and organizations throughout the Commonwealth of Virginia who have demonstrated excellence during the previous year.

Judged by a select panel and jury of their peers, the Society presented James City County Parks & Recreation with top awards for the population size of 50,000-100,000 in the following categories: Best New Program, Best New Environmental Sustainability, Most Innovative Marketing Piece and Outstanding New Professional.

This presentation will formally recognize the winning initiatives and staff that wholeheartedly serve the residents of James City County and promote Parks & Recreation and the County in excellence and as industry leaders locally and nationally.

AF/nb  
StateAwd-mem



# Parks & Recreation Wins Top Honors

Virginia Recreation & Park Society  
2019 Awards Ceremony

Population Class...50,001-100,000

October 8, 2019

Parks & Recreation

# Best New Program



- ☐ Motivated citizens and visitors to “get out and play” on the longest day of the year!
- ☐ On June 21, the summer solstice, the sun rose at 5:47 a.m. in James City County, marking the official start of summer!
- ☐ 15 Free “drop-in” Activities: for all ages, extending facility and park hours from 5:47 a.m. until sunset.
- ☐ Countless participated in self-directed play all day.
- ☐ Over 268 participated in structured activities: sunrise and sunset paddles, paddleboard, nature, arts and sports programs.
- ☐ 76% participants engaged in a new activity!
- ☐ Creative funding enabled the program to operate a minimal cost.

Parks & Recreation

# Best New Program: Project FiveFortySeven



PROJECT:

*It's the longest day of the year - make time to play!*

## FIVEFORTYSEVEN

PARKS & RECREATION'S LONGEST DAY OF PLAY

### Sunrise Paddle

5:47-7 a.m. • James City County Marina  
Bring a kayak or borrow ours! Ages 12+

### Sunrise Yoga

5:47-7 a.m. • Jamestown Beach Event Park  
Enjoy yoga outdoors at sunrise. All ages

### Bird Walk

6-7 a.m. • Freedom Park  
Take a guided walk with a bird expert! Ages 16+

### Aqua Zumba

7-8 a.m. • James City County Recreation Center (JCCRC)  
Get a great workout in the pool!  
No swim skills needed. Ages 12+

### Pickleball

8-10 a.m. • Veterans Park  
Bring your own equipment or borrow ours!  
No experience required. Ages 14+

### Fit Momma/Stroller Fit

9:30-10:30 a.m. • Veterans Park  
Exercise with your infant or toddler.  
Jogging stroller not required. All ages

### Line Dancing

10 a.m.-noon • JCCRC Gym  
Hone your line dancing skills!  
Ages 55+

SPACE IS LIMITED!  
FIRST COME, FIRST SERVED

\*\*\*\*\*  
**FREE!**

JOIN US  
AND TRY  
SOMETHING  
NEW!  
\*\*\*\*\*

**JUNE 21**  
\*\*\*\*\*

Celebrate the solstice  
with fun, free activities  
from sunrise to sunset!

### Arts Preview

10:30 a.m.-noon • JCCRC Craft Room  
Try your hand at oil painting! Supplies  
provided. Ages 16+

### Geocaching Scavenger Hunt

11 a.m.-sunset • Warhill Sports Complex  
Pick up maps at the trailhead near the  
Wanner Stadium parking lot. All ages

### Pick-up Basketball & 3-Point Competition

noon-1 p.m. • JCCRC Gym  
Show off your dribbling, passing  
and shooting skills! Ages 8+

### Nature Walks

1-2 p.m. • Freedom Park  
Experience the Living Forest Nature  
Trail (behind the playground). All ages

### SilverSneakers BOOM Move It

2-3 p.m. • JCCRC Gym  
Try a low-impact group fitness class! All ages

### Stand-up Paddleboard Yoga

4-5 p.m. • Jamestown Beach Event Park  
All equipment provided, ability to swim  
required. Max. six people. Ages 12+



### Sunset Paddle

8-9 p.m. • James City County Marina  
Bring your own kayak or borrow ours!  
Ages 12+

### Owl Prowl

8-9 p.m. • Freedom Park  
Join us for a guided twilight nature walk. Gather at the  
Freedom Park Interpretive Center. Families/adults



**Jamestown Jams featuring "The Originals"**

5:30 - 8:30 p.m. • Jamestown Beach Event Park  
Live music, food trucks, inflatables & combat archery arena!

All programs listed above are FREE with no registration required - simply sign in when you arrive. For more information, call 757-259-5355. Outdoor activities are weather permitting; call the weather hotline at 757-259-3232 for updates. Program sites: Freedom Park, 5537 Centerville Road; James City County Marina, 2054 Jamestown Road; James City County Recreation Center (JCCRC), 5301 Longhill Road; Jamestown Beach Event Park, 2205 Jamestown Road; Veterans Park (formerly Mid County Park), 3793 Ironbound Road; and Warhill Sports Complex, 4900 Stadium Road.

Parks & Recreation

# Best New Program: Project FiveFortySeven



Parks & Recreation

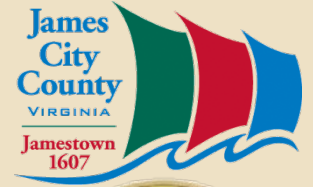
# Best New Environmental Sustainability Wildflower Pilot Project



- ❑ Collaboration: Parks & Recreation, General Services departments, Keep James City County Beautiful & the Historic Rivers Chapter of Virginia Master Naturalists.
- ❑ Common purpose: to replace mowed grass areas in the County with wildflowers.
- ❑ Pilot planting: the entrance to Freedom Park.
- ❑ Results: reduced mowing by staff, an increase in habitat for pollinators, & the beautification of a busy traffic corridor in James City County.

Parks & Recreation

# Best New Environmental Sustainability Wildflower Pilot Project



Parks & Recreation

# Most Innovative Marketing Piece

## Boo Bash at the Beach Floor Decals



- ❑ Creative Marketing Space: the FLOOR.
- ❑ James City County Recreation Center: over 1,000 visitors daily.
- ❑ Inexpensive advertising solution: removable vinyl floor decals- additional marketing tool to capture the interest of patrons.
- ❑ For less than \$85, the floor decals attracted the attention of an estimated 13,200 people during each two week promotional cycle.

Parks & Recreation

# Outstanding New Professional Joy Johnson



- ❑ 2017 JCC Parks & Recreation Employee of the Year...
- ❑ Recognized as the Parks & Recreation Outstanding professional for the state of Virginia.
- ❑ Displays the utmost creativity, enthusiasm and professionalism.
- ❑ Effortlessly manages over 17 special events and 50 diverse special interest classes, camps & programs.
- ❑ Proven leader: highly regarded among peers & partners & routinely commended for her excellent work, organizational skills & responsiveness.

Parks & Recreation



# THANK YOU!



Presented by: Arlana Fauntleroy, Recreation Services Administrator

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Rossie Carroll, Williamsburg Residency Administrator, VDOT

SUBJECT: VDOT Quarterly

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 2:08 PM

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Robert Lund, Jr., Director, Colonial Soil & Water Conservation District

SUBJECT: Colonial Soil & Water Conservation District Report

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 2:12 PM

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Minutes Adoption

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**ATTACHMENTS:**

	Description	Type
	091019 BOS Meeting	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 3:55 PM

**MINUTES**  
**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**September 10, 2019**  
**5:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

Michael J. Hipple, Vice Chairman, Powhatan District  
Ruth M. Larson, Berkeley District  
P. Sue Sadler, Stonehouse District  
John J. McGlennon, Roberts District  
James O. Icenhour, Jr., Chairman, Jamestown District

Scott A. Stevens, County Administrator  
Adam R. Kinsman, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE**

1. Boy Scouts of America Troop 414, accompanied by former Planning Commission member Mr. Heath Richardson, led the Board and citizens in the Pledge of Allegiance

**E. PRESENTATIONS**

1. 2019 Virginia Association of Counties Achievement Award - Keep James City County Beautiful - Wildflower Beautification Project

Ms. Dawn Oleksy, Environmental Coordinator, introduced Ms. Angela Inglett, Director of Program Development with the Virginia Association of Counties (VACo).

Ms. Inglett gave a brief history of VACo and stated in 2003 VACo established an achievement program which recognized innovative approaches by counties to public services. She further stated James City County, as well as 25 other counties, were chosen to receive this award out of a total of 96 entries. She presented an Achievement Award to the County in recognition of its "Keep James City County Beautiful - Wildflower Beautification Project."

The Board members gathered for a photo and extended their appreciation for the award.

Ms. Oleksy stated this was a collaborative effort and gave a brief synopsis of the project.

Mr. Icenhour stated this was an award for the community and citizens as well as staff, and expressed his appreciation for everyone's efforts in making this project successful.

2. Home Repair Blitz

Ms. Janet Green, Chief Executive Officer, Habitat for Humanity Peninsula and Greater

Williamsburg, stated September 7, 2019, was the first large-scale home repair blitz done in partnership with Housing Partnerships, United Way, and the County. She further stated there were 17 team leaders and approximately 160 volunteers who worked on 17 different homes. She noted each home received approximately 10-15 various projects. She referenced a particular house which needed repairs and briefly shared its history as well as that of the homeowner. She expressed her appreciation to Mr. Craig Meadows and Ms. Roberta Sulouff for their contributions toward the success of the program.

The Board and audience applauded.

Mr. Hipple expressed his gratitude to Ms. Green and Habitat for Humanity Peninsula and Greater Williamsburg for everything they do for the community. He stated it was a day of neighbors helping each other and commented he looked forward to the next event. He expressed his thanks to fellow Board members for their participation with this project.

Mr. McGlennon expressed his gratitude to Mr. Hipple for organizing the event.

Mr. Icenhour expressed his kudos for a job well done.

Mr. McGlennon referenced a home that had been a past Habitat for Humanity project and noted the long-lasting impact it had on the community.

Mr. Hipple stated Mr. Paul Holt, Director of Community Development and Planning, and Mr. Stevens were present at the event and expressed his kudos to everyone who participated.

### 3. Clean County Commission Annual Report

Ms. Peg Boarman, Clean County Commission Chair, addressed the Board and gave a summary of a PowerPoint slideshow. She noted that other Clean County Commission members were not present; however, she recognized her fellow constituents: Ms. Emma Zahren-Newman, Commission Co-Chair; Mr. Charles Loundermon, Berkley District; Mr. Marc Meiring, Berkley District; Mr. Kevin Radcliff, Roberts District; Ms. Alexa Provost, Jamestown District; and Mr. Tim Winstanley, Roberts District. She stated the Commission had a busy and productive year. She remarked that in fall 2018, the Good Neighbor Environmental Grant projects included: "Neighborhood Litter and Debris Cleanups," "Walking Trail Improvements," "Entry Way Landscaping," and "General Beautification of Common Areas Using Sustainable Plants and Erosion Control Measures." She noted the group included Berkeley's Green, Greensprings West, Jamestown 1607, Kingspoint, Liberty Crossing, Season's Trace, and Stonehouse. She stated the 5th Annual Litter and Recycling Expo at Jolly Pond Convenience Center held in November 2018 was the most successful event. She recognized various recycling opportunities and briefly discussed community education and outreach events. She spoke of the Quarterly Clean Business Award slide and noted the business winner for each quarter. She referenced the Virginia Peninsula Clean Business Forum "James City County's Zero Tolerance for Litter Policy," and expressed her thanks to Police Chief Brad Rinehimer for his presentation. She mentioned the "Adopt-A-Spot" program slide and listed the eight currently active groups. She acknowledged the "County-Wide Spring Cleanup" slide and stated this event had occurred for the past 41 years. She further acknowledged this year's event had 31 participating groups, with 331 volunteers who collected 18 tons of debris as well as 88 tires. She commented "the Keep James City County Beautiful program is the true volunteer arm of our group." She noted there was an ongoing volunteer recruitment campaign that aligned with the County's Strategic Plan and was trying to increase more public participation. She discussed the yearly "Litter Index" slide which included three campaigns; "Recycling Education," "ZERO Tolerance for Litter," and "Community Beautification" as well as the "Results of Our Labors" information. She concluded the

presentation by briefly summarizing the “Results of Our Labors” slide and stated it depicted the “Litter Cleanups” summary: 90 litter cleanups; 794 volunteers; 3,913 volunteer hours valued at \$95,829; 1,929 cubic yards of litter collected; as well as 88 tires. The slide also depicted the “Community Outreach and Education” summary: 56 group presentations and displays; and 5,446 citizens in attendance.

The Board and audience applauded the efforts of the Clean County Commission.

Ms. Boarman invited the Board and public to attend the Litter Expo on November 9, 2019, at 11 a.m., to be held at the Jolly Pond Convenience Center.

#### 4. Fall Prevention Awareness Week 2019 Designation

Ms. Rebecca Vinroot, Social Services Director and Fire Chief Ryan Ashe addressed the Board and gave a brief summary of the memorandum and resolution included in the Agenda Packet. She stated that in 2018, James City County designated the third week of September as Fall Prevention Awareness Week, after the passage of Senate Joint Resolution No. 47 and House Joint Resolution No. 81 by the Virginia General Assembly. She noted she and Chief Ashe were before the Board to request the third week of September as Fall Prevention Awareness Week for James City County.

Chief Ashe stated currently in James City County the population of residents aged 65 and older was approximately 25% of the population. He further stated that in 2018-2019 the James City County Fire Department responded to approximately 15% mobility-related emergencies. He referenced and briefly explained the CONECT (Community Outreach Network Educate Care Thrive) Program. He explained that the departments of Social Services, Fire, and Police work jointly to meet the needs of senior residents in order to reduce the risk of injury due to falls. He noted that since the program began in March 2018, there had been over 300 referrals, with 71% of the referrals being new to Social Services.

Ms. Vinroot stated “going along with that, we want to make sure we are reaching everyone and will be opening up this program to community referrals. As part of the information sharing of our program, we partnered with the County video team to have a video to show the Board that will be released to the public to make them aware of the program.” She further stated the program was submitted to the Virginia Municipal League Innovation Award and won in the Public Safety category.

The Board and audience viewed the video and applauded.

Ms. Vinroot introduced staff who participated in the video: Ms. Ellie Rest, Family Services Specialist II; Fire Rescue Battalion Chief Jason Sweet; and Police Sergeant John LeClair.

Mr. McGlennon stated the video was a great way to connect with residents in the community and was proud of the innovation shown as well as the integration of services across the departments. He commented he continued to be impressed by the County video team and its ability to communicate so effectively.

Mr. Hipple stated he may want to “take this on the road to the Planning District Commission and the Transportation Planning and Organization in order to let the other 17 jurisdictions we are connected with, know what we are doing in James City County.”

Mr. McGlennon inquired about recognition in Roanoke, Virginia, at the Virginia Municipal League annual meeting.

Mr. Icenhour expressed his congratulations.

The Board and audience applauded.

## **F. PUBLIC COMMENT**

1. Ms. Merilee Fox, 5020 River Drive, addressed the Board in regard to increased water traffic at Diascund Creek. She referenced an accident in the creek that occurred a few weeks prior and read from a report from the Virginia Department of Game and Inland Fisheries regarding the accident. She expressed her concerns regarding safety challenges in the creek.

2. Mr. James Miller, 5024 River Road, addressed the Board in regard to Diascund Creek safety concerns. Mr. Miller passed out photos to the Board members and discussed the accident Ms. Fox previously mentioned. He proposed the County establish a No Wake Zone be implemented to the creek area marked on his handout. He asked for direction in solving this problem area and referred to it as “an accident waiting to happen.” Mr. Icenhour replied that after the Board meeting, Mr. Stevens would provide information on the next steps that could be taken. Mr. Miller stated this area of discussion encompassed 10 lots and over the last 10 years there had been six bulk head failures, with three currently in a state of repair.

3. Mr. Jay Everson, 103 Branscome Boulevard, addressed the Board in regard to a School Board liaison meeting to be held on September 12, 2019, which Mr. Icenhour and Ms. Larson would be attending. He handed out literature to the Board members and briefly discussed current and future projections of the amount of school-age children residing in the County, as well as schools and redistricting-capacity issues.

4. Mr. Ron Feigenbaum, 3500 Hunters Ridge, addressed the Board in regard to restrictive parking for the Powhatan Crossing Homeowners Association (HOA). He handed out photos to the Board members and referenced an Ordinance regulation that allowed HOAs to restrict parking within an HOA. He noted he was only referring to restrictive parking within Powhatan Crossing HOA and discussed the HOA being given the opportunity to regulate its own parking. He stated he would like the Board to act on, approve, and implement Powhatan Crossing’s application for restrictive parking.

## **G. CONSENT CALENDAR**

### **1. Minutes Adoption - August 13, 2019 Regular Meeting**

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

### **2. Fall Prevention Awareness Week 2019 Designation - Resolution Adoption**

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

### **3. Award of Security Contract to Top Guard Security - \$44,939**

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

4. Grant Award - Department of Motor Vehicles - Alcohol Enforcement - \$20,000

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

5. Grant Award - Department of Motor Vehicles - Occupant Protection - \$5,840

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

6. Grant Award - Department of Motor Vehicles - Speed Enforcement - \$20,000

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

7. Appropriation of \$15,693 - Comprehensive Community Corrections Act Grant, Department of Criminal Justice Services

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

8. Budget Appropriation that will Allow James City County to Participate in the Virginia Department of Housing and Community Development's Acquire, Renovate, and Sell Program

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

9. Budget Appropriation that will Allow James City County to Participate in the Virginia Department of Health's Virginia Environmental Endowment Septic System Repair Cost Share Program

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

10. Contract Award - James City County Library Children's Area Renovations Project - \$310,000 and Additional Appropriation - \$97,000

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

11. Clarification of Resolution to Amend Easement on 2511 and 2611 Forge Road

A motion to Approve was made by Michael Hipple, the motion result was Passed.  
AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0  
Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

#### **H. PUBLIC HEARING(S)**

1. Case No. SUP-19-0015. 4440 Ironbound Road Tourist Home

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Icenhour noted the Planning Commission representative present was Mr. Rich Krapf.

Ms. Tori Hayes, Planner, gave an overview of a staff report and resolution included in the Agenda Packet. She stated staff found the proposal to be compatible with surrounding development and consistent with the recommendations of the adopted Comprehensive Plan. She further stated staff recommended approval of this application, subject to conditions.

Mr. Icenhour asked his fellow Board members if there were any questions.

Mr. Krapf stated the Planning Commission recommended approval of this Special Use Permit (SUP) by a vote of 6-0 at its August 2019 meeting. He further stated the main factors the Commission considered as favorable: one being the property had been used as a rental property for the College of William & Mary students to reside in and would continue to be used as a student rental during the academic year. The other favorable factor was the house faced Ironbound Road and directly across the street was the Virginia Department of Transportation offices, which minimized any impact on residential properties. He noted there was no other discussion and the only speaker was the applicant.

Mr. Icenhour opened the Public Hearing.

As there were no speakers, Mr. Icenhour closed the Public Hearing.

Mr. McGlennon expressed his thanks to the applicant for putting together a clear and detailed set of information for the Board. He expressed kudos to staff for the updated packets regarding these types of cases.

2. Case No. SUP-19-0014. 6096 Centerville Road Tourist Home

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Jose Ribeiro, Senior Planner II, gave an overview of the staff report and resolution included in the Agenda Packet. He stated staff found the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. He further stated staff recommended approval of this application subject to the SUP conditions.

Mr. Krapf stated the Planning Commission recommended approval of this SUP by a vote of 6-0 at its August 2019 meeting. He further stated one of the determining factors was that there was an existing SUP for an accessory apartment. He mentioned that during the Planning Commission discussion phase they did speak of the increasing number of SUP applications for tourist homes in residential neighborhoods. He noted concerns voiced by Planning Commissioners was the fact that since an SUP lays in perpetuity with the property, regardless of who it could be sold to, subsequent owners might not maintain the property or allow activities and behaviors on the part of the tenants that would be disruptive to the other neighbors in that residential community and potentially impact property values or quality of life. He further noted the Commission broached the idea of looking at sunset clauses or some sort of a two- or three-year review process that would allow an application to be reviewed to see if there were any neighborhood impacts. He remarked Mr. Kinsman was very helpful with his

comments at the meeting and followed up afterward. He further remarked the Commission was hopeful this point would be discussed during the Comprehensive Plan review.

Mr. Icenhour opened the Public Hearing.

As there were no speakers, Mr. Icenhour closed the Public Hearing.

## **I. BOARD CONSIDERATION(S)**

### **1. Case No. Z-19-0007/MP-18-0004 Forest Heights Proffer and Master Plan Amendments**

A motion to Defer was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Holt gave an overview of the staff report included in the Agenda Packet. He stated the applicant had requested this proposal be deferred for four months while the opinion of an R-3 District was pursued and further investigated. He further stated staff concurred with the request and recommended the Board of Supervisors postpone consideration of this application to its January 2020 meeting.

Mr. Icenhour inquired if the initiation of the R-3 process should be complete by December 2019.

Mr. Holt replied yes.

### **2. Residential Impacts**

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Paul Holt, Director of Community Development and Planning, gave an overview of the memorandum and resolution included in the Agenda Packet.

Mr. McGlennon stated “this was a good opportunity for us to make the Comprehensive Plan even more useful as a tool for the Board and the community to understand more fully what the implications are of the decisions we might make, but more importantly, to get a sense of the whole picture of development in the County.”

## **J. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour stated there was a motion to Amend the Adopted Calendar to have the work session on September 24 to begin at 3:30 p.m. for the purpose of a closed session for the discussion of plans related to the security of any governmental facility, building, or structure, or the safety of persons using such facility, building, or structure pursuant to Section 2.2-3711(A) (19) of the Code of Virginia.

A motion to Amend the Calendar was made by Sue Sadler, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

Mr. Hipple stated he had nothing to add to the Board Requests and Directives.

Ms. Larson stated she and Mr. Stevens had been speaking regarding the Powhatan Crossing situation and hoped to get a resolution sooner rather than later, as it was a very frustrating situation. She referenced a photo handed out earlier during the Public Comment and noted the trailer in the picture did not have a current inspection sticker. She referenced the public comment section of the meeting and expressed her appreciation to everyone for their attendance as well as the information regarding the situation at Diascund Creek. She further stated she recently attended the Butterfly Festival held at Freedom Park and expressed her kudos that it was an incredible event. She noted an event at Freedom Park she attended which honored the Jamestown High School Envirothon Team. She expressed her gratitude to Habitat for Humanity and all the volunteers as well as commented a small gesture can help someone. She offered her congratulations to the CONECT program noting it played an important role in the community and was not income related.

Ms. Sadler expressed her appreciation to the Boy Scouts of America Troup 414 for its participation in the Pledge of Allegiance and noted the Troop was working on its Citizenship Community Merit Badge. She invited everyone to Fire Station 1 located on Forge Road, on September 11 at 7 p.m., for the annual 9/11 ceremony in remembrance of the September 11, 2001, terrorist attacks against the United States. She remarked recently she attended a few open houses and orientations held at local elementary and middle schools and expressed kudos to teachers and staff. She further remarked she attended an event held by Williamsburg Realty which celebrated five years as a successful business in the area.

Mr. McGlennon had nothing further to add.

Mr. Icenhour stated he and Mr. Stevens attended meetings held with local legislatures regarding issues at Jolly Pond Road. He further stated they had an opportunity to meet with the Honorable U.S. Congresswoman Elaine Luria and previously met with the Honorable U.S. Congressman Rob Wittman. He remarked he would be attending a ceremony with firefighters on September 11 at 7 a.m., as well as attend an 8 a.m. school liaison meeting. He stated "it is always humbling when you are around our first responders and think about what those people do for us and what they did for us on that day many years ago."

#### **K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Stevens stated Social Services was offering a Foster/Adoptive Parent Orientation and Training September 26 from 6-7:30 p.m., at the James City County Human Services Center, located at 5249 Olde Towne Road. He further stated the need in the community was real and remarked anyone interested could come out and learn more about what was entailed and required. He noted September was National Preparedness Month and stated each September the County promotes family and community disaster planning. He commented recently an emergency test was conducted which fortunately we, as individuals, did not have to put into practice. He referenced the County Podcast and noted James City County Emergency Management recently discussed National Preparedness Month and what families needed to do in order to be prepared. He encouraged residents to tune in and learn how to be better prepared in terms of disaster and noted the Podcast could be found at <https://jamescitycountyva.gov>.

#### **L. CLOSED SESSION**

A motion to Enter a Closed Session was made by James Icenhour Jr, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

At approximately 6:20 p.m., the Board entered Closed Session.

At approximately 7:27 p.m., the Board re-entered Open Session.

A motion to Certify the Board spoke about those items indicated that it would speak about in Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

1. Discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711(A)(3) of the Code of Virginia
2. Consideration of the appointment and performance of individuals to County Boards and/or Commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, specifically:
3. Social Services Advisory Board Appointment

A motion to Appoint Individuals to Boards and Commissions was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

The Board recommended the appointment of Ms. Heidi Southcombe for a four-year term to expire on September 9, 2023.

4. Stormwater Program Advisory Committee Appointment

A motion to Appoint Individuals to Boards and Commissions was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

The Board recommended the appointment of Mr. Glenn Carter for a four-year term to expire on June 30, 2023.

5. Economic Development Authority Appointment

A motion to Appoint Individuals to Boards and Commissions was made by John McGlennon, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

The Board recommended the appointment of Ms. Lynn Meredith for a four-year term to expire on August 1, 2023.

6. Consideration of a personnel matter, evaluation of the County Administrator, pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia

A motion to give the County Administrator a 3% raise, effective October 1, 2019, was made by Ruth Larson, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

#### **M. ADJOURNMENT**

1. Adjourn until 3:30 p.m., on September 24, 2019, for the Work Session

A motion to Adjourn was made by Michael Hipple, the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Hipple, Icenhour Jr, Larson, McGlennon, Sadler

At approximately 7:28 p.m., Mr. Icenhour adjourned the Board of Supervisors.

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Rebecca Vinroot, Director of Social Services

SUBJECT: Grant Award - Kinship Navigator Program - \$67,146

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Social Services	Vinroot, Rebecca	Approved	9/20/2019 - 4:46 PM
Publication Management	Burcham, Nan	Approved	9/20/2019 - 4:51 PM
Legal Review	Kinsman, Adam	Approved	9/23/2019 - 7:43 AM
Board Secretary	Day, Sharon	Approved	10/1/2019 - 11:10 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:08 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Rebecca Vinroot, Director of Social Services

SUBJECT: Grant Award - Kinship Navigator Program - \$67,146

---

The Virginia Department of Social Services (VDSS) has chosen James City County Department of Social Services (JCC DSS) as an awardee of the Kinship Navigator Grant Program for \$67,146. The federal funding is awarded to VDSS and is passed through to JCC DSS and are 100% reimbursable federal funds.

This funding will go toward continuing to enhance the regional Kinship Navigator program which began in November 2018 as a way to assist kinship caregivers in utilizing services to meet the needs of the children they are raising and to promote effective partnerships among public and private agencies to ensure kinship caregiver families are served. The program serves families in James City County, City of Williamsburg, York County, and Poquoson.

In the first year of the grant, JCC DSS partnered with the Williamsburg Department of Human Services, York-Poquoson Department of Social Services, Williamsburg-James City County (WJCC) Schools, Colonial Behavioral Health, WJCC Community Action Agency, Peninsula Agency on Aging, the 9th District Court Services Unit, and other local faith-based and nonprofit organizations to create the Greater Williamsburg Regional Kinship Council. The Council meets on a regular basis to discuss opportunities for outreach and coordination efforts to ensure that all kinship caregivers have the services and support they need, such as financial benefits, therapeutic services, and training.

These funds are to be used for any activity related enhancing our program, including hiring staff. A part-time, temporary Kinship Navigator was hired in January 2019, in order to provide outreach to the community and establish a more formalized network of support for local kinship caregivers. Due to the continued increased volume in kinship caregivers needing assistance, JCC DSS was awarded additional funding to be able to increase the hours of the navigator. As such, JCC DSS is requesting the creation of a term-limited full-time Kinship Navigator position for Fiscal Year 2020.

Staff respectfully requests that the Board accept the allocation in the amount of \$67,146 and approve the creation of one new limited-term full-time position through September 30, 2020.

RV/nb  
GA-Kinship-mem

Attachment

## RESOLUTION

### GRANT AWARD - KINSHIP NAVIGATOR PROGRAM - \$67,146

WHEREAS, James City County Department of Social Services (JCC DSS) has been chosen as an awardee of the Kinship Navigator Grant Program in the amount of \$67,146 by the Virginia Department of Social Services; and

WHEREAS, these one-time 100% reimbursable funds are being made available to enhance kinship navigator programs to assist kinship caregivers in utilizing services to meet the needs of the children they are raising and to promote effective partnerships among public and private agencies to ensure kinship caregiver families are served; and

WHEREAS, due to the continued increased volume in kinship caregivers needing assistance, JCC DSS is requesting the creation of a term-limited full-time Kinship Navigator position which will be responsible for providing outreach to the community and establishing a more formalized network of support for local kinship caregivers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant award, the creation of one new position, and the following appropriation amendment to the Virginia Public Assistance Fund:

Revenue:

Federal	<u>\$67,146</u>
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Expenditure:

Administration - Staff and Operations	<u>\$67,146</u>
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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

**ITEM SUMMARY**

DATE: 10/8/2019

TO: Board of Supervisors

FROM: Rebecca Vinroot, Director of Social Services

SUBJECT: Grant Award - Functional Exercise and Education to Thrive Program - \$20,000

---

**ATTACHMENTS:**

	Description	Type
▣	Grant Award - Functional Exercise and Education to Thrive Program - \$20,000	Cover Memo
▣	Grant Award - Functional Exercise and Education to Thrive Program - \$20,000	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Social Services	Vinroot, Rebecca	Approved	9/20/2019 - 4:50 PM
Publication Management	Burcham, Nan	Approved	9/20/2019 - 4:51 PM
Legal Review	Kinsman, Adam	Approved	9/23/2019 - 7:43 AM
Board Secretary	Day, Sharon	Approved	9/30/2019 - 4:27 PM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:07 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Rebecca Vinroot, Director of Social Services

SUBJECT: Grant Award - Functional Exercise and Education to Thrive Program - \$20,000

---

Working jointly, the James City County Fire Department and Social Services, along with the Police Department, have engaged in a multidisciplinary strategy, known as the CONECT (Community Outreach Network Educate Care Thrive) Program, to respond to the needs of senior residents in our community who have experienced a mobility emergency or who are in need of assistance beyond the scope of services that the Fire and Police Departments can provide. Since the program was formalized in March 2018, over 300 referrals have been made; 71% of those referred were previously unknown to Social Services. The goal of the CONECT program is for these Departments to work hand-in-hand to meet the needs of senior residents in order to reduce the risk of injury due to falls so residents can maintain safety in their places of residence and enjoy a high quality of life.

Based on research conducted by the World Health Organization, there are four identified categories of fall risk factors in seniors: biological, behavioral, social and economic, and environmental. Through its current activities, the CONECT program is addressing the social/economic factors (by providing case management to connect seniors to necessary resources), as well as the environmental factors (through the Remembering When: A Fire and Fall Prevention Program in which staff conduct home visits to seniors in the community to assess present risks of falls in their home setting).

In order to address the biological and behavioral factors, the CONECT Program is partnering with The Center for Balance and Aging Studies (CBAS), which is housed at the College of William & Mary, to provide a unique opportunity aimed at identifying the biological and behavioral risk factors in community-dwelling residents with previous falls, with the goal of reducing the risk of future falls. Known as the Functional Exercise and Education to Thrive (FEET) program, the goal of the program is to assist participants with improving their physical limitations which could lead to future mobility emergencies, as well as combat isolation and activity avoidance, which can lead to future physical deconditioning and loss of independence.

To support this new program, James City County was awarded a one-time grant of \$20,000 from the Williamsburg Health Foundation. Staff respectfully requests that the Board accept the allocation in the amount of \$20,000.

RV/nb  
GA-FeetProg-mem

Attachment

## RESOLUTION

### GRANT AWARD - FUNCTIONAL EXERCISE AND EDUCATION TO THRIVE

#### PROGRAM - \$20,000

WHEREAS, James City County Department of Social Services (JCC DSS) has been awarded a one-time grant of \$20,000 by the Williamsburg Health Foundation; and

WHEREAS, the CONECT Program is partnering with The Center for Balance and Aging Studies (CBAS), which is housed at the College of William & Mary, to provide a unique opportunity aimed at identifying the biological and behavioral risk factors in community-dwelling residents with previous falls, with the goal of reducing the risk of future falls; and

WHEREAS, the goal of the Functional Exercise and Education to Thrive (FEET) program is to assist participants with improving their physical limitations which could lead to future mobility emergencies, as well as combat isolation and activity avoidance, which can lead to future physical deconditioning and loss of independence.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant award, and the following appropriation amendment to the Virginia Public Assistance Fund:

#### Revenue:

From the Williamsburg Health Foundation	<u>\$20,000</u>
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#### Expenditure:

Functional Exercise and Education to Thrive (FEET) Program	<u>\$20,000</u>
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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Authorization to Enter into Memoranda of Understanding with Private Entities for the Provision of Services and Shelter in Times of Emergency

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	9/24/2019 - 4:25 PM
Publication Management	Burcham, Nan	Approved	9/24/2019 - 4:26 PM
Legal Review	Kinsman, Adam	Approved	9/24/2019 - 4:27 PM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:08 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 12:58 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Authorization to Enter into Memoranda of Understanding with Private Entities for the Provision of Services and Shelter in Times of Emergency

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At the Board's meeting on June 23, 2009, it adopted a resolution authorizing the County Administrator to enter into reciprocal public safety mutual-aid agreements. This authorization was limited to those agreements that did not require an upfront payment of money, that allowed the County to withdraw without penalty, and that were approved by the County Attorney. Subsequent to 2009, there have been a number of changes to the federal emergency management requirements, the most relevant of which includes the need for formal, written agreements between local governments and private entities to share resources and facilities in times of emergency.

Attached is a resolution granting the County Administrator authorization to enter into Memoranda of Understanding ("MOU") with private entities for the purposes of ensuring that the citizens of James City County have adequate and convenient access to services and shelter in times of emergency. Similar to the 2009 resolution, I have included limitations to the grant of authority, including approval by the County Attorney, no upfront financial contribution from the County, ability for the County to withdraw without penalty, and a requirement that the County Administrator determine the MOU to be in the best interest of the County.

I recommend adoption of the attached resolution.

ARK/nb  
MOU-Emergency-mem

Attachment

## RESOLUTION

### AUTHORIZATION TO ENTER INTO MEMORANDA OF UNDERSTANDING

### WITH PRIVATE ENTITIES FOR THE PROVISION OF SERVICES AND

### SHELTER IN TIMES OF EMERGENCY

WHEREAS, cooperation between local governments and private entities will enhance preparedness and assist both in planning for and providing emergency services and shelter in times of emergency; and

WHEREAS, Virginia law authorizes local governments to enter into contracts for goods and services; and

WHEREAS, it is beneficial to James City County to participate in Memoranda of Understanding with private entities to ensure that the citizens of the County have adequate and convenient access to services and shelter in times of emergency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute Memoranda of Understanding and/or agreements with private entities to ensure the provision of safe, adequate, and convenient access to shelter and services in times of emergency, provided that such memoranda and agreements have been approved by the County Attorney; do not require any upfront financial contribution from the County; allow the County to withdraw as a party without penalty; and are deemed by the County Administrator to be in the best interest of James City County.

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

MOU-Emergency-res

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Jim Hill, Solid Waste Superintendent

SUBJECT: Contract Award - Leaf Collection Services - \$210,000

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Cover Memo

**REVIEWERS:**

Department	Reviewer	Action	Date
General Services	Boone, Grace	Approved	9/20/2019 - 5:42 PM
Publication Management	Burcham, Nan	Approved	9/23/2019 - 7:37 AM
Legal Review	Kinsman, Adam	Approved	9/23/2019 - 7:43 AM
Board Secretary	Day, Sharon	Approved	9/30/2019 - 9:01 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:05 PM

## MEMORANDUM

DATE: October 8, 2019  
TO: The Board of Supervisors  
FROM: Jim Hill, Solid Waste Superintendent  
SUBJECT: Contract Award - Leaf Collection Services - \$210,000

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A Request for Proposal was solicited from qualified firms for curbside leaf collection and disposal.

The following qualified firm submitted a bid to be considered for contract award:

<u>Firm</u>	<u>Amount</u>
Stewart, Inc.	\$210,000

Stewart, Inc. has performed satisfactory work for James City County in the past and was determined to be the lowest qualified, responsive, and responsible bidder.

Staff recommends approval of the contract award to Stewart, Inc.

GB/nb  
CA-LeafCollSrv-mem

Attachment

## RESOLUTION

### CONTRACT AWARD - LEAF COLLECTION SERVICES - \$210,000

WHEREAS, a request for Proposals (RFP) for leaf collection services was publicly advertised; and

WHEREAS, one proposal was received, upon evaluating the proposal, staff determined that Stewart, Inc. is fully qualified and submitted a proposal that best suited the County's needs as presented in the RFP, and negotiated an annual price for a one year initial contract of \$42,000 for leaf collection services with the option for four additional one-year renewal periods upon mutual agreement of both parties; and

WHEREAS, funding is available in the current Fiscal Year 2020 budget for this contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the contract award in the amount of \$210,000 to Stewart, Inc., for the leaf collection services.

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

VOTES

AYE      NAY      ABSTAIN

HIPPLE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LARSON

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SADLER

\_\_\_\_\_

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MCGLENNON

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ICENHOUR

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\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

CA-LeafCollSrv-res

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Initiation of Review of Zoning Ordinance to include Beekeeping as a Use Permitted in Certain Residential Districts

---

**ATTACHMENTS:**

	Description	Type
☐	memo	Cover Memo
☐	reso	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	9/17/2019 - 7:44 AM
Publication Management	Burcham, Nan	Approved	9/17/2019 - 7:52 AM
Legal Review	Kinsman, Adam	Approved	9/17/2019 - 10:47 AM
Board Secretary	Fellows, Teresa	Approved	9/17/2019 - 3:13 PM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:08 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Initiation of Amendments to the Zoning Ordinance to Consider the Keeping of Bees in Residential and Agricultural Zoning Districts

---

Pursuant to a recent request by the Board of Supervisors, I have prepared the attached resolution initiating staff review of the Zoning Ordinance to allow beekeeping as a permissible use in certain residential districts.

Staff recommends approval of the attached resolution.

ARK/nb  
Beekeeping-mem

Attachment

## RESOLUTION

### INITIATION OF AMENDMENTS TO THE ZONING ORDINANCE TO CONSIDER

#### THE KEEPING OF BEES IN RESIDENTIAL AND AGRICULTURAL ZONING DISTRICTS

WHEREAS, Virginia Code § 15.2-2286 and County Code § 24-13 permit the Board of Supervisors of James City County, Virginia (the “Board”) to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and

WHEREAS, amendments to the Zoning Ordinance may be prudent to address the keeping of bees in residential and agricultural zoning districts; and

WHEREAS, the Board is of the opinion that the public necessity, convenience, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of Chapter 24, Zoning of the James City County Code in order to consider the keeping of bees in residential and agricultural zoning districts, and directs staff to prepare such amendments for consideration by the Planning Commission and the Board of Supervisors. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

Beekeeping-res

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Elizabeth Parman, Assistant County Attorney

SUBJECT: An ordinance to authorize the Williamsburg-James City County public school division to install and operate a video-monitoring system in or on school buses.

---

**ATTACHMENTS:**

	Description	Type
☐	Memo	Cover Memo
☐	Ordinance	Ordinance
☐	Final Ordinance	Ordinance

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	9/19/2019 - 2:57 PM
Publication Management	Burcham, Nan	Approved	9/19/2019 - 3:08 PM
Legal Review	Kinsman, Adam	Approved	9/19/2019 - 3:08 PM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:08 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:15 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 12:58 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Elizabeth Parman, Assistant County Attorney

SUBJECT: An Ordinance to Authorize the School Division to Install and Operate a Video-monitoring System in or on the School Buses

---

Va. Code § 46.2-844(A) requires drivers to stop for a school bus when the school bus is taking on or discharging children. School bus drivers are reporting increasing incidents of drivers failing to stop for school buses when taking on and discharging children in James City County.

Va. Code § 46.2-844(B) allows James City County to authorize the school division to install and operate a video-monitoring system in or on the school buses for the purpose of recording drivers who fail to stop when the school bus is taking on or discharging children. This section also allows the school division to contract with a private vendor to install and operate such cameras if authorized by James City County.

The school division wishes to explore the possibility of contracting with a private vendor for the installation and operation of a video-monitoring system in or on school buses.

The proposed Ordinance will allow the school division or a private vendor contracting with the school division to install and operate a video-monitoring system in or on school buses to enforce Va. Code § 46.2-844(A) requiring drivers to stop for school buses.

EP/md  
SchlBusvideo-mem

Attachments

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, BY ADDING SECTION 13-28, VIDEO-MONITORING SYSTEMS IN OR ON SCHOOL BUSES.

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 Article I, In General, by adding Section 13-28, Video-monitoring systems in or on school buses.

**Chapter 13. Motor Vehicles and Traffic**

**Article I. In General**

***Sec. 13-28. Video-monitoring systems in or on school buses.***

*a) The Williamsburg-James City County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board or to contract with a private vendor to do so on behalf of the School Board for the purpose of recording violations of Va. Code § 46.2-844(A).*

*b) Any civil penalty levied for a violation of Va. Code § 46.2-844(A) shall be payable to Williamsburg-James City County Public Schools.*

State law reference - Code of Va., § 46.2-844.

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

HIPPLE  
LARSON  
SADLER  
MCGLENNON  
ICENHOUR

VOTES		
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

SchlBusvideo-ord

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, BY ADDING SECTION 13-28, VIDEO-MONITORING SYSTEMS IN OR ON SCHOOL BUSES.

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 Article I, In General, by adding Section 13-28, Video-monitoring systems in or on school buses.

### **Chapter 13. Motor Vehicles and Traffic**

#### **Article I. In General**

##### **Sec. 13-28. Video-monitoring systems in or on school buses.**

- a) The Williamsburg-James City County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board or to contract with a private vendor to do so on behalf of the School Board for the purpose of recording violations of Va. Code § 46.2-844(A).
- b) Any civil penalty levied for a violation of Va. Code § 46.2-844(A) shall be payable to Williamsburg-James City County Public Schools.

State law reference - Code of Va., § 46.2-844.

SchlBusvideo-ord-final

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Elizabeth Parman, Assistant County Attorney

SUBJECT: An ordinance to amend and reordain County Code Chapter 9. Fire Protection and Emergency Services, Sec. 9-7 and Sec. 9-8 to require the installation and maintenance of smoke alarms in residential buildings in conformance with Va. Code § 15.2-922.

---

**ATTACHMENTS:**

	Description	Type
☐	memo	Cover Memo
☐	ordinance (markup)	Ordinance
☐	ordinance (final)	Ordinance

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	9/19/2019 - 3:37 PM
Publication Management	Daniel, Martha	Approved	9/19/2019 - 3:39 PM
Legal Review	Kinsman, Adam	Approved	9/19/2019 - 3:41 PM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:07 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:15 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 12:57 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Elizabeth Parman, Assistant County Attorney

SUBJECT: Ordinance to Amend and Reordain Chapter 9. Fire Protection and Emergency Services, Article II. Smoke Detectors, Sec. 9-7. Definitions and Sec. 9-8. Owner's Responsibilities in Residential Buildings

---

Sections 9-7 and 9-8 of the James City County Code were initially adopted in 1989 to require the installation and maintenance of smoke detectors in residential buildings. Sections 9-7 and 9-8 were last amended in 1996.

Va. Code § 15.2-922 is the current statutory authority for Sections 9-7 and 9-8. Va. Code § 15.2-922 was last amended in 2018 to clarify that smoke alarms shall comply with the Statewide Fire Prevention Code and the Uniform Statewide Building Code and to require that tenants maintain smoke alarms in non-public spaces in accordance with the Virginia Landlord Tenant Act (Va. Code § 55.1-1227). Previously landlords were required to repair defective smoke alarms when notified by tenants. And smoke alarms were previously referred to as smoke detectors.

Therefore County Code Sec. 9-7 and Sec. 9-8 should be updated to align with the newly revised Va. Code § 15.2-922.

EP/md  
Amd9-7-8SmkDet-mem

Attachments

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION AND EMERGENCY SERVICES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SMOKE DETECTORS, SECTION 9-7, DEFINITIONS; AND SECTION 9-8, OWNER'S RESPONSIBILITIES IN RESIDENTIAL BUILDINGS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection and Emergency Services, is hereby amended and reordained by amending Article II, Smoke detectors, Section 9-7, Definitions; and Section 9-8, Owner's responsibilities in residential buildings.

## **Chapter 9. Fire Protection and Emergency Services**

### **Article II. Smoke ~~Detectors~~ Alarms.**

#### **Sec. 9-7. Definitions.**

As used in this article, the following words and terms shall have the meanings respectively ascribed:

Dwelling unit shall mean any single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Owner shall mean the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendor in possession, assignee of rents, receiver, executor, trustee, or other person, firm or corporation in control of a building.

Smoke ~~detectors~~alarms shall mean any mechanical device powered by batteries or alternating current, capable of sensing visible or invisible particles of combustion and capable of sounding an audible alarm.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

#### **Sec. 9-8. Owner's responsibilities in residential buildings.**

(a) ~~The owner shall install~~ Smoke ~~detectors~~alarms shall be installed in the following structures or buildings *if smoke alarms have not been installed in accordance with the Uniform Statewide Building Code (§ 36-97 et seq.):*

- (1) Any building containing one or more dwelling units;
- (2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and
- (3) Rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

Smoke ~~detectors~~alarms installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code. Smoke ~~detectors~~alarms may be either battery-operated

or AC-powered units. *Such installation shall not require new or additional wiring and shall be maintained in accordance with the Statewide Fire Prevention Code and the Uniform Statewide Building Code. Nothing herein shall be construed to require the upgrading of any smoke alarms provided by the building code in effect at the time of the last renovation of such building, for which a building permit was required, or as otherwise provided in the Uniform Statewide Building Code.*

- (b) The owner of any unit which is rented or leased, ~~at the beginning of each tenancy and at least annually thereafter,~~ shall furnish the tenant with a certificate that all required smoke alarms are present, have been inspected *by the owner, his employee, or an independent contractor,* and are in good working order. A copy of ~~all any~~ such certificate shall be available for inspection by the county building inspector, or his duly authorized representative.
- (c) Except for smoke ~~detectors~~alarms located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke ~~detectors~~alarms in rented or leased units shall be the responsibility of the tenant *in accordance with Va. Code § 55.1-1227;* ~~however, the owner shall be obligated to service, repair or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair or replacement.~~
- ~~(d) Any building containing fewer than four dwelling units which was not in compliance with this section on July 1, 1984, shall be exempted from the requirements of this section until such time as that building or any dwelling unit therein is sold or rented to another person.~~

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

State law reference - Smoke alarms in certain buildings, Code of Va., § 15.2-922.

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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa Fellows  
Deputy Clerk to the Board

VOTES	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

Amd9-7-8SmkDet-ord

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION AND EMERGENCY SERVICES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SMOKE DETECTORS, SECTION 9-7, DEFINITIONS; AND SECTION 9-8, OWNER'S RESPONSIBILITIES IN RESIDENTIAL BUILDINGS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection and Emergency Services, is hereby amended and reordained by amending Article II, Smoke detectors, Section 9-7, Definitions; and Section 9-8, Owner's responsibilities in residential buildings.

## **Chapter 9. Fire Protection and Emergency Services**

### **Article II. Smoke Alarms.**

#### **Sec. 9-7. Definitions.**

As used in this article, the following words and terms shall have the meanings respectively ascribed:

Dwelling unit shall mean any single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Owner shall mean the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendor in possession, assignee of rents, receiver, executor, trustee, or other person, firm or corporation in control of a building.

Smoke alarms shall mean any mechanical device powered by batteries or alternating current, capable of sensing visible or invisible particles of combustion and capable of sounding an audible alarm.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

#### **Sec. 9-8. Owner's responsibilities in residential buildings.**

(a) Smoke alarms shall be installed in the following structures or buildings if smoke alarms have not been installed in accordance with the Uniform Statewide Building Code (§ 36-97 et seq.):

- (1) Any building containing one or more dwelling units;
- (2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and
- (3) Rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

Smoke alarms installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code. Smoke alarms may be either battery-operated or AC-powered units. Such installation shall not require new or additional wiring and shall be maintained in accordance with the Statewide Fire Prevention Code and the Uniform Statewide Building Code. Nothing herein shall be construed to require the upgrading of any smoke alarms provided by the building code in effect at the time

of the last renovation of such building, for which a building permit was required, or as otherwise provided in the Uniform Statewide Building Code.

- (b) The owner of any unit which is rented or leased shall furnish the tenant with a certificate that all required smoke alarms are present, have been inspected by the owner, his employee, or an independent contractor, and are in good working order. A copy of any such certificate shall be available for inspection by the county building inspector, or his duly authorized representative.
- (c) Except for smoke alarms located in public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke alarms in rented or leased units shall be the responsibility of the tenant in accordance with Va. Code § 55.1-1227.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

State law reference - Smoke alarms in certain buildings, Code of Va., § 15.2-922.

Amd9-7-8SmkDet-ord-final

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Virginia Department of Transportation Project No. UPC 100920, Croaker Road Widening - Underground Utilities

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Ordinance	Ordinance
☐	Resolution	Resolution
☐	Exhibit showing locations and photos of existing overhead utility infrastructure in the corridor	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Management	Holt, Paul	Approved	9/18/2019 - 2:19 PM
Publication Management	Burcham, Nan	Approved	9/18/2019 - 2:20 PM
Legal Review	Kinsman, Adam	Approved	9/19/2019 - 1:53 PM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:09 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:17 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 2:05 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Virginia Department of Transportation Project No. UPC 100920, Croaker Road Widening - Underground Utilities

---

On Wednesday, September 25, 2019, the Virginia Department of Transportation (VDOT) held a Design Public Hearing at Freedom Park for the above referenced project. VDOT presented the preliminary design to relieve congestion on Croaker Road by widening it from two to four lanes.

The plans are consistent with the adopted Comprehensive Plan which notes:

“The section of Croaker Road extending from Richmond Road to Rose Lane is projected to warrant road widening based on future traffic projections. In order to address this capacity deficiency as well as anticipated traffic from the Mooretown Road extension and Economic Opportunity area, this segment is planned to be widened from two to four lanes with a new two-lane bridge parallel to the existing bridge over the CSX line to accommodate the additional travel lanes. A multipurpose trail to connect residential and commercial areas and the library will be constructed in tandem with the road widening project.”

The roadway design will maintain and/or implement desirable access management strategies and it will improve the Rose Lane/Croaker Road intersection as well.

An additional important aspect of this project is the undergrounding of existing utilities in the corridor.

The policy basis for undergrounding existing utilities has been contained in the Comprehensive Plan since 1997. In the 2015 update to the Comprehensive Plan, and in those prior, a Community Character action item (CC1.5) calls for prioritizing Community Character Corridors (CCC) for the funding of the placement of existing utilities underground.

The 2015 update to the Comprehensive Plan further notes that “placing existing utilities underground can be costly and difficult. Often the most efficient way to accomplish the burial of utility lines is in conjunction with transportation projects where the County does not have to bear all the costs.” Additional Community Character actions reflect this: CC1.3 - “Continue to explore opportunities and cost-sharing arrangements to bury overhead utilities in CCCs and Community Character Areas (CCAs) through transportation initiatives” and CC3.6 - “Require underground utilities in all new developments. Continue to require screening and buffering of existing above-ground utilities and their placement below ground,” with this same language also being found in the Comprehensive Plan’s Residential Development Standards.

One of the most recent examples where existing overhead utility lines are being placed underground is as part of the widening of Longhill Road and along Olde Towne Road as part of the turn lane construction project. The underground utility districts for these projects were authorized and approved by the Board of Supervisors on March 14, 2017. Similar past projects include Jamestown Road, John Tyler Highway, and the Ironbound Road reconstruction project.

This portion of Croaker Road has been identified within the Norge Community Character Area since 1997 and this portion of Richmond Road has been identified as a CCC since 2003.

Undergrounding of utilities is an important aspect of Community Character, but also helps to improve reliability since underground utilities are less susceptible to damage during storm events and vehicle accidents. In the recently adopted Strategic Plan there is also a long-term goal of undergrounding utilities, in general, as an important aspect of Goal No. 4: Protecting Community Character and Enhancing the Built Environment.

While VDOT funding for the road widening would cover relocating existing overhead lines as part of the project, the relocated utilities would remain above ground. Relocation of existing overhead utilities with undergrounding is called a “betterment” and VDOT requires the additional incremental cost be paid for by other funds.

For the Croaker Road widening project, the preliminary estimate to relocate existing overhead electric, telephone, and cable TV lines within the project limits and place them underground is \$1,618,500.

In order for the County to underground utilities as part of this project, VDOT requires the adoption of an Ordinance designating the Croaker Road project limits as an underground utility district and the adoption of a resolution committing to fund the actual cost difference between relocating the utilities overhead versus underground.

In the James City County adopted budget for Fiscal Year 2000 (FY 00), the County began a new initiative to fund relocation of existing overhead utilities to underground along CCCs. Funding for this initiative continued and was included in County adopted budgets from FY 00 through FY 08 (no funds allocated since FY 08).

However, the County does currently have a Capital Improvements Plan (CIP) budget item titled “Transportation Match.” The purpose of the account is to provide a local match/local funding for any needed transportation improvement costs not covered by VDOT. Funding available and programmed in the CIP is expected to be sufficient to cover the expected costs of relocating utilities underground as part of this project.

### **Recommendation**

Consistent with the policy recommendations of the Comprehensive Plan and the similar, previous efforts by the County to relocate existing overhead utilities as part of previous major road widening and improvement projects, staff recommends the Board of Supervisors adopt the attached Ordinance and resolution.

PDH/nb  
CroakerRdWde-mem

### Attachments:

1. Ordinance designating the Croaker Road project limits an Underground Utility District
2. Resolution committing to fund the actual cost difference between relocating utilities overhead versus underground
3. Exhibit showing locations and photos of existing overhead utility infrastructure in the corridor

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

VIRGINIA DEPARTMENT OF TRANSPORTATION PROJECT NO. UPC 100920,

CROAKER ROAD WIDENING - UNDERGROUND UTILITY DISTRICT

WHEREAS, the adopted 2015 Comprehensive Plan *Toward 2035: Leading the Way* for James City County calls for the widening of Croaker Road from Richmond Road to Rose Lane from two to four lanes; and

WHEREAS, based on future traffic projections, the widening is necessary to address expected capacity deficiencies as well as anticipated traffic; and

WHEREAS, an important design component of the project includes the proposed relocation of existing overhead utilities underground as part of the project; and

WHEREAS, undergrounding of utilities is an important aspect of community character and helps to improve utility service reliability; and

WHEREAS, the policy basis for undergrounding existing utilities as part of major roadway projects is contained within the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED that the Board of Supervisors of James City County, Virginia, hereby endorses and approves the proposed Virginia Department of Transportation (VDOT) Project No. UPC 100920, Croaker Road widening, as presented at the Design Public Hearing in concept, and at VDOT's request, hereby establishes an Underground Utility District consistent with the limits of the project scope area (the "Croaker Road Underground Utility District").

BE IT FURTHER ORDAINED that within the Croaker Road Underground Utility District, all new and relocated utility facilities, publicly or privately owned, shall be installed underground.

BE IT FURTHER ORDAINED that within the Croaker Road Underground Utility District, future utility facilities required for any proposed improvement, including street lighting, shall not be permitted to be placed overhead within any section of a street or roadway where utilities were placed underground as part of the Croaker Road widening project (VDOT Project No. UPC 100920).

---

James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of  
October, 2019.

CroakerRdWde-res2

## **RESOLUTION**

### **VIRGINIA DEPARTMENT OF TRANSPORTATION PROJECT NO. UPC 100920,**

#### **CROAKER ROAD WIDENING - UNDERGROUND UTILITIES**

- WHEREAS, the adopted 2015 Comprehensive Plan *Toward 2035: Leading the Way* for James City County calls for the widening of Croaker Road from Richmond Road to Rose Lane from two to four lanes; and
- WHEREAS, based on future traffic projections, the widening is necessary to address expected capacity deficiencies as well as anticipated traffic; and
- WHEREAS, an important design component of the project includes the proposed relocation of existing overhead utilities underground as part of the project; and
- WHEREAS, undergrounding of utilities is an important aspect of community character and helps to improve utility service reliability; and
- WHEREAS, the policy basis for undergrounding existing utilities as part of major roadway projects is contained within the Comprehensive Plan.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses and approves the proposed Virginia Department of Transportation (VDOT) Project No. UPC 100920, Croaker Road widening and improvements, as presented at the Design Public Hearing in concept, and at VDOT's request, requests that VDOT underground all existing overhead utilities within the project scope area that are less than 40KV, and commits to fund the actual cost difference.
- BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into and execute all those documents necessary for the utility relocation and undergrounding.

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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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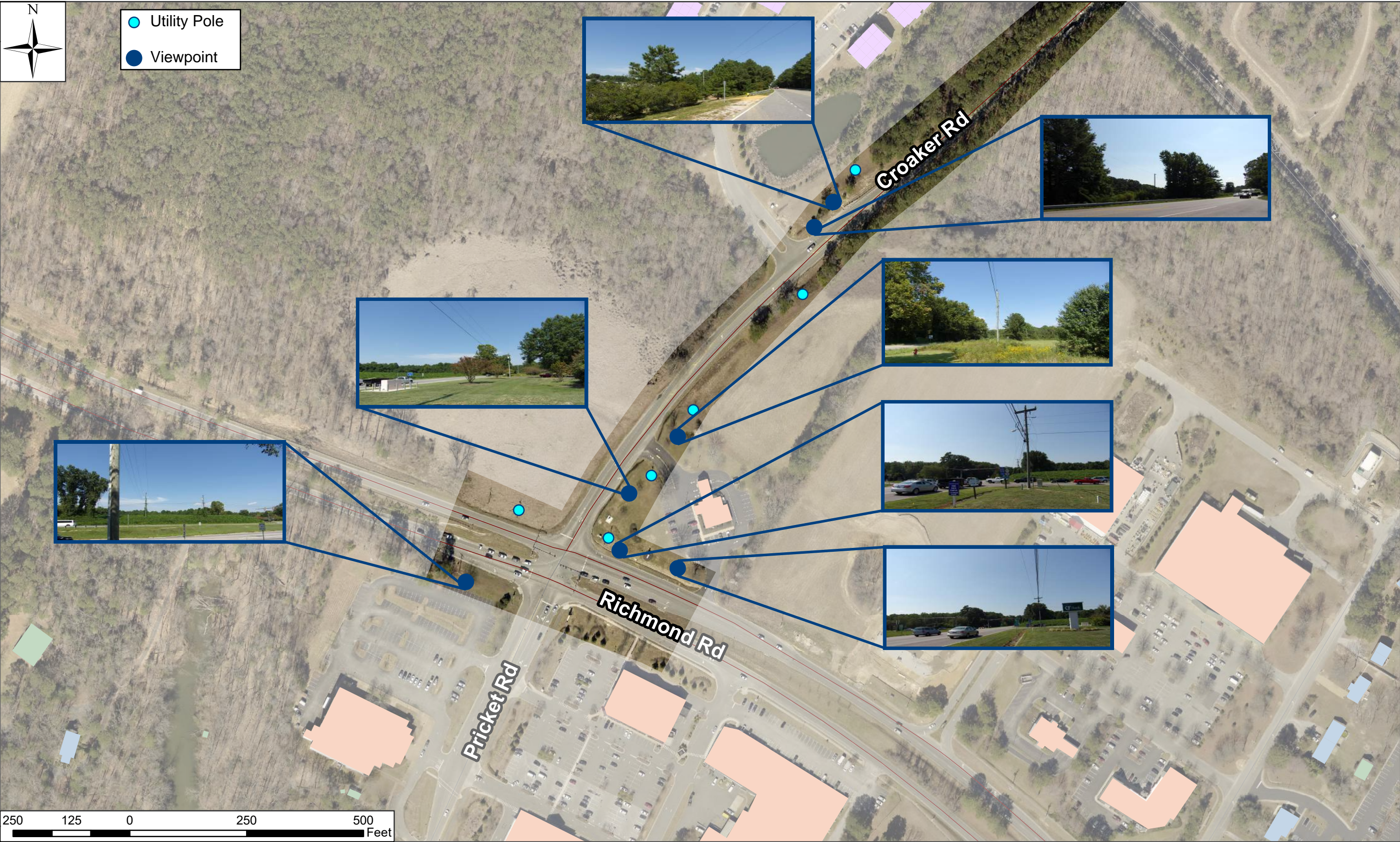
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of  
October, 2019.

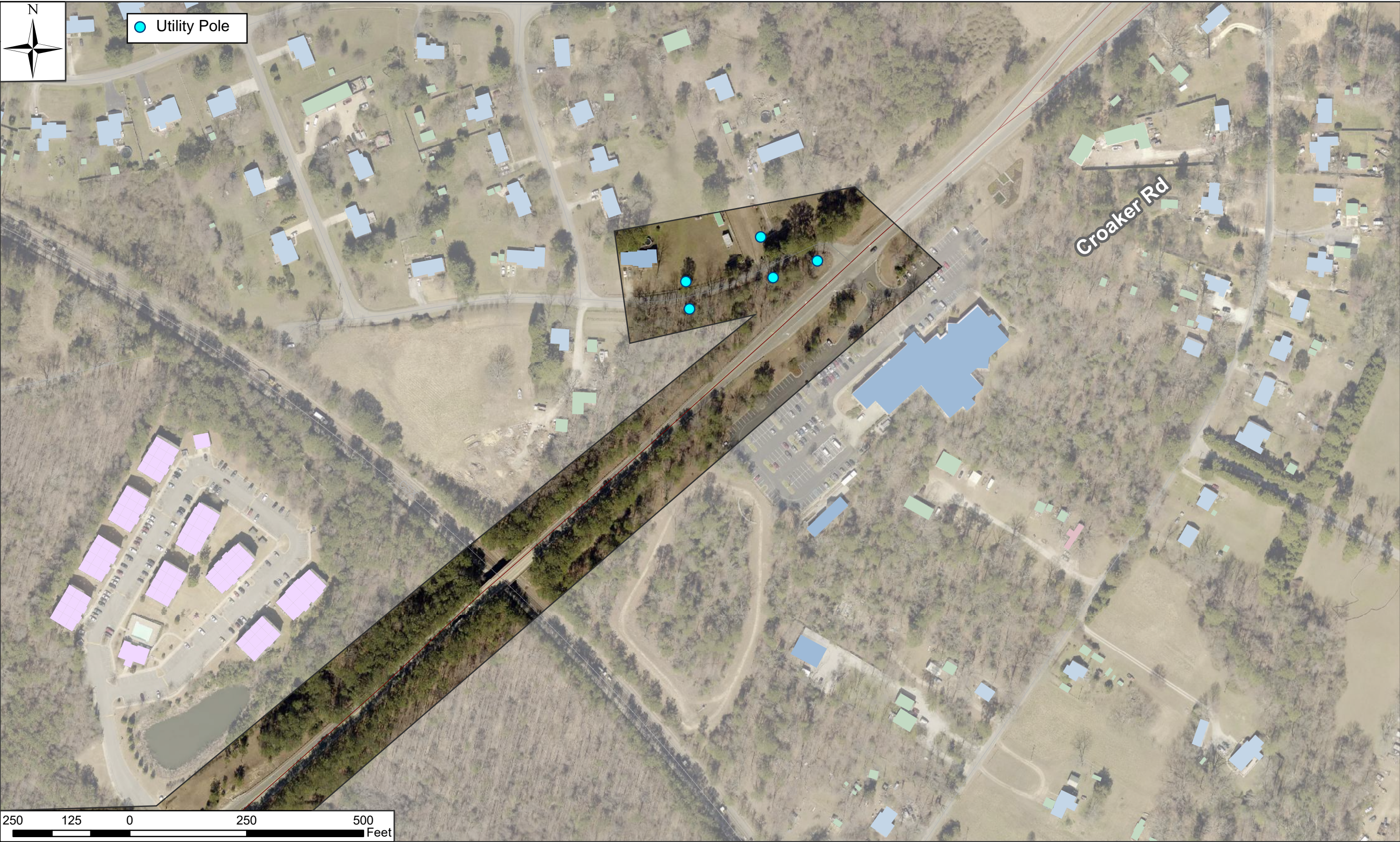
CroakerRdWde-res

# CROAKER ROAD WIDENING



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# CROAKER ROAD WIDENING



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**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: ORD-19-0001. Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions

---

**ATTACHMENTS:**

	Description	Type
☐	Memorandum	Cover Memo
☐	Ordinance	Ordinance
☐	Clean Version of Ordinance	Exhibit
☐	Unapproved minutes of the September 4, 2019 Planning Commission Meeting	Minutes
☐	Adopted legislation from the 2019 Session	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Development Management	Holt, Paul	Approved	9/18/2019 - 4:02 PM
Publication Management	Burcham, Nan	Approved	9/18/2019 - 4:17 PM
Legal Review	Kinsman, Adam	Approved	9/20/2019 - 7:30 AM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:08 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:17 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:43 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney  
Max Hlavin, Deputy County Attorney  
Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Case No. ORD-19-0001. Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions

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On September 13, 2016, the Board of Supervisors (the “Board”) adopted Ordinance No. 31A-304, which amended the Zoning Ordinance to state that the County would no longer accept proffers for applications for any portion of a rezoning application that included a residential component. This was in reaction to Senate Bill 549, enacted as Chapter 322 of the 2016 Acts of Assembly and codified as Section 15.2-2303.4 of the Code of Virginia.

On March 5, 2019, the General Assembly’s changes to Section 15.2-2303.4 of the Code of Virginia were approved by the Governor of Virginia and enacted as Chapter 245 of the 2019 Acts of Assembly (“Chapter 245”). Upon review, Chapter 245 appears to address many of the concerns stated by the Board when it adopted Ordinance No. 31A-304.

Accordingly, on April 9, 2019, the Board of Supervisors adopted an Initiating Resolution directing staff to more thoroughly consider the effects of Chapter 245 and recommend any warranted changes to James City County Code Section 24-16 to accept proffers associated with any new residential rezoning or zoning map amendment, or any new residential component of a multiuse district rezoning or zoning map amendment. (<https://jamescity.novusagenda.com/AgendaPublic/CoverSheet.aspx?ItemID=4535&MeetingID=878>)

Staff recommends approval of the attached Ordinance. On September 4, 2019, the Planning Commission recommended approval of the proposed Ordinance by a vote of 6-1.

ARK/MH/PDH/md  
ZOASect24-16-mem

Attachments:

1. Proposed Ordinance
2. Clean version of the Ordinance
3. Adopted legislation from the 2019 Session
4. Unapproved minutes of the September 4, 2019 Planning Commission meeting



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

AN ORDINANCE TO REAUTHORIZE CONDITIONAL ZONING UNDER SECTION 15.2-2303 OF THE CODE OF VIRGINIA AND TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-16, PROFFER OF CONDITIONS.

WHEREAS, the Code of Virginia, 1950, as amended (the “Virginia Code”) permits localities to authorize conditional zoning within their jurisdictions by adoption of a Zoning Ordinance; and

WHEREAS, by Ordinance No. 31A-230 adopted on October 9, 2007, the Board of Supervisors of the County of James City, Virginia (the “Board”) authorized conditional zoning in the County under the authority granted pursuant to Section 15.2-2303 of the Virginia Code; and

WHEREAS, Section 15.2-2303 of the Virginia Code authorizes the Board to adopt reasonable regulations and provisions for conditional zoning as defined in Section 15.2-2201 of the Virginia Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that the County shall continue to utilize the conditional zoning authority granted pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended.

BE IT FURTHER ORDAINED by the Board of Supervisors of the County of James City, Virginia, that an owner desiring a zoning map amendment may voluntarily submit any proffer that the owner deems reasonable and appropriate, as conclusively evidenced by the signed proffers.

BE IT FURTHER 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, Section 24-16, Proffer of conditions.

**Chapter 24. Zoning**

**Article I. In General**

**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. No proffers shall be submitted or accepted for any new residential rezoning or zoning map amendment, or any new residential component of a multi-use district rezoning or zoning map amendment field after July 1, 2016 *unless such proffers are submitted pursuant to Section 15.2-2303.4(D) of the Code of Virginia, 1950, as amended.*

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

1. This Ordinance shall be effective as to any pending rezoning application in which the applicant elects to proceed hereunder by amendment of that pending application; and
2. An applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date; and
3. Determination of whether a proffer by a rezoning applicant is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Volunteering a proffer condition, including cash contributions, is in no way a requirement to obtaining a positive decision on a rezoning application. The acceptability of a proffer to offset any public impact, by itself, will not result in the approval of a rezoning application; and
4. Failure to submit proffers shall not be a basis for the denial of any rezoning or proffer condition amendment application.

State law reference - Code of Va. §§ 15.2-2303, 15.2-2303.4(D)

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

VOTES  
AYE   NAY  
ABSTAIN

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

Ch24Art1Sec24-16-ord

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

AN ORDINANCE TO REAUTHORIZE CONDITIONAL ZONING UNDER SECTION 15.2-2303 OF THE CODE OF VIRGINIA AND TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-16, PROFFER OF CONDITIONS.

WHEREAS, the Code of Virginia, 1950, as amended (the "Virginia Code") permits localities to authorize conditional zoning within their jurisdictions by adoption of a Zoning Ordinance; and

WHEREAS, by Ordinance No. 31A-230 adopted on October 9, 2007, the Board of Supervisors of the County of James City, Virginia (the "Board") authorized conditional zoning in the County under the authority granted pursuant to Section 15.2-2303 of the Virginia Code; and

WHEREAS, Section 15.2-2303 of the Virginia Code authorizes the Board to adopt reasonable regulations and provisions for conditional zoning as defined in Section 15.2-2201 of the Virginia Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that the County shall continue to utilize the conditional zoning authority granted pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended.

BE IT FURTHER ORDAINED by the Board of Supervisors of the County of James City, Virginia, that an owner desiring a zoning map amendment may voluntarily submit any proffer that the owner deems reasonable and appropriate, as conclusively evidenced by the signed proffers.

BE IT FURTHER 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, Section 24-16, Proffer of conditions.

**Chapter 24. Zoning**

**Article I. In General**

**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. No proffers shall be submitted or accepted for any new residential rezoning or zoning map amendment, or any new residential component of a multi-use district rezoning or zoning map amendment field after July 1, 2016 unless such proffers are submitted pursuant to Section 15.2-2303.4(D) of the Code of Virginia, 1950, as amended.

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

1. This Ordinance shall be effective as to any pending rezoning application in which the applicant elects to proceed hereunder by amendment of that pending application; and

2. An applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date; and
3. Determination of whether a proffer by a rezoning applicant is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Volunteering a proffer condition, including cash contributions, is in no way a requirement to obtaining a positive decision on a rezoning application. The acceptability of a proffer to offset any public impact, by itself, will not result in the approval of a rezoning application; and
4. Failure to submit proffers shall not be a basis for the denial of any rezoning or proffer condition amendment application.

State law reference - Code of Va. §§ 15.2-2303, 15.2-2303.4(D)

ZOASect24-16-ord-final

**Unapproved Minutes of the September 4, 2019  
Planning Commission Regular Meeting**

**Case No. ORD-19-0001. Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions**

Mr. Paul Holt, Director of Community Development and Planning stated that this agenda item should be familiar to the Commission as it was first considered on June 5, 2019. Mr. Holt stated that since that time staff has continued to work with the County Attorney's Office and the Ordinance has been updated to more specifically reference the applicable State Code reference. Mr. Holt stated that since this was considered a significant change, it has been remanded back to the Commission for a reconsideration.

Mr. Polster inquired if this ordinance was specifically related to proffers for school impacts or whether it would also cover archaeology, transportation and so forth.

Mr. Holt stated that the Ordinance Amendment does not address any one impact; it is amending the section of code that will generally allow proffers to be submitted again. Mr. Holt further stated that when staff reaches the point in the analysis of an application, if there are any anticipated impacts, proffers can be submitted to mitigate those impacts. Mr. Holt noted that for those policies that were rescinded by the Board, this change to the Zoning Ordinance does not reinstate them. Mr. Holt further noted that the County cannot have written proffer policies.

Mr. Polster stated that he thought the policies had been incorporated into the Zoning Ordinance to ensure that certain impacts would still be mitigated in the absence of proffers.

Mr. Holt stated that many of the items that were previously addressed through proffers such as archeology, pedestrian accommodations, street trees, etc. have been incorporated in the Zoning Ordinance. Mr. Holt further stated that there are some things, such as off-site improvements, that cannot be addressed in the Zoning Ordinance.

Mr. Polster inquired if affordable housing could be addressed through proffers.

Mr. Holt stated that those items could include affordable housing, off-site transportation improvements, and/or impacts to the James City Service Authority (JCSA) infrastructure.

Mr. Polster stated that he thought the JCSA impacts were already covered under County Code.

Mr. Holt stated that items such as tap fees are covered, but, for example, proffers might be submitted to upgrade an off-site pump station.

Mr. Polster stated that he was trying to understand what would be covered by this Ordinance Amendment, what has already been incorporated in the Zoning Ordinance and what might be left over.

Mr. Haldeman opened the Public Hearing.

As no one wished to speak, Mr. Haldeman closed the Public Hearing.

Mr. Haldeman opened the floor for discussion by the Commission.

Mr. Polster stated that when the Ordinance Amendment was considered previously, he did not support it due to the ambiguous language in terms of what was reasonable and the lack of any definition of what would be considered reasonable. Mr. Polster stated that following clarification from the County Attorney's Office, he is satisfied that there are new procedures that will be put in place that address those concerns. Mr. Polster stated that he would now support the Ordinance Amendment.

Mr. Haldeman stated that he remains convinced that this is not the right time to reinstate the ability to accept proffers. Mr. Haldeman stated that since the June 5 meeting the Commission has seen the results of the Comprehensive Plan Survey. Mr. Polster stated that 93 percent of the respondents believe that there is already enough or too much residential development in the County. Mr. Haldeman further stated that with the number of previously approved home sites, the County's population will soon exceed 100,000. Mr. Haldeman stated that based on the Comprehensive Plan, the Strategic Plan, the Housing Conditions Study, and reports from the Workforce Housing Task Force and the Business climate Task Force all warn that the impact of this type of growth on the economy and the quality of life is dangerous. Mr. Haldeman further stated that the previous proffer policy did not come close to covering the impacts of development. Mr. Haldeman stated that the legal risks have been reduced but not removed. Mr. Haldeman further stated that after considering the previous discussion on the Ordinance Amendment, he believes that easements are equally as enforceable as proffers; however, the subject is almost moot as there has been only one residential rezoning in that time. Mr. Haldeman stated that he would not support the Amendment.

Mr. Krapf stated that he believes that the issue of residential growth and the issue of mitigating the impacts of residential growth are two separate things. Mr. Krapf stated that when the County stopped taking proffers for residential development, applicants found workarounds that were, in his opinion, more cumbersome. Mr. Krapf further stated that he looks at proffers as a manageable and more flexible tool to mitigate impacts from residential developments. Mr. Krapf stated that he would support the Ordinance Amendment.

Mr. Tim O'Connor stated that he may have been the only one who did not agree with not accepting proffers in the first place. Mr. O'Connor stated that he believes proffers are a right of the property owner or applicant to make their application more acceptable. Mr. O'Connor further stated that he views proffers as a way to have a discussion with the development community on how growth can be mitigated appropriately.

Ms. Leverenz stated that as part of the Comprehensive Plan update, work would be done to quantify impacts. Ms. Leverenz stated that she would support the Ordinance Amendment with the understanding that the County will have better tools once there is quantifiable data.

Mr. Krapf made a motion to recommend approval of the Ordinance Amendment.

On a roll call vote the Commission voted to recommend approval of ORD-19-0001. Zoning Ordinance Amendment to Section 24-16, Proffer of Conditions. (6-1)

## 2019 SESSION

### CHAPTER 129

*An Act to amend and reenact § 15.2-2303.4 of the Code of Virginia and to repeal the third enactment of Chapter 322 of the Acts of Assembly of 2016, relating to conditional rezoning proffers.*

[S 1373]

Approved February 21, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2303.4 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no ~~locality~~ *local governing body* shall (i) ~~request or accept~~ *require* any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, ~~(i)~~ as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless ~~it~~:

1. *It addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and* ~~(ii) an offsite proffer shall be deemed unreasonable pursuant to subdivision (i) unless~~

2. *If an offsite proffer, it addresses an impact to an offsite public facility, such that* ~~(a)~~ *(i) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and* ~~(b)~~ *(ii) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. For the purposes of this section, a* ~~A~~ *locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.*

D. *Notwithstanding the provisions of subsection C:*

1. *An applicant or owner may, at the time of filing an application pursuant to this section or during the development review process, submit any onsite or offsite proffer that the owner and applicant deem reasonable and appropriate, as conclusively evidenced by the signed proffers.*

2. *Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any rezoning or proffer condition amendment application.*

E. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a ~~locality~~ *local governing body* in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285, *provided that the applicant objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.*

2. In any action in which a ~~locality~~ *local governing body* has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that ~~it has proven~~ *was suggested, requested, or required in writing by the* ~~locality~~ *local governing body in violation of this section*, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a ~~locality~~ *local governing body* in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer *or to amend the proffer to bring it into compliance with this section*. If the ~~locality~~ *local governing body* fails or refuses to approve the rezoning or proffer condition amendment, *or fails or refuses to amend the proffer to bring it into compliance with this section*, within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the ~~locality~~ *local governing body* from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

~~E-F.~~ The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

~~F-G.~~ This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

*H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require communications between an applicant or owner and the locality. The applicant, owner, and locality may engage in pre-filing and post-filing discussions regarding the potential impacts of a proposed new residential development or new residential use on public facilities as defined in subsection A and on other public facilities of the locality, and potential voluntary onsite or offsite proffers, permitted under subsections C and D, that might address those impacts. Such verbal discussions shall not be used as the basis that an unreasonable proffer or proffer condition amendment was required by the locality. Furthermore, notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require presentation, analysis, or discussion of the potential impacts of new residential development or new residential use on the locality's public facilities.*

2. That the third enactment of Chapter 322 of the Acts of Assembly of 2016 is repealed.

3. That this act shall be effective as to any application for a rezoning filed on or after July 1, 2019, or for a proffer condition amendment amending a rezoning that was filed on or after July 1, 2019, or to any then-pending rezoning application in which the applicant elects to proceed hereunder, by amendment of that pending application.

4. That an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning application filed on or after July 1, 2016, but before July 1, 2019, or proffer condition amendment application amending a rezoning for which the application was filed on or after July 1, 2016, but before July 1, 2019, may continue to proceed under the law as it existed during that period.

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Jose Ribeiro, Senior Planner II

SUBJECT: SUP-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage

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**ATTACHMENTS:**

	Description	Type
▣	Staff Report	Staff Report
▣	Attachment No. 1. Resolution	Resolution
▣	Attachment No.2. Location Map	Backup Material
▣	Attachment No. 3. Master Plan	Backup Material
▣	Attachment No. 4. Pictures of the Instrument Shelter	Backup Material
▣	Attachment No. 5. Applicant Letter	Backup Material
▣	Attachment No. 6 EDA Letter of Support	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	9/20/2019 - 2:12 PM
Development Management	Holt, Paul	Approved	9/20/2019 - 2:12 PM
Publication Management	Burcham, Nan	Approved	9/20/2019 - 2:28 PM
Legal Review	Kinsman, Adam	Approved	9/23/2019 - 7:44 AM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:08 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:17 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 2:04 PM

**SPECIAL USE PERMIT-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage**  
**Staff Report for the October 8, 2019, Board of Supervisors Public Hearing**

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**SUMMARY FACTS**

Applicant: Mr. Joseph Stanko of Diverging Approach, Inc. (DAI)

Land Owner: B & L of North Carolina, LLC

Proposal: A request to allow the processing, assembly and storage of train control system components within a portion of an existing building

Location: 6623 Richmond Road

Tax Map/Parcel No.: 2430100035A

Project Acreage: +/- 11.9 acres

Zoning: B-1, General Business and A-1, General Agricultural

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

Staff Contact: Jose Ribeiro, Senior Planner II

**PUBLIC HEARING DATES**

Planning Commission: October 2, 2019, 6:00 p.m.

Board of Supervisors: October 8, 2019, 5:00 p.m.

**FACTORS FAVORABLE**

1. Staff finds the proposal consistent with the 2015 Comprehensive Plan, *Toward 2035: Leading the Way*.
2. Staff finds the proposal will not negatively impact surrounding development.
3. Impacts: Please see Impact Analysis on Pages 4-5.

**FACTORS UNFAVORABLE**

1. Impacts: Please see Impact Analysis on Pages 4-5.

**SUMMARY STAFF RECOMMENDATION**

Approval, subject to the proposed conditions.

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this case at its October 2, 2019 meeting. The Planning Commission voted 6-0 to approve the application with Mr. Schmidt being absent.

**CHANGES SINCE PLANNING COMMISSION**

None anticipated.

**PROJECT DESCRIPTION**

- This proposal is to allow for the processing, assembly, and storage of light industrial products or components (i.e., train control system) on the rear portion of an existing building located at 6623 Richmond Road. This re-development proposal proposes no new

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

buildings or building expansions, only changes in use in this section of the building.

- DAI currently operates at the Poplar Creek Business Park, but is looking to relocate to 6623 Richmond Road.
- According to information provided by the applicant, DAI is a train signal and communications contractor specialized in state and federally funded projects. DAI does not manufacture any materials, rather, they assemble different components from different sources to produce train signal systems. These components include ground materials (e.g., cable, train control loops, junction boxes), programmed microprocessors and instrument shelters. Ground materials and microprocessors are purchased, stored and shipped to installation contractors at project sites. The instrument shelter (Attachment No. 4) is manufactured off-site and delivered to DAI for final assembly. The finished instrument shelter is then shipped to different clients across the country. Once delivered, the instrument shelter typically sits along the side of the railroad tracks.
- DAI will occupy an area of approximately 35,000 square feet within the existing building (Attachment No. 3). This area is designated as warehousing space per the approved Master Plan for the property. According to information provided by the applicant, the current plan for the assembly/warehouse operation is six employees. Hours of operation are typically from 7:30 a.m. to 4 p.m. All electrical components used as part of the operation use low voltage electricity (nothing higher than a standard residential house outlet at 120 volts). No fluids or hazardous materials are used in the assembly process. Delivery traffic typically consists of a box truck once to twice a week, FedEx daily and a tractor trailer once a month.

## **PLANNING AND ZONING HISTORY**

- The existing building had formerly been used entirely by the Wythe-Will Company which moved its production facilities to Stonehouse Commerce Park in the early 2000s, leaving behind the retail portion at the front of the structure and warehouse at the rear.
- On August 8, 2006, the Board of Supervisors approved an SUP request for the redevelopment of the property. The Special Use Permit (SUP) proposed no additional square footage, only changes in use to the existing structure (i.e., Skateboard Park). Staff notes that all SUP conditions associated with the addition of the Skate Park (Case No. SUP-0020-2006) are outstanding; however, as the Skate Park was never pursued the conditions were never triggered. This proposed use will not trigger those conditions as the impacts associated with this use are different.
- In the years since, the Development Review Committee (DRC) has approved several master plan consistency requests for specific uses within the structure:
  - On February 27, 2008, the DRC recommended approval of switching the location of office and commercial space (for Ameri Clean Cleaners) as consistent with the approved Master Plan.
  - On January 25, 2012, the DRC recommended approval of the placement of a roller-skating rink in an area previously identified for a skate park as consistent with the approved Master Plan. Staff notes that the proposed roller skating rink was never developed.
  - On October 30, 2013, the DRC recommended approval of the placement of Sears Hometown and Outlet Store at a location

**Staff Report for the October 8, 2019, Board of Supervisors Public Hearing**

previously identified on the Master Plan as a roller-skating rink as consistent with the Master Plan. Staff notes the Sears Hometown and Outlet Store is no longer a tenant of the building.

- On October 9, 2018, the Board of Supervisors approved an SUP request to allow an outdoor flea market to operate in the existing front parking lot area of the property.

**SURROUNDING ZONING AND DEVELOPMENT**

- North: Across Richmond Road properties are zoned M-1, Limited Business/Industrial.
- South: Properties are zoned A-1, General Agricultural and MU, Mixed Use.
- West: Properties are zoned A-1, General Agricultural.
- East: Properties are zoned B-1, General Business and MU, Mixed Use.

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

**SPECIAL USE PERMIT-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage****Staff Report for the October 8, 2019, Board of Supervisors Public Hearing**

<b>Impacts/Potentially Unfavorable Conditions</b>	<b>Status</b> <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	<b>Considerations/Proposed Mitigation of Potentially Unfavorable Conditions</b>
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- The proposal is not anticipated to generate traffic exceeding a typical warehouse use.</li><li>- No changes to the right-of-way are proposed.</li><li>- No changes anticipated to Level of Service on Richmond Road.</li><li>- The Virginia Department of Transportation has reviewed this application and suggested that if there is to be a significant increase in traffic, or changes to the right-of-way, the two entrances to the site should be consolidated to better meet spacing standards. However, staff finds that the nature of the proposed warehousing/commercial operation and its limited impacts on the site (i.e., not expanding the existing building footprint and/or additional impervious surfaces, etc.) would not support a recommendation to consolidate the entrances on the site at this time.</li></ul>
<u>Public Transportation: Pedestrian/Bicycle</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- Pedestrian accommodations are currently provided in this location in the form of a sidewalk along the property frontage. The requirement for a bike lane will be addressed as part of the review process of the site plan. Such an improvement is typically not triggered when there are no additions or changes to the footprint of the existing building.</li></ul>
<u>Public Safety</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- Subject property is served by Fire Station 1 on Forge Road.</li><li>- Staff finds that the proposal does not generate impacts that require mitigation to the County's emergency services or facilities.</li></ul>
<u>Public Schools</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- The proposal will not generate school children.</li></ul>
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- The proposal does not generate impacts that require mitigation to the County's parks and recreation services or facilities.</li></ul>
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	<ul style="list-style-type: none"><li>- The proposal does not generate impacts that require mitigation to public libraries or cultural centers.</li></ul>

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**SPECIAL USE PERMIT-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage****Staff Report for the October 8, 2019, Board of Supervisors Public Hearing**

<b>Impacts/Potentially Unfavorable Conditions</b>	<b>Status</b> <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	<b>Considerations/Proposed Mitigation of Potentially Unfavorable Conditions</b>
<u>Groundwater and Drinking Water Resources</u>	<u>No Mitigation Required</u>	- The proposal does not generate impacts that require mitigation to groundwater or drinking water resources.
<u>Watersheds, Streams and Reservoirs</u>	<u>No Mitigation Required</u>	- Watershed: Yarmouth Creek. - No new impervious surface is proposed as part of this SUP request. There are two BMPs on the property (one located northwest of the parking area at the front of the property and the other located in the rear of the existing building) that require further improvement/maintenance. The Stormwater and Resource Protection Division has reviewed this application and has proposed an SUP condition to address this issue (SUP Condition No. 3).
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- The subject property has been previously disturbed and has no known cultural resources on site.
<u>Nearby and Surrounding Properties</u>	<u>No Mitigation Required</u>	- Staff does not anticipate significant noise, odor, lighting, or other similar impacts on nearby properties as the proposed operation will occur entirely indoors. No outdoor storage shall be permitted in the property (SUP Condition No. 2).
<u>Community Character</u>	<u>No Mitigation Required</u>	- Richmond Road is designated by the Comprehensive Plan as a Community Character Corridor. The proposed operation will be located at the rear of the building with limited visual impacts to the right-of-way. A previous SUP request for an outdoor flea market located at the front parking area of the property has addressed landscaping along the frontage of the property.

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**SPECIAL USE PERMIT-19-0018. 6623 Richmond Road - Train Control System Assembly and Storage**  
**Staff Report for the October 8, 2019, Board of Supervisors Public Hearing**

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**COMPREHENSIVE PLAN**

This property is designated Mixed Use; Lightfoot Area on the 2035 Comprehensive Plan. Principal suggested uses are moderate density housing, commercial development, and office development. This description further states that “commercial uses should not develop in a strip commercial fashion and should emphasize shared access and parking as well as consistent treatment for landscaping and architecture. Measures to mitigate traffic congestion will be critical to maintaining the economic vitality of the area and to maintain and acceptable degree of mobility.” From a use stand point, the current proposed use is considered light industrial, which is not a principal suggested use. However, the existing building continues to contain commercial uses, and the proposed use will include office elements as part of the light industrial use. Given this mix for the structure overall, and the fact that the proposed use has impacts that are similar or less than many retail and commercial uses, staff finds the use generally consistent.

With regards to the other items in the Comprehensive Plan description staff notes that the proposed use will generate a limited amount of daily vehicular trips. Also, the proposal will use existing parking spaces in the rear of the building. With the proposed conditions, staff finds the impacts of the proposal will be mitigated and, therefore, consistent with the Comprehensive Plan.

**STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application subject to the attached SUP conditions.

JR/nb  
SUP19-18-6623RchmdRd

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Pictures of the instrument shelter
5. Applicant Letter
6. Economic Development Authority (EDA) Letter of Support.

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

## **RESOLUTION**

**CASE NO. SUP-19-0018. 6623 RICHMOND ROAD -**

### **TRAIN CONTROL SYSTEM ASSEMBLY AND STORAGE**

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

WHEREAS, B & L of North Carolina, LLC ( the “Owner”) owns property located at 6623 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2430100035A; and

WHEREAS, on behalf of the applicant, Mr. Vernon Geddy of Geddy, Harris, Franck, and Hickman, LLP has applied for an SUP to allow for the processing, assembly, and manufacture of light industrial products or components, with all storage, processing, assembly and manufactured conducted indoors within a portion of an existing building located at 6623 Richmond Road; and

WHEREAS, the Planning Commission, following its public hearing on October 2, 2019, recommended approval of Case No. SUP-19-0018 by a vote of 6-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-19-0018; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after consideration of the factors in Section 24-9 of the James City County Code, does hereby approve the issuance of Case No. SUP-19-0018 as described herein with the following conditions:

1. *Master Plan*: This SUP shall be valid for the processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture (the “Use”) conducted indoors within a portion of an existing building located at 6623 Richmond Road, further identified as James City County Tax Map No. 2430100035A (the “Property”). The Use shall be consistent with the master plan titled “Special Use Permit for the assembly and storage of train control systems” and dated August 22, 2019 (the “Master Plan”). Development and operation of the Use on the Property shall be generally in accordance with the master plan, with any deviations considered per Section 24-23(a)(2) of the Zoning Ordinance, as amended.
2. *Outdoor Storage*: No outdoor storage shall be permitted on the Property.
3. *BMPs*: Within two years of approval of this SUP both stormwater facilities on the Property (YC055 and YC014) must be returned to approved plan design performance standards. Should this standard not be attainable due to site constraints or other outstanding issues, an Erosion & Sediment Control plan must be prepared by a licensed professional engineer detailing the retrofit and/or remediation to be taken in order to return the facilities to an appropriate level of design for the original facility’s

classification. Such plan must be reviewed and approved by the Stormwater and Resource Protection Division.

4. Change of Use: Prior to issuance of a Certificate of Occupancy a James City County Change of Use application shall be submitted for review and approval of the Director of Building and Safety Permits. The applicant shall include an analysis of the section of the building subject to this SUP, prepared by a Virginia registered design professional, for the purpose of determining compliance with the 2015 Virginia Existing Building Code for the Use.
5. Parking Verification: Starting with the date of approval of this SUP, and prior to any new tenant occupying the commercial/retail part of the building located on the Property, a change of use or an application to verify parking availability shall be submitted to the Director of Planning or designee for review. This information will be used to calculate parking needs, ensuring the availability of parking for all uses on the Property.
6. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

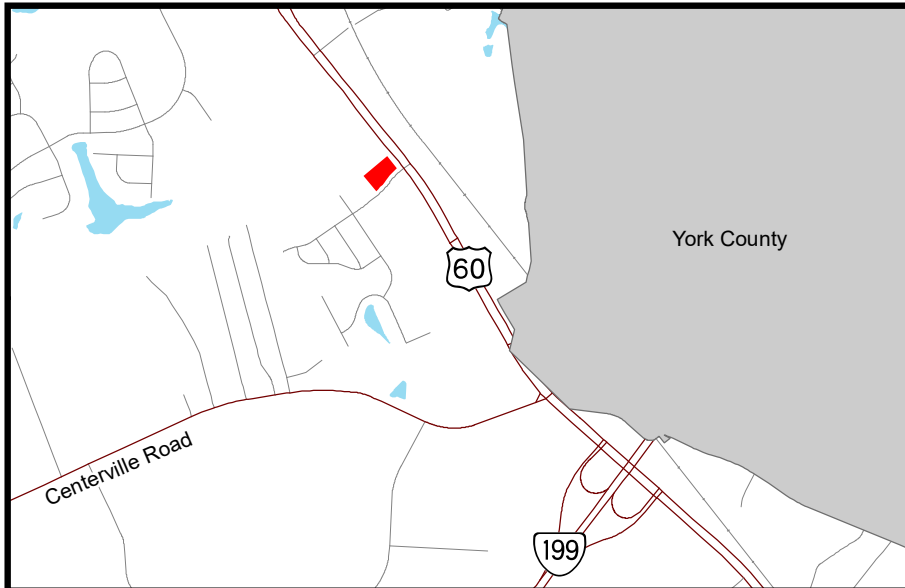
SUP19-18-6623RichmdRd-res

JCC SUP-19-0018

# 6623 Richmond Rd. Train Control System Assembly



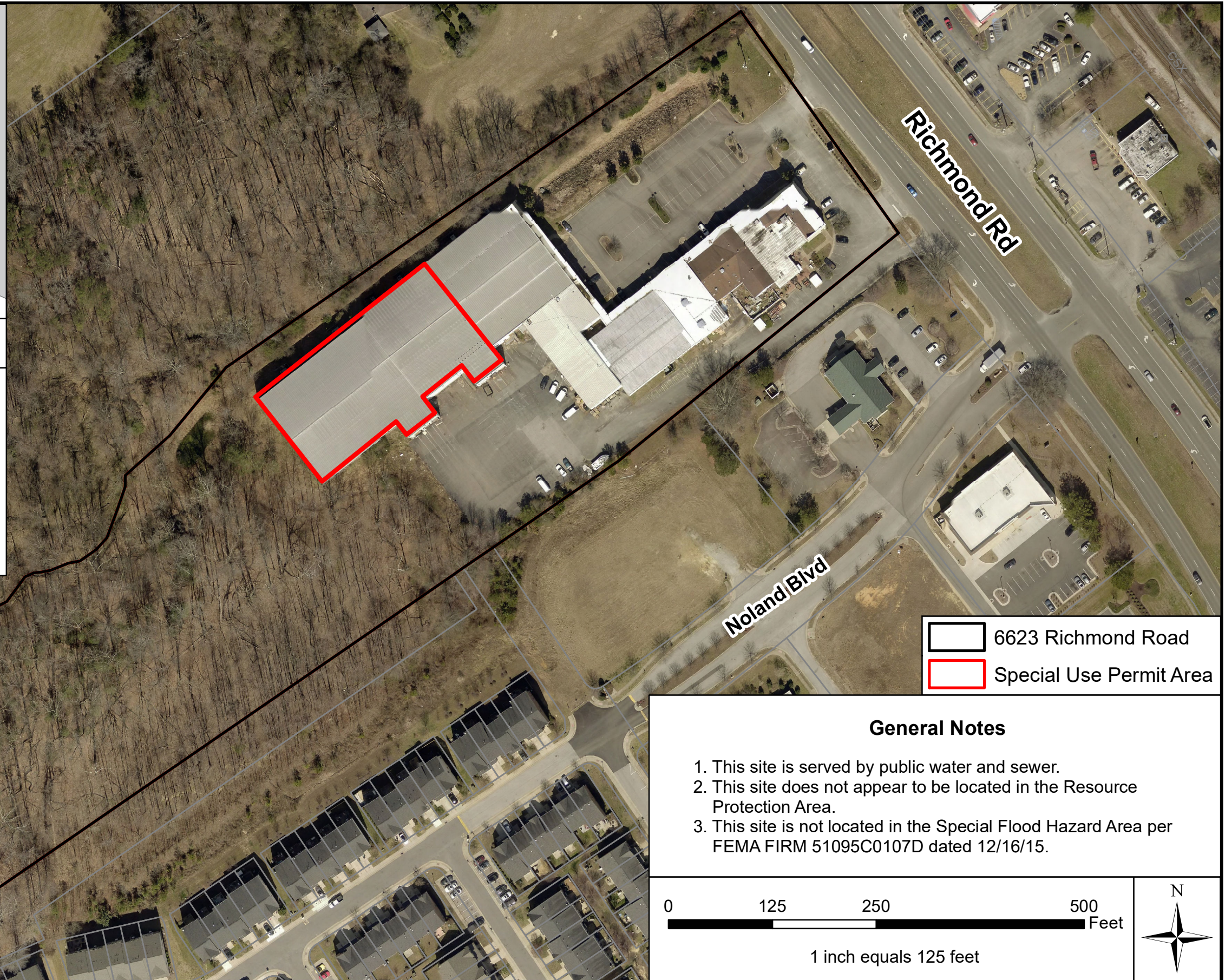
# Special Use Permit for the Assembly and Storage of Train Control Systems



Vicinity Map  
1 inch equals 2,000 feet

## Property Information

Parcel ID: 2430100035A  
 Property Owner: B & L of NC LLC  
 Property Address: 6623 Richmond Road  
 Williamsburg, VA 23188  
 Total Site Area: ±11.09 Acres  
 Zoning: B1, General Business  
 A1, General Agriculture  
 Comp. Plan: Mixed Use



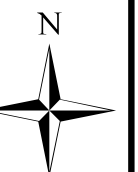
6623 Richmond Road  
 Special Use Permit Area

## General Notes

1. This site is served by public water and sewer.
2. This site does not appear to be located in the Resource Protection Area.
3. This site is not located in the Special Flood Hazard Area per FEMA FIRM 51095C0107D dated 12/16/15.

0 125 250 500 Feet

1 inch equals 125 feet



PLANNING DIVISION

Aug 22, 2019

RECEIVED



SUP-19-0018

PLANNING DIVISION

Special Use Permit Application

Property Address: 6623 Richmond Road, Williamsburg, Virginia 23188

Diverging Approach, Inc. Attn: Joseph Stanko Jr.

AUG 22 2019

RECEIVED

**Narrative Regarding Use:**

Diverging Approach, Inc (DAI) is a train signal and communications contractor specialized in state and federally funded projects. The organization employs Field Engineers, Design Engineers, admin staff and warehouse personnel. The organization operates in many states, DAI has jobsite locations in New Jersey, Texas and California. The primary train control design office is located in Somerset, WI and the materials handling, communication systems design, project management and administrative (headquarters) is located in Williamsburg. DAI was started in 2010 with its articles of incorporation formed in the State of California and has steadily expanded each year from a two person operation.

What DAI does?

A train signal system has metal instrument shelter that sit along the side of the railroad tracks, within those instrument shelters are low voltage electronic components. The electronic components are purchased from companies like GE Transportation, Alstom Signaling, Ansaldo and Siemens Rail Automation, DAI does not manufacture any materials, DAI is considered by the industry as an integrator. A train system has several components to it, a) ground materials (i.e. cable, train control loops, junction boxes; b) programmed microprocessors and c) instrument shelters. Ground materials and microprocessors are purchased, programmed (if required), stored and shipped to an installation contractor at the project site. The instrument shelter (the shell, complete with electrical wiring) is purchased typically from a company in Topeka, KS (PTMW). The instrument shelter arrives at DAI's door completely outfitted without microprocessor, event recorders (black box like airplanes) or train detection equipment. The "brains" of the train control system will be assembled in Space J. The finished instrument shelter then is shipped to the client. The instrument shelter can range in size, some are 81" H x 42"W x 24" D cases, some are 4'x'6, 6'x6', 6'x8', etc, sizes vary based on complexity and functional requirements of the instrument shelter.

**Key Items:**

The current plan for warehouse/assembly employees is six (6).

The hours of operation are 7:30am to 4:00pm.

All components are low voltage electricity, nothing higher than a standard residential house outlet at 120v, the actual systems "brains" operate at 12v.

No fluids or hazardous materials are involved.

No manufacturing of anything. Instrument shelter structure is designed by our WI Office, manufactured by vendor in Kansas, "brains" will be assembled in Space J.

DAI has no use for the retail space, such space will continue to be utilized by the current tenants or future similar businesses.

Delivery traffic is typically box truck once to twice a week, Fedex daily and tractor trailer once a month.



Economic Development Authority  
101-D Mounts Bay Road  
PO Box 8784  
Williamsburg, VA 23187  
P: 757-253-6607

[yesjamestownva.com](http://yesjamestownva.com)

Sept. 25, 2019

Chair James O. Icenhour  
Board of Supervisors  
James City County  
P.O. Box 8784  
Williamsburg, VA 23187

Dear Mr. Icenhour:

On behalf of the Economic Development Authority (EDA), I would like to offer support of the expedited review process for Diverging Approach, Inc.'s (DAI) special use permit (SUP). This SUP represents the expansion of an existing County business relocating from its current location in the Poplar Creek Business Park to 34,639 square feet of vacant space at 6623 Richmond Road. The adopted 2035 Strategic Plan supports the expansion of business through providing regulatory framework to support business development. The expedited review process does just that – helps to remove barriers such as timeliness for business expansions. Timeliness is a critical component of a business' success.

The SUP will allow for DAI to assemble its train signal and communications systems. DAI was founded in 2010 and has steadily grown with locations in three other states. DAI is a contractor specialized in state and federally funded projects. The organization employs field and design engineers, administrative staff and warehouse personnel. More than half of the existing space at 6623 Richmond Road will remain retail and warehouse.

A company like DAI represents an entrepreneurial business that is part of several regional target sectors and is growing. James City County is proud to be where entrepreneurs can find their opportunity.

The EDA is appreciative of staff and the Board for employing the process of expedited review for this project. Expedited review provides the opportunity for meaningful results and growth of business in James City County. The EDA fully supports the SUP for DAI and if we can be of any assistance at all, please do not hesitate to contact the EDA or staff from the Office of Economic Development.

Sincerely,

Thomas G. Tingle  
Vice Chair, Economic Development Authority

CC: Scott Stevens, County Administrator  
Christopher Johnson, Director of Economic Development  
Jack Haldeman, Chair, James City County Planning Commission

**ITEM SUMMARY**

DATE: 9/23/2019

TO: The Board of Supervisors

FROM: John H. Carnifax, Jr., Director of Parks and Recreation

SUBJECT: Contract Award - Veterans Park Pickleball Court Renovation

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**ATTACHMENTS:**

	Description	Type
☐	CA Veterans Park Pickleball Court Renovation	Cover Memo
☐	CA Veterans Park Pickleball Court Renovation	Resolution
☐	CA Veterans Park Pickleball Court Renovation	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Parks & Recreation	Brittle, Carla	Approved	9/23/2019 - 11:53 AM
Publication Management	Burcham, Nan	Approved	9/23/2019 - 12:01 PM
Legal Review	Kinsman, Adam	Approved	9/24/2019 - 12:18 PM
Board Secretary	Day, Sharon	Approved	9/30/2019 - 9:05 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:06 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: John H. Carnifax, Director of Parks & Recreation

SUBJECT: Contract Award - Veterans Park Pickleball Court Renovation - \$231,345

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Pickleball is a rapidly growing sport that is identified as a community need in the 2017 Parks & Recreation Master Plan. The existing courts at Veterans Park do not currently meet the needs of resident pickleball players and are in need of surface repairs.

Parks & Recreation staff wish to renovate the existing tennis and pickleball courts and replace with eight pickleball courts with an asphalt playing surface that is preferable in pickleball play.

Tennis Courts Inc. has an exemplary reputation in the state for providing quality tennis and pickleball courts. The state cooperative contract amount of \$231,345 is consistent with the project estimate and funds are available in the approved Capital Budget. The attached resolution would authorize the contract award to Tennis Courts Inc. for completion of the pickleball court renovation at Veterans Park.

Staff recommends approval of the attached resolution.

JHC/nb  
CA-VetPkPball-mem

Attachments

## RESOLUTION

### CONTRACT AWARD - VETERANS PARK PICKLEBALL COURT RENOVATION - \$231,345

WHEREAS, pickleball courts are identified as a community need in the 2017 Parks & Recreation Master Plan; and

WHEREAS, funds are available in the Capital Improvement Budget to cover the renovation of pickleball courts at Veterans Park; and

WHEREAS, Tennis Courts Inc. was selected to complete the renovation based on a state cooperative contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract for the renovation and installation of eight pickleball courts at Veterans Park to Tennis Courts Inc. in the total amount of \$231,345.

\_\_\_\_\_  
James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

CA-VetPkPball-res

# TENNIS COURTS, INC.

P.O. Box 297, Aylett, Virginia 23009 Office (804) 769-3030  
 Richmond 730-1922  
 FAX 769-3206

SEPTEMBER 18, 2019

JAMES CITY COUNTY PARKS & RECREATION  
 5320 PALMER LANE, WILLIAMSBURG, VA 23188

**RE: VETERAN'S PARK, 3793 IRONBOUND RD, WILLIAMSBURG, VA**

UNIVERSITY OF VIRGINIA  
 450 WHITEHEAD ROAD  
 CHARLOTTESVILLE, VIRGINIA 22903

**CONTRACT SUBJECT: Goods & Services for Court Construction & Repairs, Tennis and Basketball**

**CONTRACT PERIOD: March 28, 2019 through March 28, 2023**

**CONTRACT NUMBER: PO#2116095**

ITEM	DESCRIPTION: DEMO EXISTING, CORRECT SLOPE, REBUILD AS 8 PICKLEBALL CTS, 156' X 120' W/NEW CURB AND FENCING	QTY	UNIT	UNIT COST	TOTAL COST
<b>A.</b>	<b>PREPARATION:</b>				
1.	Pressure wash courts as needed:		SY.	\$0.98	
2.	Clean and fill cracks with industry standard acrylic crack filler – ¼" wide by upto 3" deep:		LF.	\$5.59	
3.	Pre-fill cleaned cracks approx.. 1" or wider cracks with concrete:		LF	\$6.32	
4.	Apply one layer of 12" or 18" fiberglass membrane to shatter or hairline cracking and apply 2 coats of acrylic resurfacer to membrane:		LF	\$5.12	
5.	Apply flexible crack repair membrane system (ie: Riteway) to filled cracks:		LF	\$10.30	
6.	Remove Existing crack repair membrane as needed:		LF	\$4.72	
7.	Apply one layer of fiberglass membrane and two coats of acrylic resurfacer to the entire court area:		SY	\$9.49	
8.	Apply two layers of fiberglass membrane and two coats of acrylic resurfacer to the entire court area:		SY	\$14.41	
9.	Grind surface and apply one layer of fabric membrane overlay and apply two coats of acrylic resurfacer:		SY	\$16.54	
10.	Grind surface and apply two layers of fabric membrane overlay and apply two coats of acrylic resurfacer:		SY	\$21.46	
11.	Humps or roots: grind and patch with acrylic patch binder:		LF	\$78.00	
12.	Humps or roots: remove fill with aquaphalt or concrete and patch with acrylic patch binder:		LF	\$109.00	
13.	Flood and patch standing water not in USTA – ASBA tolerance:		SF	\$30.06	
14.	Daily labor rate for two man crew for miscellaneous items, plus materials:		DAY	\$1,458.00	
15.	Daily labor rate for two man crew for miscellaneous items:		DAY	\$2,187.00	
<b>B.</b>	<b>APPLICATION OF ACRYLIC COATINGS AND PLAYING LINES:</b>				
1.	Apply one coat of acrylic resurfacer (Existing courts or new asphalt):		SY	\$1.73	
2.	Apply two coats of acrylic resurfacer (Existing courts or new asphalt):	2,080	SY	\$3.16	\$6,572.80
3.	Apply two coats of acrylic color (Includes two colors per court onto existing courts or new asphalt):	2,080	SY	\$3.90	\$8,112.00
4.	Apply three coats of acrylic color (includes two colors per court onto existing courts or new asphalt):		SY	\$5.78	
5.	Prepare and apply complete coating system onto new post tensioned concrete:		SY	\$30.77	
6.	Apply one line priming coat and two textured line paint coats for tennis court playing lines:		CRT	\$680.00	
7.	Apply one line priming coat and two textured line paint coats for pickleball playing lines:	8	CRT	\$495.00	\$3,960.00
8.	Apply one line priming coat and two textured line paint coats for		CRT	\$575.00	



# TENNIS COURTS, INC.

P.O. Box 297, Aylett, Virginia 23009 Office (804) 769-3030

Richmond 730-1922

FAX 769-3206

	basketball playing lines:				
9.	Apply one line priming coat and two textured line paint coats for two basketball three point lines:		CRT	\$175.00	
10.	Apply one line priming coat and two textured line paint coats for one quickstart playing lines:		CRT	\$175.00	
11.	Miscellaneous Games (shuffleboard, volleyball, etc.) Playing lines:		CRT	\$175.00	
<b>C. RECONSTRUCTION OR CONSTRUCTION:</b>					
1.	Remove existing, F and I new tennis or pickleball center strap anchor and concrete footer:		EACH	\$864.00	
2.	Remove existing, F and I new tennis or pickleball net post foundations with PVC sleeve:		SET	\$4,966.00	
3.	Remove existing, F and I new basketball single gooseneck galvanized pole with 4' overhang and aluminum fan shaped backboard goal system:		EACH	\$7,933.00	
4.	F and I new tennis or pickleball center strap anchor and concrete footer:	8	EACH	\$672.00	\$5,376.00
5.	F and I new tennis or pickleball net post foundations with PVC sleeves:	8	SET	\$2,902.00	\$23,216.00
6.	F and I new single gooseneck galvanized pole with 4' overhang and aluminum fan shaped backboard basketball goal system:		EACH	\$5,031.00	
7.	Mill in place existing asphalt and stone base and pave with virgin mix asphalt:	2080	SY	\$68.00	\$141,440.00
8.	Mill in place existing asphalt and stone base, stabilize with cement and pave with virgin mix asphalt:		SY	\$72.00	
9.	Install post-tensioned concrete overlay system onto existing asphalt:		SY	\$172.00	
10.	New construction – asphalt: install 6" base stone and 3" virgin mix asphalt onto a finished sub-base (Cost for the sub-base to be provided and determined on a project by project basis by owner and contractor):		SY	\$52.88	
11.	New Construction – Asphalt: Install 6" base stone and 3.5" virgin mix asphalt onto a finished sub-base (Cost for the sub-base to be provided and determined on a project basis by owner and contractor):		SY	\$61.05	
12.	New Construction – Post – Tensioned Concrete System: Install complete system onto a finished sub-base (Cost for the sub-base to be provided and determined on a project by project basis by owner and contractor):		SY	\$187.00	
13.	10' Tall black vinyl fence system with top rail and bottom tension wire:		LF	\$58.05	
14.	10' Tall black vinyl fence system with top rail, mid rail and bottom rail:	552	LF	\$70.95	\$39,164.40
<b>D Equipment:</b>					
1.	One tournament caliber tennis net with center strap:		CRT	\$176.73	
2.	One set of Tournament caliber tennis net posts with internal wind system:		CRT	\$225.75	
3.	One center strap:		CRT	\$8.38	
4.	One pickleball / 10 & under tennis net:	8	CRT	\$166.41	\$1,331.28
5.	One set of pickleball / 10 & under net posts with internal wind system:	8	CRT	\$271.65	\$2,173.20
6.	Six foot (6') black windscreen – installed:		LF	\$8.25	
7.	Nine foot (9') black windscreen – installed:		LF	\$8.28	
8.	Professional series hitting – practice wall:		UNIT	\$9,513.00	
9.	Shipping and handling fees will be based on equipment item(s) ordered:		TBD		

**TOTAL \$231,345.68**

ACCEPTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_ P.O. # \_\_\_\_\_

TENNIS COURTS, INC.  
HERBERT B. OSBURN, SR.  
PRESIDENT  
ASBA CERTIFIED TENNIS COURT BUILDER



**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Jose Ribeiro, Senior Planner II

SUBJECT: Z-19-0011. Mason Park Proffer Amendment

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**ATTACHMENTS:**

	Description	Type
▣	Staff Report	Staff Report
▣	Attachment No.1. Resolution	Resolution
▣	Attachment No.2. Location Map	Exhibit
▣	Attachment No. 3. Proposed Proffers, August 22, 2019	Exhibit
▣	Attachment No. 4. Adopted Proffers, August 29, 2006	Exhibit
▣	Attachment No. 5 Exhibit Showing Attached Garages	Exhibit
▣	Attachment No. 6. Staff Report for Z-0002-0006/MP-0003-2006/SUP 0019-0006	Exhibit
▣	Attachment No. 7.Unapproved Minutes from the Planning Commission's September 4, 2019 meeting	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	9/20/2019 - 7:24 AM
Development Management	Holt, Paul	Approved	9/20/2019 - 7:24 AM
Publication Management	Burcham, Nan	Approved	9/20/2019 - 7:38 AM
Legal Review	Kinsman, Adam	Approved	9/20/2019 - 7:53 AM
Board Secretary	Fellows, Teresa	Approved	9/26/2019 - 10:09 AM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:17 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 2:04 PM

**REZONING-19-0011. Mason Park Proffer Amendment****Staff Report for the October 8, 2019, Board of Supervisors Meeting**

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**SUMMARY FACTS**

Applicant: Mr. Jonathan Cramer, HHHunt Homes

Land Owner: HHHunt Homes Hampton Roads, LLC

Proposal: To amend Condition Nos. 1 and 11 of the adopted Proffers to remove reference to “detached garages.” There are no further changes requested and the residential density remains the same as previously approved by the rezoning of the property.

Location: 1916 Jamestown Road

Tax Map/Parcel No.: 46401000017

Project Acreage: +/- 9.1 acres

Zoning: R-2, General Residential, with Proffers, with Cluster Overlay

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside  
(PSA)

Staff Contact: Jose Ribeiro, Senior Planner II

**CONSIDERATION DATES**

Planning Commission: September 4, 2019, 6:00 p.m.

Board of Supervisors: October 8, 2019, 5:00 p.m.

**FACTORS FAVORABLE**

1. There are no proposed changes to density.
2. The proposed changes do not create additional impacts to adjacent properties.
3. The proposal is consistent with the recommendations of the adopted Comprehensive Plan.

**FACTORS UNFAVORABLE**

1. Staff finds no unfavorable factors. With the proposed request, the garages would no longer be detached structures, but they would still be located at the rear of the dwelling units, similar to the original approved master plan.

**SUMMARY STAFF RECOMMENDATION**

Approval and acceptance of the amended proffers.

**PLANNING COMMISSION RECOMMENDATION**

At its September 4, 2019 meeting, the Planning Commission recommended approval of this application and acceptance of the amended proffers by a vote of 7-0.

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

## **REZONING-19-0011. Mason Park Proffer Amendment**

### **Staff Report for the October 8, 2019, Board of Supervisors Meeting**

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#### **CHANGES SINCE PLANNING COMMISSION**

None.

#### **PROJECT DESCRIPTION**

Mr. Jonathan Cramer of HHHunt Homes has submitted a request to amend Condition Nos. 1 and 11 of the adopted Proffers, dated August 29, 2006 (Attachment No. 4). The applicant is requesting that references to “detached garages” be deleted from the proffered language to allow the construction of residential units with attached garages. According to the applicant, there is currently a preference in the housing market for residential units with attached garages. The applicant has further stated that attached garages will be located behind the house such that the front of the homes will remain the dominant structure visible from the street.

Section 15.2-2302 of the Code of Virginia (1950), as amended, allows the Board of Supervisors to waive the requirements for a public hearing where such amendments do not affect conditions of use or density. This application does not affect conditions of use or density. As such, the County Attorney’s office consulted the Board of Supervisors, and the Board voiced no objection to the applicant’s request to consider amending these proffers as a consideration item.

#### **PLANNING AND ZONING HISTORY**

In 2006, the Board of Supervisors rezoned approximately 9.11 acres of land located at 1916 Jamestown Road from R-8, Rural Residential District to R-2, General Residential, with Proffers, and with a Special Use Permit for a Cluster Overlay and a request for a reduced street width request. Mason Park was approved for the construction of 15 single-family detached units at a gross density of 1.65 dwelling units per acre.

In 2011, Mr. Vernon Geddy submitted a request on behalf of HHHunt Homes to amend the adopted proffers to eliminate the requirement to provide detached garages for each of the 15 single-family units. On March 7, 2012, the applicant requested that the application be withdrawn from consideration.

#### **SURROUNDING ZONING AND DEVELOPMENT**

The property is located on the south side of Jamestown Road bounded by a private residence (zoned R-8) and a segment of the Landfall at Jamestown subdivision (zoned R-2) to the south and east, a large parcel of vacant land (zoned R-8) to the west, and by two multifamily subdivisions, Foxfield (zoned R-5) and Jamestown 1607 (zoned R-2) to the north and across Jamestown Road. The property, including adjacent properties to the south, east, and west fall within an area designated as Low Density Residential according to the Comprehensive Plan. The properties across Jamestown Road from the site are designated Moderate Density Residential and Low Density Residential (LDR).

#### **COMPREHENSIVE PLAN**

The property is designated LDR on the 2035 Comprehensive Plan Land Use Map. This property is also adjacent to the Jamestown Road Community Character Corridor and lies within the Jamestown Island-Jamestown Settlement-Greensprings Road Community Character Area. Recommended uses in LDR include single-family homes, multifamily units, accessory units, cluster housing, and recreation areas. The proposed unit type, single-family detached units, remain the same and is consistent with the adopted Comprehensive Plan. Both the 2003 and the current adopted Comprehensive Plan contain Residential Land Use Standards, which among other elements, encourage “locating garages at the rear or side of the dwelling units in order to de-emphasize the prominence of the garage and associated

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

## **REZONING-19-0011. Mason Park Proffer Amendment**

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### **Staff Report for the October 8, 2019, Board of Supervisors Meeting**

driveway.” With the proposed change, the garages would no longer be detached structures, but they would still be consistent with this language by being located at the rear of the dwelling as shown on Attachment No. 5.

#### **PUBLIC IMPACTS**

Staff does not anticipate additional impacts to be generated by this Proffer amendment.

#### **STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding development and consistent with the adopted Comprehensive Plan and Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application and accept the amended proffers.

JR/nb  
RZ19-11MasonPk

#### Attachments:

1. Resolution
2. Location Map
3. Proposed Proffers, August 22, 2019
4. Adopted Proffers, August 29, 2006
5. Exhibit Showing Attached Garages
6. Staff Report for Z-0002-0006/MP-0003-2006/SUP 0019-0006
7. Unapproved Minutes from the Planning Commission’s September 4, 2019 meeting

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

## RESOLUTION

### CASE NO. Z-19-0011. MASON PARK PROFFER AMENDMENT

WHEREAS, on October 10, 2006, the Board of Supervisors approved Case No. Z-0002-2006/MP-0003-2006/SUP-0019-2006, which rezoned +/- 9.11 acres located at 1916 Jamestown Road and further identified as James City County Real Estate Tax Map Parcel No. 46401000017 from R-8, Rural Residential District, to R-2, General Residential, with proffers; and

WHEREAS, on behalf of HHHunt Homes Hampton Roads, LLC, Mr. Jonathan Cramer of HHHunt Homes has applied to amend Condition Nos. 1 and 11 of the existing proffers to remove reference to “detached garages”; and

WHEREAS, the Planning Commission of James City County, following its consideration on September 4, 2019, recommended approval of Case No. Z-19-0011, by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-19-0011 to be required by public necessity, convenience, general welfare, and good zoning practice.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-19-0011 as described herein and accepts the amended voluntary proffers.

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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

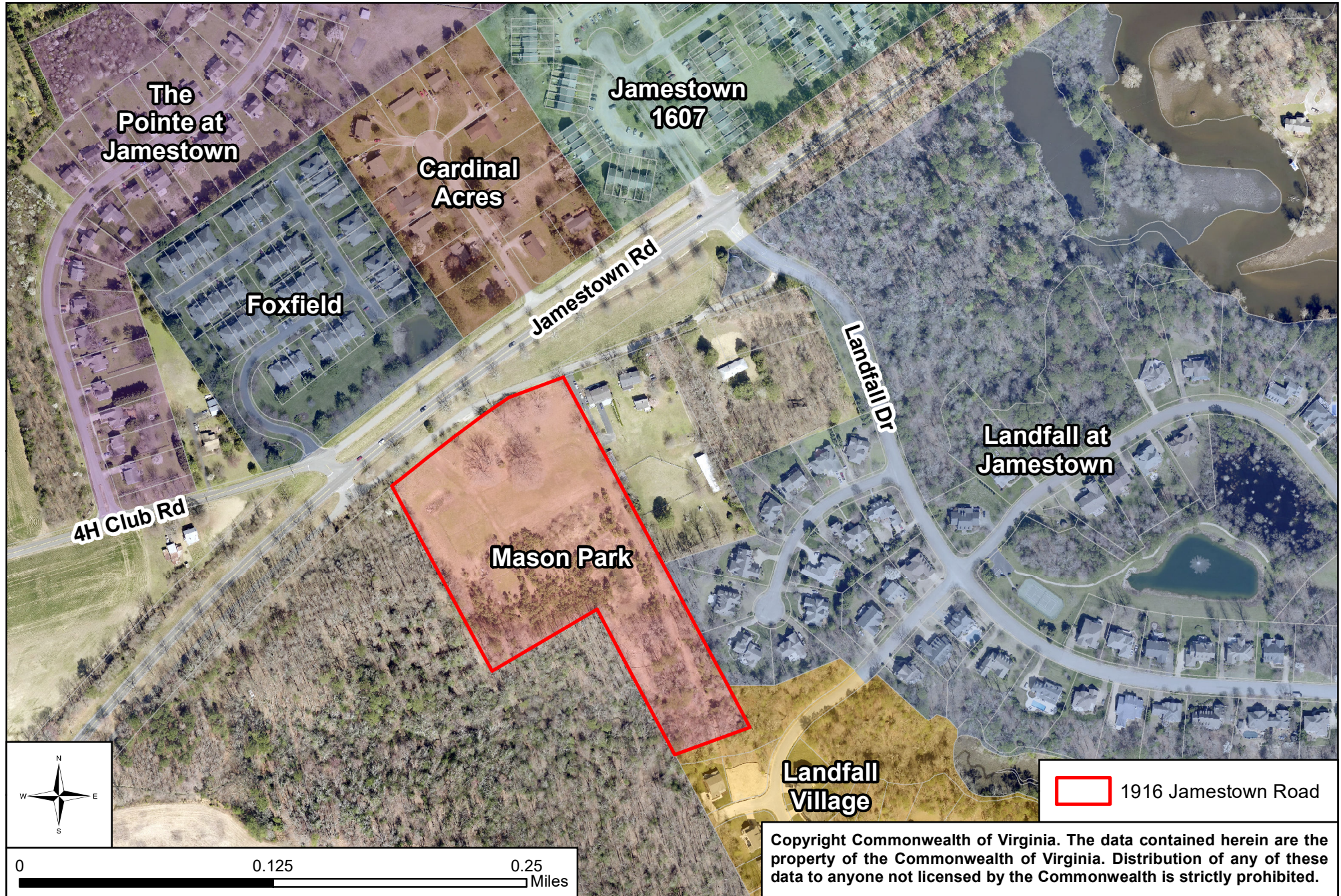
	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

RZ19-11MasonPk-res

JCC Z-19-0011

# Mason Park Proffer Amendment



Prepared by:  
William W. Sleeth III, Esq. (VSB # 77327)  
Gordon Rees Scully Mansukhani, LLP  
5425 Discovery Park Blvd., Suite 200  
Williamsburg, VA 23188

Upon Recording Return To:  
James City County Attorney  
101-C Mounts Bay Road  
Williamsburg, VA 23185

Parcel ID No. 4640100017

AMENDMENT TO PROFFERS (MASON PARK)

THIS AMENDMENT TO PROFFERS is made this 22<sup>nd</sup> day of August, 2019 by HHHUNT HOMES HAMPTON ROADS, LLC, a Virginia limited liability company (the "Owner") [Note to Clerk for recording purposes: please index as "Grantor"; please further index HHHUNT HOMES OF HAMPTON ROADS, LLC, a Virginia limited liability company, as "Grantor", and JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, as "Grantee"].

RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia, with an address of 1916 Jamestown Road, Williamsburg, Virginia, and a Parcel Identification Number of 4640100017 (the "Property"). The Property is now zoned R2 – General Residential, and subject to proffers dated August 29, 2006, which proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City as Instrument No. 060027117 (the "Proffers").

B. Owner desires to amend certain provisions of the Proffers as set forth below, in order to eliminate the requirement that the garages for the dwelling units be detached from the

dwelling.

NOW, THEREFORE, Owner states that the Proffers shall be amended as follows:

1. Condition 1 (Master Plan) is hereby deleted in its entirety and in place thereof is inserted the following:

1. Master Plan. The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 15 single-family dwelling units with attached garages on the Property.

2. Condition 11 (Architectural Review) is hereby deleted in its entirety and in place thereof is inserted the following:

11. Architectural Review. Owner shall prepare and submit design review guidelines to the Development Review Committee setting forth design and architectural standards for the development of the Property generally consistent with the typical architectural elevations included in the Community Impact Statement submitted with the Application for Rezoning, requiring that all garages on the Property be located to the rear of the house and incorporating appropriate and suitable green building practices as recommended in the NAHB Model Green Building Guidelines, 2006 edition, for the approval of the Director of Planning prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). Once approved, the Guidelines may not be amended without the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans. Prior to the issuance of a building permit for each house on the Property, architectural plans for such house shall be submitted to the Director of Planning for his review for consistency with the Guidelines. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. All houses shall be constructed in accordance with the approved plans. In the case of plans that will be used on more than one lot, Director of Planning approval need only be obtained for the initial building permit. All exterior colors on homes and garages shall be from the Martin Senour "Williamsburg" exterior paint color palette or the Sherwin Williams "Preservation Palette" excluding the "Postwar Romanticism" colors from the latter.

3. Except as modified by this amendment, the Proffers shall remain in full force and effect.

WITNESS the following signature and seal.

HHHUNT HOMES HAMPTON ROADS, LLC, a  
Virginia limited liability company

Signed: *Patrick McCarthy*

Printed: Patrick McCarthy

Its: Manager

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Henrico, to-wit:

The foregoing instrument was acknowledged before me, a Notary Public, this 22<sup>nd</sup> day of August 2019, by Patrick McCarthy who is either [check one]: ☒ personally known to me or ☐ who produced \_\_\_\_\_ as identification, as Manager of HHHUNT HOMES HAMPTON ROADS, LLC, a Virginia limited liability company, on its behalf.

My Commission Expires: 02/29/2020

Notary # 7517138 *me*

*Sharlee Michelle Crone*  
Notary Public

AFFIX NOTORIAL SEAL HERE:



SHARLEE MICHELLE CRONE  
NOTARY PUBLIC 7517138  
COMMONWEALTH OF VIRGINIA

MY COMMISSION EXPIRES FEBRUARY 29, 2020

47022686\_1

060 027117

PROFFERS

THESE PROFFERS are made this ~~29th~~ day of August, 2006 by FLF, LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner") and HHHUNT HOMES OF HAMPTON ROADS, LLC, a Virginia limited liability company ("Buyer").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 1916 Jamestown Road, Williamsburg, Virginia and being Tax Parcel (46-4)(1-17), being more particularly described on Exhibit A attached hereto (together, the "Property"). The Property is now zoned R-8.

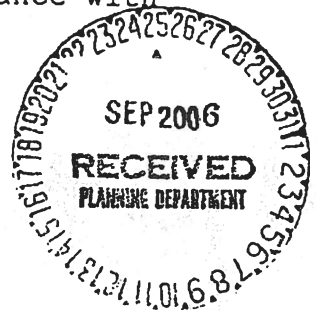
B. Buyer has contracted to purchase the Property conditioned upon the rezoning of the Property.

C. Owner and Buyer have applied to rezone the Property from R-8 to R-2, General Residential District, with proffers

D. Buyer has submitted to the County a master plan entitled "Master Plan Rezoning and Special use Permit for Mason Park for HHHunt - Hampton Roads, LLC." prepared by AES Consulting Engineers dated April 24, 2006, last revised August 3, 2006 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

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Z-2-06/MP-3-06/SUP-19-06  
Mason Park  
Proffers

Page 1 of 19



E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITION

1. Master Plan. The Property shall be developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development. There shall be no more than 15 single-family detached dwelling units within detached garages on the Property.

2. Owners Association. There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all lot owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association

shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs and recreation areas, and shall require that each initial purchaser of a lot make a capital contribution to the Association for reserves in an amount at least equal to one-sixth of the annual general assessment and that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

3. Water Conservation. (a) Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the site plan or subdivision submittal for development on the Property and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to

promote water conservation and minimize the use of public water resources. The standards shall be approved by JCSA prior to final subdivision plat approval.

(b) The Governing Documents shall provide that no more than 30% of the area of any residential lot on Property may be irrigated. Common areas shall not be irrigated from public water resources. Any irrigation well for the development shall be approved by the JCSA General Manager and will only be permitted to withdraw from the Aquia or Potomac aquifers.

4. Cash Contributions for Community Impacts. For each dwelling unit on the Property the one time cash contributions set forth in this Section 4 shall be made.

(a) A contribution of \$1,093.00 for each lot on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated by the physical development and operation of the Property.

(b) A contribution of \$1,000.00 for each lot on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and

operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, for emergency services equipment replacement and supply, off-site road improvements, library uses, and public use sites.

(c) A contribution of \$4,011.00 for each lot on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

(d) A contribution of \$500.00 for each lot on the Property shall be made to the County in order to mitigate impacts on the County from the physical development of the Property. The County may use these funds for any project in the County's Capital Improvement Plan, the need for which is generated by the physical development and operation of the Property, including, without limitation, for off-site stream restoration elsewhere in the Powhatan Creek watershed.

(e) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the

Property at or prior to the final approval of the site plan or subdivision plat for such lot.

(f) The per lot contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2007 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Costs Index (the "Index"). In no event shall the per lot contribution be adjusted to a sum less than the amounts set forth in paragraphs (a), (b), (c), and (d) of this Section. The adjustment shall be made by multiplying the per lot contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the Index, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes

of increasing the per lot contribution to approximate the rate of annual inflation in the County.

5. Jamestown Road Buffer. There shall be a minimum 150 foot buffer along the Jamestown Road frontage of the Property generally as shown on the Master Plan. The buffer shall be exclusive of any lots. The entrance and entrance road designed as shown generally on the Master Plan, landscaping and berms, the soft surface trails and 8' multi-use paved trail as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, fences, bioretention facilities, lighting, entrance features and signs shall be permitted in the buffer. A combination of preservation of existing trees, and landscaping (meeting or exceeding ordinance requirements as to quantity but utilizing plant materials with a size of at least 125% of ordinance requirements) shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning which, when the landscaping has reached maturity, shall screen the adjacent homes and garages from the direct view of vehicles traveling on Jamestown Road. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located on the Property.

6. Side Perimeter Buffers. The perimeter buffer on the north side of the Property between the Jamestown Road buffer and the natural open space easement area proffered by paragraph 9 (b) shall contain "enhanced landscaping" (defined as plant materials with a size of at least 125% of ordinance requirements) in accordance with a landscaping plan approved by the Director of Planning. The perimeter buffer on the south side of the Property between the Jamestown Road buffer and the natural open space easement area proffered by paragraph 9 (b) shall be landscaped in accordance with a landscaping plan approved by the Director of Planning. At the request of the Director of Planning after review of the landscape plan submitted by Owner, Owner shall install "enhanced landscaping" (defined as plant materials with a size of at least 125% of ordinance requirements) in this buffer. The buffers shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units located on the Property.

7. Entrance. There shall be one entrance into the Property to and from State Route 680 as generally shown on the Master Plan. The entrance shall be designed and constructed in accordance with the current Virginia Department of Transportation standards of entrances to state highways,

including provision for sight distances. There shall not be a median in the entrance road.

8. Recreation. Owner shall provide a tot lot and open play field with approximate dimensions of 60 feet by 90 feet, approximately .84 acres of parkland, approximately .51 miles of trail with exercise stations, and a gazebo. All recreation facilities shall be constructed in accordance with County standards and shall be conveyed to the Association. In lieu of a court and ball field, Owner shall make a cash contribution in an amount equal to \$1,425.00 escalated from 1993 dollars to dollars for the year the contributions are made using the formula in Section 4(f) to the County at the time set forth in section 4(e). All cash contributions proffered by this Proffer 8 shall be used by the County for recreation capital improvements. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Director of Planning.

9. Environmental Protections. (a) Owner shall submit to the County a master stormwater management plan as a part of the development plan submittal for the Property, including facilities and measures necessary to meet the County's 10 point stormwater management system requirements and the special stormwater criteria applicable in the Powhatan Creek watershed,

and, in addition, including additional bioretention facilities and other low impact design features generally as illustrated on the Master Plan which include, without limitation, dry swales, porous pavement in driveway parking areas and at least one rain barrel per unit, and other design features such as use of grass strips in driveways to reduce impervious cover consistent with the goals of the Powhatan Creek Watershed Management Plan, for review and approval by the Environmental Division. The Governing Documents shall provide that lot owners may repair, maintain and replace low impact design features located on their lot, such as porous pavement, rain barrels and grass strips in driveways, only with comparable features. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior written approval of the Environmental Director. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(b) Prior to the issuance of any land disturbing permits for development pursuant to the Master Plan, Owner shall grant a natural open space easement to the County over the area within

the limits shown as "Existing Tree Line, Also Limits of Priority Conservation Areas C-42/C-43" on Exhibit B hereto. The easement area shall remain undisturbed except the easement shall permit, with the prior approval of the County Engineer, the installation of a sewer line crossing the easement area and an outfall for the storm water management pond and the installation of a soft surface walking trail to be designed and field located to avoid the necessity of clearing any mature trees.

10. Archaeology. A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the

treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

11. Architectural Review. Owner shall prepare and submit design review guidelines to the Development Review Committee setting forth design and architectural standards for the development of the Property generally consistent with the typical architectural elevations included in the Community Impact Statement submitted with the Application for Rezoning, requiring that all garages on the Property be detached and located to the rear of the house and incorporating appropriate

and suitable green building practices as recommended in the NAHB Model Green Building Guidelines, 2006 edition, for the approval of the Director of Planning prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). Once approved, the Guidelines may not be amended without the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans. Prior to the issuance of a building permit for each house and garage on the Property, architectural plans for such house and garage shall be submitted to the Director of Planning for his review for consistency with the Guidelines. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. All houses and garages shall be constructed in accordance with the approved plans. In the case of plans that will be used on more than one lot, Director of Planning approval need only be obtained for the initial building permit. All exterior colors on homes and garages shall be from the Martin Senour "Williamsburg" exterior paint color palette or the Sherwin Williams "Preservation

Palette" excluding the "Postwar Romanticism" colors from the latter.

12. Preservation of Specimen Trees. Owner shall submit a tree survey of the buffers on Property with the site plan for development of the Property and shall use its best efforts to preserve trees located within the 150 foot Jamestown Road buffer identified on the survey as specimen trees to be preserved.

13. Streetscape Guidelines. The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy except as described in the letter to the County from AES Consulting Engineers dated August 28, 2006 modifying the applicant's request for reduced street widths, a copy of which is on file in the Planning Department. The streetscape improvements shall be shown on development plans for the Property and submitted to the Director of Planning for approval during the subdivision approval process. Streetscape improvements shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the approval of the final subdivision plat of the Property. The Association shall provide annual maintenance of all street trees to ensure that no branches intrude into any internal subdivision roadway below the 13' 6" fire vehicle clearance requirement.

14. Nutrient Management Plan. The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual lot. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of building permits for houses on the Property. Upon approval, the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

15. **Sidewalks.** There shall be sidewalks five feet in width installed along one side of all streets within the Property generally as shown on the Master Plan. Owner shall, in lieu of installing a sidewalk along the Route 680 frontage of the Property, install an 8' wide paved trail across the Route 680 frontage of the Property connecting to the adjacent parcels to the north and south and to Route 680 in the general location shown on the Master Plan.

16. **Curb and Gutter.** Streets within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified along those segments of street, including entrance roads, where structures are not planned.

17. **Entrance Sign.** Any entrance sign shall be a monument style sign no more than four feet in height. Owner shall submit an elevation of the entrance sign to the Director Of Planning for his reviewed and approval prior to installation of the sign.

18. **Construction Start.** No construction activity other than the demolition of existing structures and installation of landscaping shall take place before January 1, 2008.

WITNESS the following signatures.

FLF, LLC

By: C. W. J. J.

Title: MEMBER/OWNER

HHHunt Homes of Hampton  
Roads, LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged this 5  
day of September, 2006, by Griffon W. Fernandez, as  
of FLF, LLC, a Virginia limited liability company,  
of behalf of the company

Christine C. Hankins  
NOTARY PUBLIC

My commission expires: September 30, 2007

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2006, by \_\_\_\_\_, as  
of HHHunt, Homes of Hampton Roads, LLC on behalf of the company.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

PR-108

Z-2-06/MP-3-06/SUP-19-06

Mason Park

Proffers

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WITNESS the following signatures.

FLF, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_

HHHunt Homes of Hampton  
Roads, LLC

By: [Signature]  
Title: Manager

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

The foregoing instrument was acknowledged this \_\_\_\_\_  
day of \_\_\_\_\_, 2006, by \_\_\_\_\_, as  
\_\_\_\_\_ of FLF, LLC, a Virginia limited liability company,  
of behalf of the company

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

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

The foregoing instrument was acknowledged this 29th  
day of August, 2006, by Steve U. Miller, as Manager  
of HHHunt, komes of Hampton Roads, LLC on behalf of the company.

[Signature]  
NOTARY PUBLIC

My commission expires: 12/31/09

**EXHIBIT A**

**PARCEL ONE**

All that certain lot, piece or parcel of land containing 4.91 acres by survey, but conveyed in gross and not by acre, situate, lying and being in Jamestown District, James City County, Virginia, as shown on that certain plat entitled "JAMESTOWN DISTRICT, JAMES CITY COUNTY, VA., PLAT SHOWING BOUNDARY SURVEY OF A PARCEL OF LAND FOR FRANK AND MARY K. FERNANDEZ, BEING PART OF AMBLER'S PLANTATION", dated December 10, 1963, and made by Vincent D. McManus, Certified Surveyor, said plat being recorded in the Office of the Clerk of Circuit Court for the City of Williamsburg and the County of James City Virginia in Deed Book 94, page 55, to which plat reference is here made for a more particular description.

**PARCEL TWO**

All that certain lot or parcel of land situate in Jamestown District, James City County, Virginia, set up, shown and described on a plat of survey thereof entitled "Plat of part of A.C. Ammons prop.: Standing in the name of Charles W. Bulifant, Jamestown District, James City County, Va., " made by Stephen Stephens, Certified Land Surveyor, in April 1963, and whereon said land is shown to contain 4.202 acres, and is described by metes and bounds, courses and distances, and said plat is recorded in Plat Book 20, page 40, and is hereby made a part hereof by reference.

Parcels One and Two are a portion of the property conveyed to FLF, LLC by Deed dated July 14, 1998 recorded in the aforesaid Clerk's Office as Instrument No. 980014306, as corrected by Deed of Correction dated February 9, 2000 recorded in the aforesaid Clerk's Office as Instrument No. 000007980.

Prepared by:

Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, Virginia 23185

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 16 Nov 06  
at 2:44 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

19



**Project:** Mason Park  
**Location:** 1916 Jamestown Road, Williamsburg Va.  
**Developer:** HHHunt Homes – Hampton Roads, LLC  
**Project Description:** 15 single family lots on 9 acres in a cluster formation. The plan is compact for a reason. The amenities at Mason Park are the homes and the setting. Reducing lot size without sacrificing the quality of the architecture leaves generous open spaces and buffers surrounding the neighborhood.



# MASON PARK



**REZONING -02-06****MASTER PLAN-03-06****SPECIAL USE PERMIT-19-06, Mason Park/Reduced Street Width Request****Staff Report for the October 10, 2006, Board of Supervisors Public Hearing**

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

**PUBLIC HEARINGS****Building F Board Room; County Government Complex**

Planning Commission:	June 05, 2006	7:00 p.m. (applicant deferral)
Planning Commission:	July 10, 2006	7:00 p.m. (applicant deferral)
Planning Commission:	August 07, 2006	7:00 p.m.
Board of Supervisors:	September 12, 2006	7:00 p.m. (applicant deferral)
Board of Supervisors:	October 10, 2006	7:00 p.m.

**SUMMARY FACTS**

**Applicant:** Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, L.L.P

**Land Owner:** Mr. Griffin W. Fernandez

**Proposal:** To rezone 9.11 acres of land from R-8, Rural Residential District to R-2, General Residential District with a request for a special use permit to allow an open space cluster development to construct 15 single family detached dwelling units with an overall density of 1.65 dwelling units per acre.

**Location:** 1916 Jamestown Road

**Tax Map/Parcel Nos.:** (46-4) (1-17)

**Parcel Size:** 9.11 acres

**Existing Zoning:** R-8, Rural Residential District

**Proposed Zoning:** R-2, General Residential District with proffers

**Comprehensive Plan:** Low Density Residential

**Primary Service Area:** Inside

**STAFF RECOMMENDATION**

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff recommends that the Board of Supervisors approve this rezoning, special use permit, master plan application and the request for street width reduction for Mason Park internal streets.

Staff Contact: José-Ricardo L. Ribeiro

Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

On August 07, 2006, the Planning Commission voted 7-0 to recommend approval of the Rezoning, Master Plan, Special Use Permit, with the acceptance of the proffers. The Planning Commission also suggested the applicant provide additional measures to ensure nutrient management plans are implemented in Home Owners Association property and individual lots, and that buffer effectiveness and appearance is not impaired by the location of the bioretention basins.

**Rezoning**

### Proposed Changes Made Since Planning Commission Meeting

Three proffers have been amended since the previous Planning Commission Meeting. Proffer No.9, Environmental Protection, has been revised to allow property owners to replace low impact design features located on their individual lots only with comparable features. Proffer No.13 has been revised to reflect Fire Department concerns regarding the reduced street width request including language that requires the Home Owners Association to provide annual maintenance of all street trees to ensure that no branches intrude into any internal subdivision road below the 13' 6" Fire Department vehicle clearance requirement. Proffer No. 14 has been revised to require nutrient management plans for each lot and a seminar to be conducted on the site for all residents with the objective to acquaint residents with the procedures necessary to maintain healthy turf and landscape plans.

**Proffers:** Are signed and submitted in accordance with the James City County Proffer Policy.

<b>Cash Proffer Summary-Mason Park (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
<b>Water</b>	<b>\$ 1,093.00 per unit</b>
<b>CIP projects-Schools</b>	<b>\$ 4,011.00 per unit</b>
<b>CIP projects- All other uses</b>	<b>\$ 1,500.00 per unit</b>
<b>Total Amount (2006 dollars)</b>	<b>\$99,060.00</b>
<b>Total Per Lot</b>	<b>\$6,604.00 per unit, 15 units</b>

### PROJECT DESCRIPTION

Mr. Vernon Geddy has submitted an application on behalf of Steven Miller of HHH Hunt Homes-Hampton Roads, LLC, to rezone approximately 9.11 acres from R-8, Rural Residential District, to R-2, General Residential District, with proffers. Additionally, the applicant has applied for a special use permit to allow an open space cluster development with a gross density of 1.65 dwelling units per acre.

Mason Park, as the proposed subdivision will be called, consists of fifteen single family detached units with detached garages. The property is located on the south side of Jamestown Road bounded by a private residence (zoned R-8) and a segment of the Landfall at Jamestown subdivision (zoned R-2) to the south and east, a large parcel of vacant land (zoned R-8) to the west and by two multi-family subdivision, Foxfield (zoned R-5) and Jamestown 1607(zoned R-2) to the north and across Jamestown Road. The property, including adjacent properties to the south, east, and west fall within an area designated as Low Density Residential according to the 2003 Comprehensive Plan. The properties across Jamestown Road from the site are designated Moderate Density Residential and Low Density Residential.

The property fronts and is accessed by 4H Club Road, State Route 680, a frontage road that runs adjacent and parallel to Jamestown Road. Because Jamestown Road right-of-way coincides with the 4H Club Road right-of-way, the property is considered to front a Community Character Corridor (Jamestown Road) and therefore subject to special considerations such as additional frontage buffers and enhanced landscaping fronting the property. The property also lies within the Jamestown Island-Greensprings Road Community Character Area. The property is also located within the Powhatan Creek Watershed area and therefore is, subject to the special stormwater criteria outlined in the Powhatan Creek Watershed Management Plan.

### **Residential Cluster Development:**

### Rezoning

Rezoning-02-06/Master Plan-03-06/Special Use Permit 19-06-Mason Park

## Density

The Residential Cluster Overlay District is intended to "achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development." Further, in order to achieve densities higher than one unit per acre, it is expected that the development provides community benefits such as "mixed-cost housing, affordable housing, unusual environmental protection or development that adheres to the principles of open space development design." Mason Park, with its proposed gross density of 1.65 dwellings units per acre, intends to provide community benefits by offering development strategies that ensure unusual environmental protection and adherence to the principles of open space design.

According to Section 24-549(a) of the Zoning Ordinance, the Board of Supervisors may grant a special use permit (SUP) for residential cluster developments of more than one unit per acre but less than two units per acre provided that the developer make assurances for the following *with staff comments in bold italics*:

1. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy; *proffered by the developer.*
2. Implementation of the County's Archaeological Policy; *proffered by the developer.*
3. Provision of sidewalks on at least one side of all internal streets in the development; *proffered by the developer.*
4. Provision of recreation facilities in accordance with the County's Parks and Recreation Guidelines; *proffered by the developer.*
5. Implementation of the County's Natural Resources Policy; *Staff has determined that the property is not located in any B1, B2, or B3 areas, therefore adherence to this policy is not required.*

## Open Space

According to Section 24-552(a) of the Zoning Ordinance, the minimum amount of open space in residential clusters "shall include not less than forty percent of the net developable area of the site in low-density residential areas." Mason Park achieves this requirement by calculating open space as demonstrated below:

- Approximately 1.68 acres of land not included in rights-of-way or perimeter buffers count toward the forty percent of required net developable open space.
- Approximately 1.69 acres, out of 3.13 acres of land within perimeter buffers count toward the forty percent of required open space within the net developable area of the site.

## PUBLIC IMPACTS

### Archaeology

#### Proffers:

- The County archaeological policy is proffered.

**Staff Comments:** A Phase I Archaeological Study for the Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance.

### Environmental

**Watershed:** Powhatan Creek

#### Proffers:

- Owner shall submit to the County a master stormwater management plan as part of the site plan submittal for the property.

### Rezoning

- Owner shall grant a natural open space easement to the County over the area within the limits of Priority Conservation Areas C-42/C-43.
- The Owner has proffered a Turf Management Program to be implemented in the proposed development. The HOA will be authorized to develop, implement and enforce the turf management plan. The plan shall be submitted to the County's Environmental Director for review and approval.
- Owner shall submit a tree survey with the site plan for the development of the property with the intent of preserving trees located within the 150 foot Jamestown Road buffer.
- A cash contribution of \$500.00 for each lot on the property shall be made to the County for off-site stream restoration elsewhere in the Powhatan Creek watershed.
- Owner shall incorporate green building practices as recommended in the National Association of Home Builders Model Green Building Guidelines.

**Staff Comments:** The Environmental Division has reviewed the revised rezoning application including: the concept master plan drawings, revised Community Impact Statements, revised proffers and the response letter by the applicant/plan preparer. The Environmental Division supports approval of the rezoning application as currently presented.

**Fiscal:** The applicant has provided a fiscal impact statement that was reviewed by the Department of Financial Management Services.

**Proffers:**

- A cash contribution of \$1,000 per dwelling unit will be made to the County to mitigate the impacts from physical development. This money can be used as a part of the County's capital improvement plan.

**Staff Comments:** The Department of Financial Management Services concluded that Mason Park represents a small number of new homes; the fiscal impact of the proposal is close to a break-even, slightly positive or slightly negative. One or two vacant lots over the first five years would push the estimate positive.

**Public Utilities**

The site is inside the PSA and served by public water and sewer.

**Proffers:**

- Cash Contribution: For each unit, a cash contribution of \$ 1,093.00 is proffered.
- Water Conservation: Water conservation measures will be developed and submitted to the JCSA for review and approval as part of the site plan or subdivision plat.

**Staff Comments:** JCSA has reviewed the proposal and concurs with the proffers and master plan as proposed.

**Public Facilities:**

**Proffers:**

- A cash contribution of \$ 4,011.00 per unit will be made to the County to mitigate the impacts from physical development. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of the property, including, without limitation, school uses.

**Staff Comments:** According to the Public Facilities section of the Comprehensive Plan, Action No. 4 encourages through the rezoning, special use permit or other development processes (1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services. With respect to item (1), the Board of Supervisors has adopted the adequate public school facilities policies for schools.

**Rezoning** Mason Park is located within the Clara Byrd Baker Elementary, Berkeley Middle, and Jamestown High

School districts. Under the proposed Master Plan, 15 units are proposed. The policy adopted by the Board uses the design capacity of a school, while the Williamsburg-James City County schools recognize the effective capacity as the means of determining student capacities. With respect to the policy, the following information is offered by the applicant:

School	Design Capacity	Effective Capacity	2005 Enrollment	Projected Students Generated	Enrollment plus Projected Students
Clara Byrd Baker Elementary School	804	660	752	4	756
Berkeley Middle School	725	816	876	2	878
Jamestown High School	1250	1177	1524	2	1526
Total	2779	2653	3152	8	3160

The student generation rate for single-family houses is 0.5 students per unit. This number used by the applicant is generated by the Department of Financial and Management Services in consultation with WJCC Public Schools and is an average rate based on historical attendance data gathered from existing single-family neighborhoods in James City County.

**Staff Comments:** The adequate public schools facility policy is based on design capacity. There is design capacity for this development at Clara Byrd Baker; therefore this development meets the policy guidelines at the elementary school level. Both design and effective capacities are exceeded at Berkeley Middle School and Jamestown High School. Although the design capacity of Jamestown High School is clearly exceeded, the adequate public school facilities policy states that if physical improvements have been programmed through the County CIP then the application will meet the policy guidelines. On November 2, 2004, voters approved the third high school referendum and the new high school is scheduled to open in September 2007. Therefore staff believes that this proposal meets the policy guidelines for the high school level. Further, as a new middle school has been scheduled to open in 2009, staff believes that this proposal meets the policy guidelines for the middle school level.

#### **Parks and Recreation**

##### **Proffers:**

- This project proposes approximately 0.84 acres of parkland, which includes a 50'x35' tot lot and a 60'x90' grassed open play field. Additionally, Mason Park offers approximately 0.51 miles of multipurpose trail with exercise stations and a gazebo. The exact locations of the facilities and the equipment provided are subject to the approval of the Director of Planning.
- A one-time cash contribution of \$ 1, 425. 00 shall be made to the County in lieu of the provision of courts and ball fields. This contribution meets the standard proffers as recommended by the James City County Comprehensive Parks and Recreation Master Plan.

**Staff Comments:** Recreational facilities such as the area dedicated for parkland and multipurpose trail with exercise exceeds the recreational standards set forth by the James City County Comprehensive Parks and Recreational Master Plan. Voluntary cash contributions proffered to the County in lieu of courts and ball fields meets the standard proffers set forth by the Parks and Recreational Master Plan.

#### **Rezoning**

### Transportation

**Proposed Traffic:** This site does not meet the threshold for a full traffic study (less than 100 peak hour trips), as this development generates 182 vehicles per day and 20 vehicles in either of the peak hours.

**2005 Traffic Counts:** From Cardinal Acres Drive to 4-H Club Road-7,072 average daily trips.

**2026 Volume Projected:** From James River to Neck-O-Land-10,000 average daily trips.

**Road Improvements:** There are no road improvements proposed by this development.

**Proffers:** There are no proffers pertaining to transportation issues for this property.

**VDOT Comments:** VDOT has reviewed and concurs with the master plan as proposed.

**Staff Comments:** Staff concurs with VDOT findings.

### COMPREHENSIVE PLAN

#### Land Use Map

Designation	<p><i>Low Density Residential (Page 120):</i> The key features of the Comprehensive Plan description are the principle suggested uses, which include cluster housing and the allowance for higher densities, up to four units per acre, in exchange for public benefits to the community.</p> <p><b>Staff Comment:</b> Mason Park proposes a gross density of 1.65 units per acre. To offset densities up to one unit per acre but less than four units per acre, residential development must demonstrate public benefits to the community such as "mixed-cost housing; affordable housing; unusual environmental protection, or development that adheres to the principles of open space development design (Page 120.)" Staff finds that the proposed residential project achieves public benefits requirements by demonstrating open space development design and unusual environmental protection. Further explanation can be found in the Environmental Section on page 7.</p>
Development Standards	<p><i>General Land Use Standards No.01 (Page 134):</i> To permit new development only where such developments are compatible with the character of adjoining uses and where the impact of such new developments can be adequately addressed.</p> <p><i>General Land Use Standards No.04 (Page 134):</i> To ensure protection of sensitive resources areas such as watersheds, historic, and archaeological resources, through the use of better site design, buffers and screening.</p> <p><i>Residential Land Use Standards No.06 (Page 137):</i> Residential developments are encouraged to be located on internal roads. Garages are encouraged to be located at the rear or side of dwellings, in order to de-emphasize the prominence of the garage and associated driveway.</p> <p><b>Staff Comment:</b> The proposed residential cluster development has comparable densities with surrounding residential developments. Special treatment of its frontage buffer area (enhanced landscaping and rural style fencing) will ensure compatibility with the quaint and rural character of surrounding neighborhoods. Since the property is located within the Powhatan Creek Watershed, a 100-foot wide RPA buffer area will protect the sensitive nature of the wetland area located at the southern part of the property. To increase design quality of the proposed development, residences will be located on closed section roads with detached garages placed at the rear of residential units.</p>
Goals, strategies and actions	<p><i>Strategy No. 05 (Page138):</i> To promote pedestrian, bicycle, and automotive linkages between adjacent land uses where practical.</p> <p><i>Action No. 15 ( Page 140):</i> To encourage conservation easements and the use of land trust to facilitate open space preservation.</p>

#### Rezoning

	<p><b>Staff Comment:</b> An eight-foot wide paved multi-use path fronting State Route 680 will ensure pedestrian connectivity with adjacent parcels located to the east and west of the property. To promote the preservation of open spaces, a natural open space over the area within the limits of Conservation Areas (C-42/C-43) located adjacent to the southwestern boundary of the property has been proffered as a conservation easement to the County.</p>
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#### **Parks and Recreation**

Goals, Strategies and Actions	<p><b>Action No.04 (Page 39):</b> New development should dedicate right-of-way and provide sidewalks, bikeways, and greenway trails for both transportation and recreational purposes.</p>
	<p><b>Staff Comment:</b> Sidewalks five feet in width installed along one side of all internal streets within the property have been proffered (proffer #15.) Additionally, approximately 0.51 miles of soft surface multipurpose walking trail with exercise stations are proposed for this residential development, part of which parallels Jamestown Road.</p>

#### **Environment**

General	<p><i>Natural Resources Protection and Management, Powhatan Watershed Management Plan (Page 47) and Action No.18 (Page 67):</i> To fully implement the watershed protection and restoration goals and priorities identified in the Powhatan Creek Watershed Management Plan adopted by the Board of Supervisors in 2002.</p> <p><b>Staff Comment:</b> A combination of water quality protection strategies such as, turf management plan ( proffer # 14), Low Impact Development techniques (bioretention facilities and grass swales) and the use of pervious surfaces features have been designed to minimize impact to the wetlands and perennial stream located at the southern area of the property. Additionally, a Voluntary cash contribution to be used toward off-site stream restoration elsewhere in the Powhatan Creek Watershed has been proffered (proffer # 4-d.)</p>
Goals, strategies and actions	<p><i>Strategy No. 02 (Page 65):</i> To assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action No. 05 ( Page 66, item g):</i> To encourage the use of Better Site Design, Low Impact Development, and Best Management Practices (BMPs) to mitigate adverse environmental impacts by reducing the rate of increase of impervious cover.</p> <p><i>Action No. 22 ( Page 67):</i> To promote the use of LEED (Leadership in Energy and Environmental Design) “green building” technique as means of developing energy and water efficient buildings and landscapes</p> <p><i>Action No.23 (Page 67):</i> To encourage residential and commercial water conservation.</p> <p><b>Staff Comment:</b> The compacted nature of the proposed residential development (only 2.78 acres out of a total of 9.11 acres will be developed) will ensure minimal degradation of the natural environment. The proposed residential development will utilize Low Impact Development strategies to reduce impervious cover by adopting features such as porous pavers and center grass strips for residential driveways, parking pads, and sidewalks located along one side of internal streets. A 100-foot wide buffer area from the edge of the Powhatan Creek watershed will be provided. The owner has also proffered (proffer #11) “green building” practices. Further, water conservation standards that address water conservation measure such as limitations on the installation and use of irrigation systems</p>

#### **Rezoning**

	and irrigation wells have been proffered. Additionally, rain barrels to support residential watering needs for residents are to be provided for each dwelling unit.
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## Transportation

General	<p><i>Roadway Components of County Transportation Planning, Jamestown Road (Page 76):</i></p> <p>Although traffic volume projections warrant the widening portions of Jamestown Road to a divided four-lane, the Comprehensive Plan recommends that this road be maintained as a two-lane facility. Residential or commercial development that adds significant traffic along this corridor beyond that currently planned is strongly discouraged.</p>
	<p><b>Staff Comment:</b> Traffic generated by the proposed development would result in 180 vehicle trips per day and 20 vehicle trips per hour at peak times. The proposed density of 1.65 dwelling units per acre is significantly below the maximum 4 dwelling units per acre recommended by the Comprehensive Plan.</p>
Goals, strategies and actions	<p><i>Action #7 (Page 81):</i></p> <p>Encourage efficient use of existing and future road by limiting driveway access points and providing joint entrances, side street access, and frontage roads.</p>
	<p><b>Staff Comment:</b> The proposed residential development fronts on a service road, perpendicular to Jamestown Road. Only one access driveway is proposed for this development to this road (special use permit condition # 1.)</p>

## Community Character

General	<p><i>Community Character Corridors (Page 83):</i></p> <p>The proposed development fronts Jamestown Road, a Community Character Corridor.</p>
	<p><b>Staff Comment:</b> The proposed residential project provides and honors the recommended Community Character Corridor buffer by providing a minimum setback of 150 foot from its frontage on State Route 680 ( a fifteen-foot construction setback zone from the Community Character Corridor buffer will also be provided.) The Community Character Corridor buffer includes enhanced landscaping which incorporates open spaces and rural style fencing compatible with surrounding neighborhoods.</p>
	<p><i>Community Character Areas (Page 87):</i></p> <p>The proposed development is located within the Jamestown Island-Greensprings Road Community Character Area. The following development standards would assist in the preservation of the integrity of the area:</p> <ul style="list-style-type: none"> <li>• The architecture, scale, materials, and color of buildings should be complementary and reflect the historic character of James City County.</li> <li>• All development should be well-screened from Jamestown Road.</li> <li>• Existing specimen trees and shrubs should be preserved to the extent possible</li> <li>• Signage should be of scale, size, color, and materials to complement the architecture and scale of buildings.</li> </ul>
	<p><b>Staff Comment:</b> Design Review Guidelines setting forth design and architectural standards for the development of the property will be submitted to the Planning Director for review and approval (proffer # 11.) The proffered enhanced landscaped buffers (proffers #5 and 6) when reached maturity, will provide a vegetative screening from adjacent properties and from Jamestown Road. A tree survey of the frontage and perimeter buffer identifying specimen trees to be preserved (proffer # 12) and elevations of the entrance sign will be submitted to the Director of Planning for review and approval (proffer #17.)</p>

## Rezoning

Goals, Strategies And actions	<b>Action No. 8 (Page 96):</b> To continue to require or encourage the planting of street/curb side streets.
	<b>Staff Comment:</b> The proposed residential development will adhere to the principles set forth by James City County's Streetscape Guidelines Policy (proffer #13.)

### Comprehensive Plan Staff Comments

Staff finds that this application, as proposed, is generally in compliance with the Comprehensive Plan. The Low Density Residential designation encourages residential development with proposed gross densities greater than one unit per acre and up to four units per acre to demonstrate higher quality design and to offer features that demonstrate particular benefits to the community.

Staff finds that the proposed residential development achieves higher quality design by adopting strategies that minimizes land disturbances (reduced building setbacks and lot sizes); preserves indigenous vegetation (a natural open space easement to protect portions of contiguous forested area adjacent to the 100-foot RPA buffer area has been proffered); minimizing impervious surfaces (driveways featuring grass center strips, pervious parking pads, and sidewalks along one side of the proposed internal streets.)

Additionally, Staff finds that the proposed residential development offers benefits to the community by providing unusual environmental protection (dedication of open space area to the County, cash contribution to be used for off-site stream restoration elsewhere in the Powhatabn Creek, and the use of Low Impact Development features in the property.) Staff also finds that, in addition to unusual environmental protection, the proposed residential development adheres to some of the principles of open space design by providing adequate recreational areas, pedestrian circulation that includes trail systems, and by retaining natural vegetative buffers around water bodies or wetlands.

### Request for Placement of Bioretention Basins in Buffers

The proposed residential development has proposed two bioretention basins located inside the 150 foot wide Community Character Corridor and one bioretention basin located within the northeastern perimeter buffer. Section 24-544(f) of the Zoning Ordinance states that " wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in buffers, except that the Planning Commission may approve them under the following circumstances with *staff comments follow in bold italics*:

- (1) The need is necessitated by site conditions rather than economic factors; and

**Staff Comment:** *The low end of the site abuts a perennial stream and is located within the tidal mainstream subwatershed of Powhatan Creek. In order to preserve the environmental integrity of this area, the stormwater management pond has been located away from its original outfall, at the low end of the site, and a system of four bioretention basins have been placed to enhance the overall efficiency of the stormwater management system.*

- (2) The screening/buffering effect of the buffer has been retained by design of the BMP and any degradation has been mitigated with additional planting or berms as necessary.

**Staff Comment:** *The proposed bioretention basins will not impact existing mature trees located within the buffer areas and should blend harmoniously with the proposed enhanced landscaping for the buffer areas.*

On August 07, 2006, The Planning Commission approved the request for placement of two bioretention basins located inside the 150 foot wide Community Character Corridor and one bioretention basin located within the northeastern perimeter buffer.

### Rezoning

### **Reduced Street Widths Request**

The applicant has requested from the Board of Supervisors support for reducing the street widths within the proposed Mason Park subdivision from the normal twenty-eight feet to twenty-two feet (curb to curb), and with an associated reduction in the right-of-way from fifty feet to forty feet. The applicant claims that reducing the street width of its internal roads will reduce impervious cover. In order to meet this policy, the applicant is responsible for meeting eight conditions which include: providing street trees, roll top curbs, sidewalks, no on-street parking signs, larger front setbacks, additional off-street parking, and fire hydrant placement as needed. The applicant has requested a waiver from requirement number eight, intersection trees. Following is a staff summary (in bold italics) of the eight items required by the Reduced Street Width Policy. A letter from the applicant addressing the eight requirements of the Reduced Street Width Policy is attached to this report together with a copy of the James City County's Reduced Street Width Policy Resolution.

1. At least one fire hydrant shall be provided every 400 feet on the road(s) subject to the reduced widths.

***Staff Comment: There are no road segments which exceed 400 feet in length proposed for this project. A fire hydrant is proposed for the internal intersection. The James City County Fire Department raised no objection to this finding.***

2. For each lot which fronts on a road subject to reduced widths, the developer shall submit a letter stating that a minimum of three off-street parking spaces, exclusive of any garage or similar car shelter facility, shall be provided. A note to this effect shall be added to both the construction plans and recorded plat for the subdivision.

***Staff Comment: The proposed project provides off-street parking pads and driveway spaces sufficient to accommodate at least three vehicles.***

3. Front setbacks for all lots which front on a road subject to reduced widths shall increase to a minimum of forty feet from the road right-of-way. However, this requirement shall not apply when design covenants, which are acceptable to the Director of Planning, indicating how the requirements of No.2 above will be met are recorded prior to, or concurrent with the final subdivision plat. However in no case shall the front setback be less than that required by the zoning ordinance.

***Staff Comment: The applicant will provide design covenants that guarantee off-street parking.***

4. The developer shall post signs in accordance with VDOT policy assuring that no on-street parking shall be allowed on the road(s) subject to reduced widths.

***Staff Comment: The applicant will comply with this requirement.***

5. Roll top curbs shall be used on all roads subject to reduced widths.

***Staff Comment: The applicant will comply with this requirement.***

6. A minimum three-foot sidewalk shall be provided on at least one side of all subdivision roads subject to reduced widths.

***Staff Comment: A five-foot sidewalk is proposed for one side of the internal streets.***

7. For each road where reduced widths are approved, trees shall be planted in accordance with the Streetscape Guideline Policy, as adopted by the Board of Supervisors.

***Staff Comment: The applicant proposes to plant trees that shall either meet or exceed the requirements set forth by the Streetscape Guideline Policy.***

**Rezoning**

8. No tree may be planted closer than 15 feet to the edge of pavement within 80 feet of any intersection on all roads with the reduced widths. A note to this effect, combined with appropriate graphic delineations, shall be added to the recorded plat.

**Staff Comment:** *The applicant has requested a waiver from this requirement arguing that the minimum sight distance at the anticipated 20 mph speed limit is only 200' and could be achieved without the 15 foot clear zone required as by this requirement. However, the James City County Fire Department strongly suggested adherence to this requirement, arguing that the issue at hand is not "line of sight" but rather appropriate access for the Fire Department apparatus. On August 25, 2006, a meeting was held among Planning Staff, the applicant and Mr. Greg Thompson, Assistant Fire Marshal for James City County to discuss this issue. The Fire Department representative agreed to support the request for a waiver for this requirement if the following conditions are met:*

- a. *Only small trees such as Crape Myrtle or Hornbeam, or very narrow growing (fastigate) trees such as Princeton Sentry Ginkgo, Columnar American Holly or Washington Hawthorn would be planted as part of the streetscape within the restricted area; and*
- b. *The proffers would include a requirement for the Homeowners Association to provide annual maintenance to ensure that no branches intrude into any internal subdivision roadway below the 13'6" fire vehicle clearance requirement.*

*The applicant has agreed to the proposed conditions as indicated on the attached letter titled, "Modification of Request for Reduced Street Widths, signed by Mr. Theodore R. Calver, landscape architect/senior planner for AES consulting engineers.*

#### **RECOMMENDATION**

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff recommends that the Board of Supervisors approve the request for street widths reduction for Mason Park subdivision. Staff also recommends that the Board of Supervisors approve this rezoning, special use permit, and master plan application for Mason Park, with the acceptance of the voluntary proffers and approval of the special use permit conditions.

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José-Ricardo Linhares Ribeiro, Planner

CONCUR:

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O. Marvin Sowers, Jr.

**ATTACHMENTS:**

1. Planning Commission Minutes
2. Resolutions
3. Location Map
4. Community Impact Statement
5. Master Plan (under separate cover)
6. Letter Requesting for Reduced Street Widths
7. Letter Requesting a Waiver from requirement No.8 from the Reduced Street Widths Policy with one attached diagram
8. Copy of the Reduced Street Widths Policy
9. Elevations
10. Proffers

**Unapproved Minutes of the September 4, 2019  
Planning Commission Regular Meeting**

**Z-19-0011. Mason Park Proffer Amendment**

Mr. José Ribeiro, Senior Planner II, stated that Mr. Jonathan Cramer of HHHunt Homes has submitted a request to amend the Proffers for Mason Park which were adopted in 2006. Mr. Ribeiro stated that the applicant is requesting that references to “detached garages” be deleted from the proffered language to allow the construction of residential units with attached garages. Mr. Ribeiro stated that in 2006 the approximately 9.11 acre property located at 1916 Jamestown Road was rezoned from R-8, Rural Residential to R-2, General Residential, with proffers, along with a Special Use Permit for a cluster overlay and a request for reduced street width. Mr. Ribeiro further stated that Mason Park was approved as residential development with 15 single-family-detached units with detached garages.

Mr. Ribeiro stated that according to the applicant, there is currently a preference in the housing market for residential units with attached garages. Mr. Ribeiro further stated that the applicant has indicated that attached garages will be located behind the house such that the front of the homes will remain the dominant visual structure from the street. Mr. Ribeiro noted that the application does not affect conditions of use or density and that staff does not anticipate any impacts from the change.

Mr. Ribeiro stated that the Comprehensive Plan designates the property as Low Density Residential. Mr. Ribeiro noted that residential land use standards encourage locating garages at the rear or side of the property to deemphasize the garage and associated driveway. Mr. Ribeiro stated that while the garages would no longer be detached, they would still be consistent with this language by being located at the rear of the property. Mr. Ribeiro further stated that the adopted Master Plan places the garages at the rear of the property. Mr. Ribeiro stated that staff finds the proposal to be consistent with surrounding development, the Comprehensive Plan and the Zoning Ordinance. Mr. Ribeiro stated that staff recommends that the Planning Commission recommend approval of the application to the Board of Supervisors.

Ms. Leverenz inquired if this change would create additional greenspace.

Mr. Ribeiro stated that staff has not yet looked at that aspect.

Ms. Leverenz made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of Z-19-0011. Mason Park Proffer Amendment. (7-0)

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Initiation of Abandonment of a Portion of Jolly Pond Road

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**ATTACHMENTS:**

	Description	Type
☐	memo	Cover Memo
☐	reso	Resolution

**REVIEWERS:**

Department	Reviewer	Action	Date
Attorney	Kinsman, Adam	Approved	9/11/2019 - 1:07 PM
Publication Management	Daniel, Martha	Approved	9/11/2019 - 1:17 PM
Legal Review	Kinsman, Adam	Approved	9/11/2019 - 2:49 PM
Board Secretary	Fellows, Teresa	Approved	9/17/2019 - 3:14 PM
Board Secretary	Purse, Jason	Approved	10/1/2019 - 11:16 AM
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 1:08 PM

## MEMORANDUM

DATE: October 8, 2019

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Initiation of Abandonment of a Portion of the Right-of-Way (ROW) for Jolly Pond Road (State Route 633)

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At its work session on May 21, 2019, Capital Projects Coordinator Rick Koehl discussed the current status of the Jolly Pond Road dam with the Board of Supervisors (the "Board"). Following that discussion, the Board directed the County Attorney to initiate the process to abandon the portion of Jolly Pond Road that has already been discontinued by the Commonwealth Transportation Board. If completed, abandonment of this portion of Jolly Pond Road will remove all public right of passage over it and the road will become private and will belong to the owners of the dam.

Should the Board desire to begin the process of abandonment, it should adopt the attached resolution.

ARK/nb  
JollyPdRdAband-mem

Attachment

## **RESOLUTION**

### **INITIATION OF ABANDONMENT OF A PORTION OF THE RIGHT-OF-WAY FOR**

#### **JOLLY POND ROAD (ROUTE 633)**

- WHEREAS, State Route 633 exists in James City County, Virginia (the “County”), a portion of which lies southeast of the intersection of State Route 611 and southwest of the intersection with State Route 614 and is part of a road known as Jolly Pond Road; and
- WHEREAS, the Commonwealth Transportation Board, by resolution adopted on March 14, 2012, discontinued the following portion of Jolly Pond Road from the Secondary System of Highways: the portion of road located 0.80 miles southeast of the intersection of Route 611 to 1.20 miles southwest of the intersection of Route 614 for a total of 0.13 miles (the “Discontinued ROW”); and
- WHEREAS, upon discontinuance by the Commonwealth of Virginia, the County became responsible for the Discontinued ROW and has jurisdiction over its abandonment; and
- WHEREAS, Mr. William C. Kane, Jr. and Ms. Angelia K. Kane, as Co-Trustees of the William C. Kane, Jr. Revocable Trust Agreement, dated May 14, 2013 (the “Owner”) own property located at 2756 Jolly Pond Road, further identified as James City County Real Estate Tax Map ID 3520100007 (the “Property”), a portion of which is crossed by the Discontinued ROW and contains a dam (the “Jolly Pond Dam”); and
- WHEREAS, repairs needed to the Jolly Pond Dam have left the Discontinued ROW in an unsafe condition; and
- WHEREAS, the Owner has options for remediation, repair, alteration, or removal of the dam that are not available while public right-of-way exists across the Jolly Pond Dam; and
- WHEREAS, the County’s public safety vehicles do not use the Discontinued ROW and there will be no interruption of public service by abandonment of the Discontinued ROW; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, desires to begin the process of abandoning the Discontinued ROW.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that staff is directed to provide notice for the abandonment of the following section of Jolly Pond Road as a public right-of-way pursuant to Section 33.2-914 et seq. of the Code of Virginia: the portion of road located 0.80 miles southeast of the intersection of Route 611 to 1.20 miles southwest of the intersection of Route 614 for a total of 0.13 miles, being the same portion of highway discontinued by the Commonwealth Transportation Board by resolution adopted on March 14, 2012. Staff is directed to take all actions necessary in order to bring the abandonment to the Board for its consideration.

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James O. Icenhour, Jr.  
Chairman, Board of Supervisors

ATTEST:

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Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	_____	_____	_____
LARSON	_____	_____	_____
SADLER	_____	_____	_____
MCGLENNON	_____	_____	_____
ICENHOUR	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of October, 2019.

AbandROWJollyPd-res

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Amend Adopted Meeting Calendar to Add Joint CIP Meeting with WJCC Schools and the City of Williamsburg on December 3, 2019 at 9 a.m. at Legacy Hall

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 3:58 PM

**ITEM SUMMARY**

DATE: 10/8/2019

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Deputy Clerk

SUBJECT: Adjourn until 4 p.m. on October 22, 2019 for the Work Session

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	10/1/2019 - 3:59 PM