

AGENDA
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
December 10, 2024
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Amelia Purse, a 5th grade student at Matthew Whaley Elementary School and a resident of the Jamestown District

E. PRESENTATION(S)

1. Chair Awards

F. PUBLIC COMMENT

G. CONSENT CALENDAR

H. PUBLIC HEARING(S)

1. Amendment to Cell Tower Lease at 3201 Monticello Avenue
2. MP-24-0004/Z-24-0010. Powhatan Terrace Master Plan and Proffer Amendment
3. SUP-24-0025. 7516 Richmond Road Dollar Tree
4. Second Interim Agreement for New Consolidated Government Center

I. BOARD CONSIDERATION(S)

J. BOARD REQUESTS AND DIRECTIVES

K. REPORTS OF THE COUNTY ADMINISTRATOR

L. CLOSED SESSION

M. ADJOURNMENT

1. Adjourn until 4 pm on January 14, 2025 for the Organizational Meeting

MEMORANDUM

DATE: December 10, 2024

TO: The Board of Supervisors

FROM: Liz Parman, Deputy County Attorney

SUBJECT: Amendment to Cell Tower Lease at 3201 Monticello Avenue

James City County (the “County”) leases a parcel of land located at 3201 Monticello Avenue to Crown Communications, LLC (“Crown Communications”) for the operation of a cell phone tower. The current 2007 lease will expire on March 27, 2032. Attached is a proposed amendment that will extend the lease under modified terms. Important aspects of the lease amendment are outlined below:

Rent: Beginning March 1, 2032, rent payments will increase 25% and the rent will continue to increase 3% per year. The current monthly rent is \$2,754.74.

Additional Consideration: As additional consideration for amending the Agreement, Crown Communications will pay to the County \$30,000 within 60 days.

Lease Term: This amendment will extend the lease for three additional five-year terms ending March 27, 2047.

Staff recommends approval of the lease.

LP/ap
CellTwrLseAmdt-mem

Attachment

RESOLUTION

AMENDMENT TO CELL TOWER LEASE AT 3201 MONTICELLO AVENUE

WHEREAS, James City County currently leases a portion of 3201 Monticello Avenue to Crown Communications, LLC (“Crown Communications”) for the operation of a cell phone tower, which the lease is set to expire March 27, 2032; and

WHEREAS, Crown Communications has proposed a lease amendment that provides for three additional five-year terms ending March 27, 2047, and rent increases; and

WHEREAS, a public hearing was advertised and a hearing conducted on the lease amendment; and

WHEREAS, the Board of Supervisors of James City County finds amendment of the lease to be in the public interest.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute those documents necessary to amend the lease agreement with Crown Communications, LLC, for the cell phone tower site located at 3201 Monticello Avenue.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

Teresa J. Saeed
Deputy Clerk to the Board

NULL
HIPPLE
MCGLENNON
ICENHOUR
LARSON

VOTES

AYE NAY ABSTAIN ABSENT

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2024.

CellTwrLseAmdt-res

MEMORANDUM

DATE: December 10, 2024

TO: The Board of Supervisors

FROM: Josh Crump, Principal Planner

SUBJECT: MP-24-0004/Z-24-0010. 1676 Jamestown Road Powhatan Terrace Master Plan and Proffer Amendment

Mr. Greg Davis, on behalf of JTR Properties, LLC, has applied to amend the Master Plan and proffer commitments for a 15.42-acre parcel of land at 1676 Jamestown Road (James City County Real Estate Tax Map Parcel No. 4730100036).

In 2008, the property was rezoned to R-2, General Residential, with Proffers and a Special Use Permit (SUP) for a Cluster Overlay. The intent was to develop an affordable rental community with 36 townhome units known as “Powhatan Terrace.” Subsequently, the proffers for the development were amended three times in 2017, 2019, and 2020. The developer for Powhatan Terrace is no longer seeking to build the 36 townhomes. The property owner is now requesting to amend the Master Plan and Proffers to reduce the permitted density to four single-family lots. Staff will also include language in the Ordinance amendment that the SUP for the Cluster Overlay shall be null and void, if these Master Plan and Proffer amendments are approved.

Given the less intensive residential use being proposed, many of the current proffers (traffic, recreation, architecture, etc.) are no longer deemed necessary. The applicant has proposed changes to supersede the existing proffers and adopted Master Plan. Highlights of changes include:

- A new Master Plan for four single-family lots and restricting development to four dwelling units.
- A 150-foot buffer along Jamestown Road.
- A five-foot sidewalk along Jamestown Road.

Staff transmitted this application to other County agencies for review and did not receive any objections to this recategorization. Staff finds the proposed categorization more appropriate in scale and applicability. At its November 6, 2024, meeting, the Planning Commission voted 7-0 to recommend approval of this application to the Board of Supervisors. There have been no additional changes to this application since the November 6 Planning Commission meeting.

Staff Recommendation

Staff finds that the application is consistent with the Zoning Ordinance and Comprehensive Plan. Staff recommends the Board of Supervisors approve this application and accept the attached amended proffers.

JC/md
PowTrProfMPAmd-mem

Attachments:

1. Ordinance
2. Location Map
3. Proposed Master Plan
4. Existing Master Plan
5. Proposed Proffers
6. Existing Proffers
7. Unapproved Minutes from the November 6, 2024, Planning Commission Meeting

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE POWHATAN TERRACE MASTER PLAN AND EXISTING PROFFERS AS DESCRIBED IN CASE NO. MP-24-0004/Z-24-0010.

- WHEREAS, on March 25, 2008, the Board of Supervisors approved Case No. Z-0007-2007/MP-0005-2007/SUP-0020-2007, which rezoned ± 16.5 acres zoned LB, Limited Business, and R-2, General Residential, to R-2, General Residential, with Proffers (the “Original Proffers”); and
- WHEREAS, on January 9, 2018, the Board of Supervisors approved Case No. Z-0004-2017, which amended Condition No. 1 of the Original Proffers to allow rental of units; and
- WHEREAS, on March 12, 2019, the Board of Supervisors approved Case No. Z-19-0001, which amended Condition No. 19 of the Original Proffers to allow units to be offered for rent through the Low-Income Housing Tax Credit Program; and
- WHEREAS, on February 9, 2021, the Board of Supervisors approved Case No. Z-20-0005, which amended Condition Nos. 2, 4, 8, 13, 15, 17, and 19 of the Original Proffers to clarify obligations and responsibilities of the property owner, reduce cash proffers in accordance with the Housing Opportunities Policy, change the green building standard to the Energy Star Program, clarify future monitoring and mitigation requirements related to on-site petroleum contamination, and clarify affordable housing assurances for a 30-year period (the Original Proffers as amended by Z-0004-2017, Z-19-0001, and Z-20-0005 referred to as the “Existing Proffers”); and
- WHEREAS, on behalf of JTR Properties, LLC, Mr. Greg Davis of Kaufman & Canoles, P.C. has applied to amend the Existing Proffers and adopted Master Plan to reduce the permitted density to a less intensive residential use for the development of four residential lots each containing one single-family dwelling; and
- WHEREAS, the property subject to the application is located at 1676 Jamestown Road and can be further identified as James City County Real Estate Tax Map Parcel No. 4730100036; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. MP-24-0004/Z-24-0010; and
- WHEREAS, the Planning Commission of James City County, following its consideration on November 6, 2024, recommended approval of Case No. MP-24-0004/Z-24-0010, by a vote of 7-0; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. MP-24-0004/Z-24-0010 to be required by public necessity, convenience, general welfare, and good zoning practice.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of James City County, Virginia,
that Case No. MP-24-0004/Z-24-0010 is hereby approved as described therein and the
amended voluntary proffers are accepted.

BE IT FURTHER ORDAINED that Case No. SUP-0020-2007 shall be considered null and void with
approval of Case No. MP-24-0004/Z-24-0010 and the amended voluntary proffers
accepted.

Ruth M. Larson
Chair, Board of Supervisors

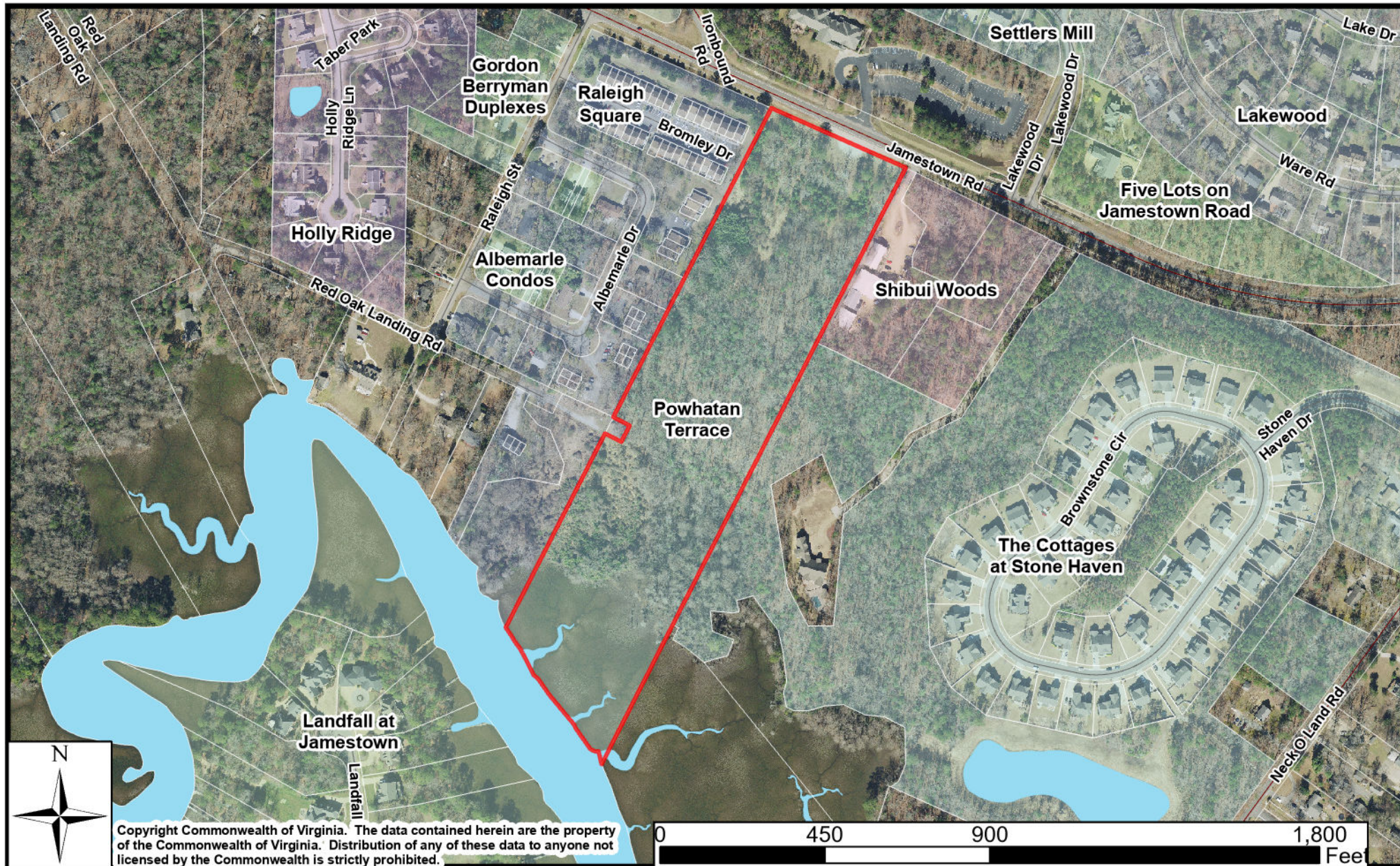
ATTEST:		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Teresa J. Saeed Deputy Clerk to the Board	NULL	_____	_____	_____	_____
	HIPPLE	_____	_____	_____	_____
	MCGLENNON	_____	_____	_____	_____
	ICENHOUR	_____	_____	_____	_____
	LARSON	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
December, 2024.

MP-24-0004/Z-24-0010

1676 Jamestown Road

Powhatan Terrace Master Plan & Proffer Amendment



Master Plan

Issued for	Review
Date Issued	Septembe 25, 2024
Latest Issue	October 30, 2024

Powhatan Terrace
1676 Jamestown Road
James City County, VA

Owner

JTR Properties LLC
626 Dock Landing
Williamsburg, Virginia 23188



Sheet Index

No.	Drawing Title	Latest Issue
C-1.0	Environmental Inventory	October 30, 2024
C-1.1	Conceptual Plan	October 30, 2024

Miss Utility of Virginia
1829 BLUE HILL CIRCLE
NE ROANOKE, VIRGINIA 24012



BEFORE YOU DIG ANYWHERE IN
VIRGINIA! CALL 811 (IN VIRGINIA)
1-800-552-7001 (OUTSIDE VIRGINIA)

VA LAW REQUIRES 3 WORKING DAYS
NOTICE BEFORE YOU EXCAVATE.

STATISTICAL DATA

PROJECT SITE ADDRESS

1676 JAMESTOWN ROAD
WILLIAMSBURG, VA. 23185
4730100036

JAMES CITY COUNTY PARCEL ID.
ZONING

R-2, General Residential, with Proffers, with Cluster Overlay in Accordance with
Z-0007-2007/MP-0005-2007/SUP-0020-2007, Z-0004-2017, Z-20-0005, and Z-19-0001

PROPERTY IS LOCATED WITHIN THE PSA
PARCEL AREA

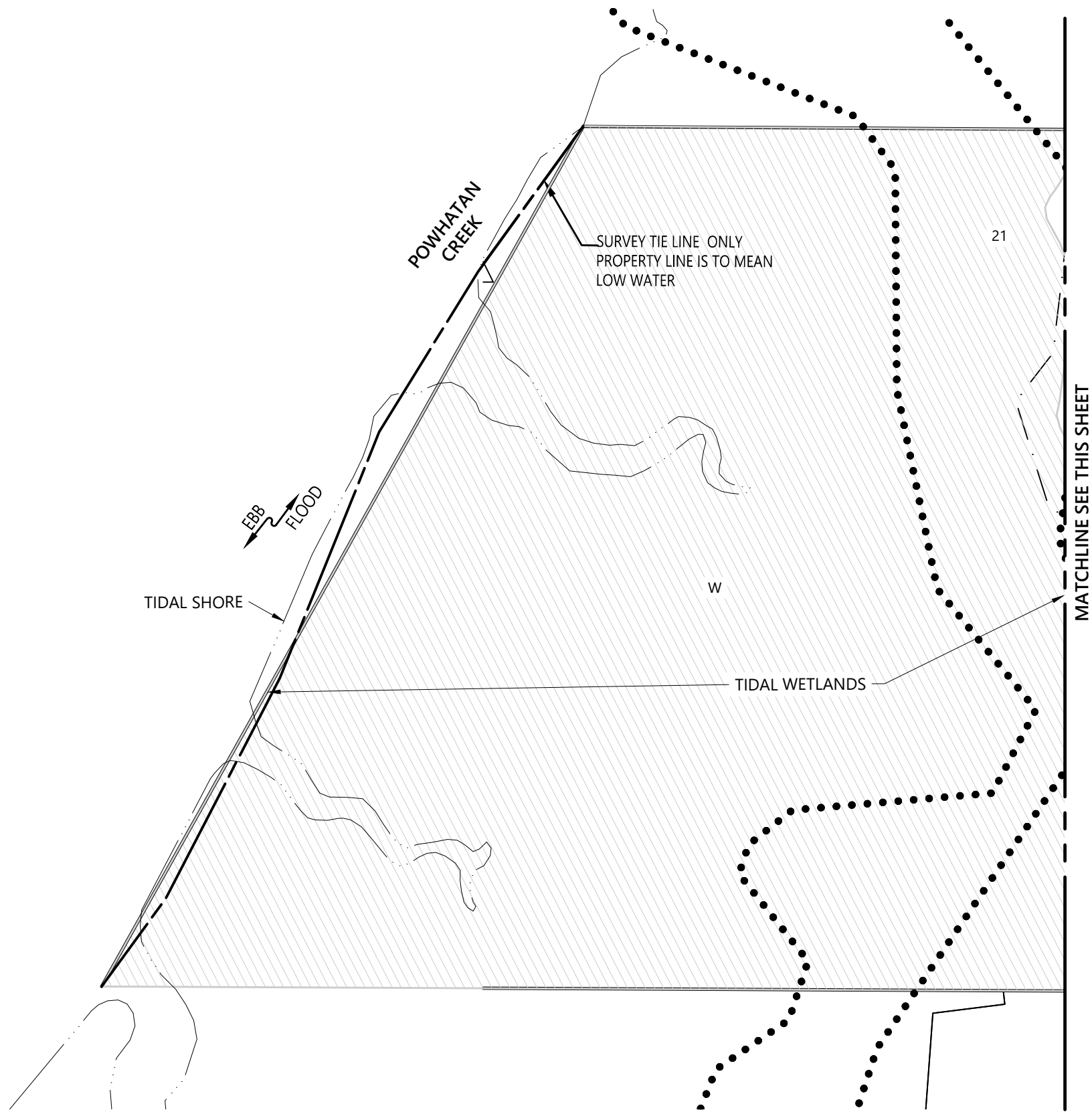
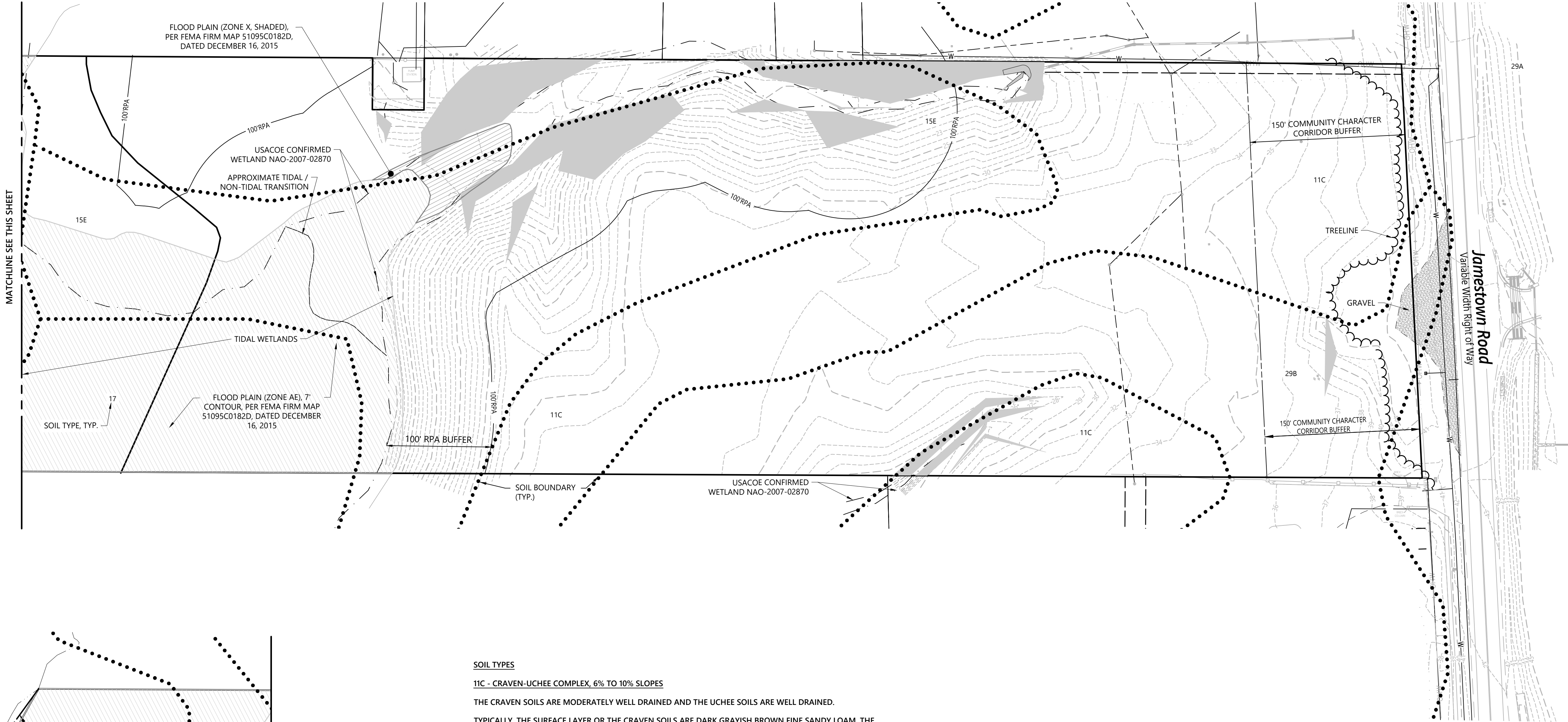
15.42 ACRES

HYDROLOGIC UNIT CODE (HUC)
FLOODPLAIN ZONE
FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER

6TH ORDER NWBD HUC CODE = JL31
X, X500, AE
51095C0182D EFFECTIVE DECEMBER 16, 2015 PROJECT APPEARS TO BE IN ZONE X (AREAS DETERMINED TO BE
OUTSIDE THE 500 YEAR FLOOD PLAIN), X500 (AREAS DETERMINED TO BE INSIDE THE 500 YEAR FLOOD PLAIN), AND
AE (SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD; BFE=7 FEET).

JCC CASE # MP-24-0004/Z-24-0010





SOIL TYPES

11C - CRAVEN-UCHEE COMPLEX, 6% TO 10% SLOPES

THE CRAVEN SOILS ARE MODERATELY WELL DRAINED AND THE UCHEE SOILS ARE WELL DRAINED.

TYPICALLY, THE SURFACE LAYER OR THE CRAVEN SOILS ARE DARK GRAYISH BROWN FINE SANDY LOAM. THE SUBSURFACE LAYER IS PALE OLIVE FINE SANDY LOAM. THE SUBSOIL IS A YELLOWISH BROWN CLAY IN THE UPPER PART WITH YELLOWISH BROWN SANDY CLAY LOAM MOTTLED WITH GRAY IN THE MIDDLE AND LOWER PARTS. THE SUBSTRATUM IS BROWNISH YELLOW FINE SANDY LOAM MOTTLED WITH GRAY IN THE UPPER PART AND GRAY LOAMY FINE SAND WITH YELLOW MOTTLES IN THE LOWER PART.

TYPICALLY, THE SURFACE LAYER OF THE UCHEE SOIL ARE DARK GRAYISH LOAMY FINE SAND. THE SUBSURFACE LAYER IS LIGHT YELLOWISH BROWN AND VERY PALE BROWN LOAMY FINE SAND. THE SUBSOIL IS STRONG BROWN SANDY CLAY LOAM IN THE UPPER AND STRONG BROWN SANDY CLAY LOAM AND CLAY MOTTLED WITH GRAY AND RED IN THE LOWER PART. THE SUBSTRATUM IS VARIEGATED RED, BROWN AND GRAY STRATIFIED SANDY LOAM AND SANDY CLAY LOAM.

THE SHRINK/SWELL POTENTIAL FOR THE CRAVEN AND UCHEE SOILS ARE LOW TO MODERATE. THE EROSION FACTOR "K" IS FROM 0.32 TO 0.37 FOR THE CRAVEN SOIL AND 0.20 TO 0.28 FOR THE UCHEE SOIL. CRAVEN SOILS ARE IN HYDROLOGIC GROUP "C", UCHEE SOILS ARE IN HYDROLOGIC GROUP "A".

15E - EMPORIA COMPLEX, 15% TO 25% SLOPES

THE EMPORIA SOIL IS WELL DRAINED.

TYPICALLY, THE SURFACE LAYER IS DARK GRAYISH BROWN FINE SANDY LOAM. THE SUBSURFACE LAYER IS PALE BROWN LOAM. THE SUBSOIL IS YELLOWISH BROWN LOAM WITH MOSTLY STRONG BROWN AND GRAY MOTTLES IN THE MIDDLE PART; AND MOTTLED GRAY AND BROWN, FIRM SANDY CLAY LOAM IN THE LOWER PART. THE SUBSTRATUM IS VARIEGATED GRAY, BROWN AND RED FIRM SANDY CLAY LOAM.

THE PERMEABILITY OF THIS SOIL IS MODERATE IN THE UPPER PART OF THE SUBSOIL AND MODERATELY SLOW IN THE LOWER PART. THE AVAILABLE WATER CAPACITY IS MODERATE.

THE SHRINK/SWELL POTENTIAL FOR THE SUBSOIL IS MODERATE. THE EROSION FACTOR "K" IS FROM 0.20 TO 0.28. EMPORIA SOILS ARE IN HYDROLOGIC GROUP "C".

29A - SLAGLE FINE SANDY LOAM, 0% TO 2% SLOPES

THE SLAGLE FINE SANDY LOAM SOIL IS MODERATELY WELL DRAINED.

TYPICALLY, THE SURFACE LAYER OF THIS SOIL IS DARK GRAYISH BROWN FINE SANDY LOAM. THE SUBSURFACE LAYER IS LIGHT YELLOWISH BROWN FINE SANDY LOAM. THE SUBSOIL IS MOSTLY MOTTLED YELLOWISH BROWN CLAY LOAM AND SANDY CLAY LOAM. THE SUBSTRATUM IS MOTTLED SANDY CLAY LOAM.

THE PERMEABILITY OF THIS SLAGLE FINE SANDY LOAM SOIL IS MODERATE IN THE UPPER PART OF THE SUBSOIL AND MODERATELY SLOW OR SLOW IN THE LOWER PART. THE AVAILABLE WATER CAPACITY IS MODERATE.

THE SHRINK/SWELL POTENTIAL FOR THE SLAGLE FINE SANDY LOAM SOIL IS MODERATE. THE EROSION FACTOR "K" IS 0.24. NORFOLK SOILS ARE IN HYDROLOGIC GROUP "C".

29B - SLAGLE FINE SANDY LOAM, 2% TO 6% SLOPES

THE SLAGLE FINE SANDY LOAM SOIL IS MODERATELY WELL DRAINED.

TYPICALLY, THE SURFACE LAYER OF THIS SOIL IS DARK GRAYISH BROWN FINE SANDY LOAM. THE SUBSURFACE LAYER IS LIGHT YELLOWISH BROWN FINE SANDY LOAM. THE SUBSOIL IS MOSTLY MOTTLED YELLOWISH BROWN CLAY LOAM AND SANDY CLAY LOAM. THE SUBSTRATUM IS MOTTLED SANDY CLAY LOAM.

THE PERMEABILITY OF THIS SLAGLE FINE SANDY LOAM SOIL IS MODERATE IN THE UPPER PART OF THE SUBSOIL AND MODERATELY SLOW OR SLOW IN THE LOWER PART. THE AVAILABLE WATER CAPACITY IS MODERATE.

THE SHRINK/SWELL POTENTIAL FOR THE SLAGLE FINE SANDY LOAM SOIL IS MODERATE. THE EROSION FACTOR "K" IS 0.24. NORFOLK SOILS ARE IN HYDROLOGIC GROUP "C".

W - WATER

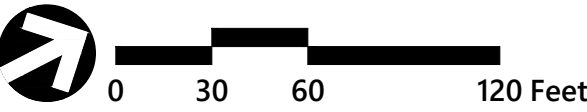
25% SLOPES AREA = 0.63 ACRES
NON-TIDAL WETLANDS AREA= 0.64 ACRES
TIDAL WETLANDS AREA= 4.53 ACRES

NOTES:

1. TIDAL WETLANDS: SHOWN.
2. TIDAL SHORES: SHOWN.
3. 100 FOOT RPA BUFFER: SHOWN AS EXTENDING 100 FEET LANDWARD OF THE FIELD LOCATED WETLANDS.
4. SLOPES OF 25% OR GREATER ARE SHOWN ON THIS SHEET AND ARE BASED ON AERIAL TOPOGRAPHIC SURVEY.
5. FLOOD ZONE: THIS PROJECT IS LOCATED WITHIN FEMA FIRM ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN), ZONE X500 (AREAS DETERMINED TO BE INSIDE THE 500 YEAR FLOOD PLAIN), AND ZONE AE (SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD; BFE=7 FEET) AS SHOWN ON FEMA FIRM FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 51095C0182D DATED DEC. 16, 2015.

LEGEND:

- 100' RPA
- 100' RESOURCE PROTECTION AREA
- SOIL BOUNDARY
- 100 YEAR FLOOD PLAIN (ZONE AE) 7' CONTOUR, PER FEMA FIRM MAP 51095C0182D, DATED DECEMBER 16, 2015
- ZONE X500 (AREAS DETERMINED TO BE INSIDE THE 500 YEAR FLOOD PLAIN) PER FEMA FIRM MAP 51095C0182D, DATED DECEMBER 16, 2015



**Powhatan Terrace
James City County, VA**
1676 Jamestown Road
Williamsburg, Virginia

No.	Revision	Date	Apprd.
2	County Comments	10/30/2024	SAR
1	Added street name	10/28/2024	SAR
Designed by		Checked by	

Issued for
Review
September 25, 2024

JCC CASE # MP-24-0004/Z-24-0010



Drawing Number

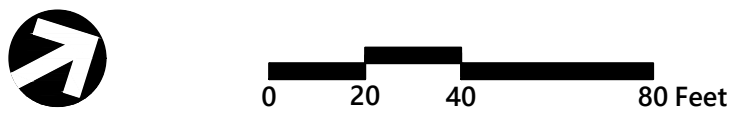
C-1.0

Sheet 2 of 3

Project Number
34445.02



Match Line See Below



1676 Jamestown Road
Williamsburg, Virginia

No.	Revision	Date	Appvd.
2	County Comments	10/30/2024	SAR
1	Added street name	10/28/2024	SAR
Designed by		Checked by	

Issued for	Date
Review	September 25, 2024

JCC CASE # MP-24-0004/Z-24-0010

Conceptual Plan

Following Numbers

C-1.1

et of

3 3

Project Number
4445.02

MP-0005
2007

Z-0007
2007

SUP-0020
2007



1. Rezoning 4.7 acres of LB to R2 with proffers and Special Use Permit to allow a residential cluster development.
2. Parcel Numbers and Owners:

Parcel ID# 4730100039
Investment Properties of Virginia, LLC
PO Box 150
Barhamsville, VA 230110150

3. Parcel Numbers and Property Addresses:

Parcel ID#: 4730100039 6.1 acres
180 Red Oak Landing Road
Williamsburg, VA 231853111

4. Total area: 16.5 acres.

5. Existing zoning:

LB: 4.7 acres
R2: 11.8 acres

6. Topographic information is based on 5 foot contour intervals provided by James City County GIS information.

7. Sheet 2, Environmental Inventory, indicates 25% slopes, soil inventory, wetlands, 100 year floodplain, the approximate location of Resource Protection Areas (RPA) and associated buffers, and perennial stream determinations. For further information on the Environmental Inventory, refer to the Community Impact Statement.

8. This project is located in the Tidal Mainstem of the Powhatan Creek Watershed in James City County for which a watershed management plan was developed. To observe recommendations of this plan, a combination of structural best management practices, preservation of natural open space, and the use of special stormwater criteria are employed to: prevent further degradation of Powhatan Creek, enhance groundwater recharge usually lost from land development, and to help preserve some of the natural hydrology of the site.

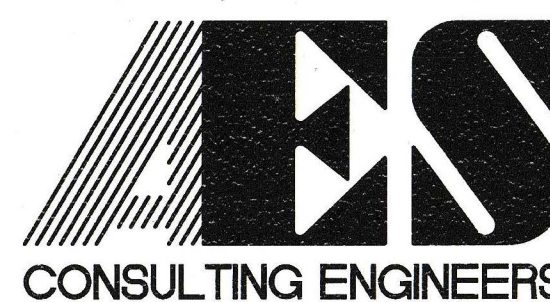
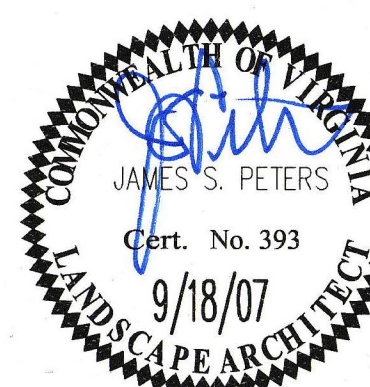
9. Curb and gutter streets are proposed. Except where ditch sections can increase infiltration opportunities.

10. All streets within the development will be private per applicable VDOT standards.

VICINITY MAP
(APPROX. SCALE: 1" = 2000')

DATE: 6/1/07

AES PROJECT # 9462-02

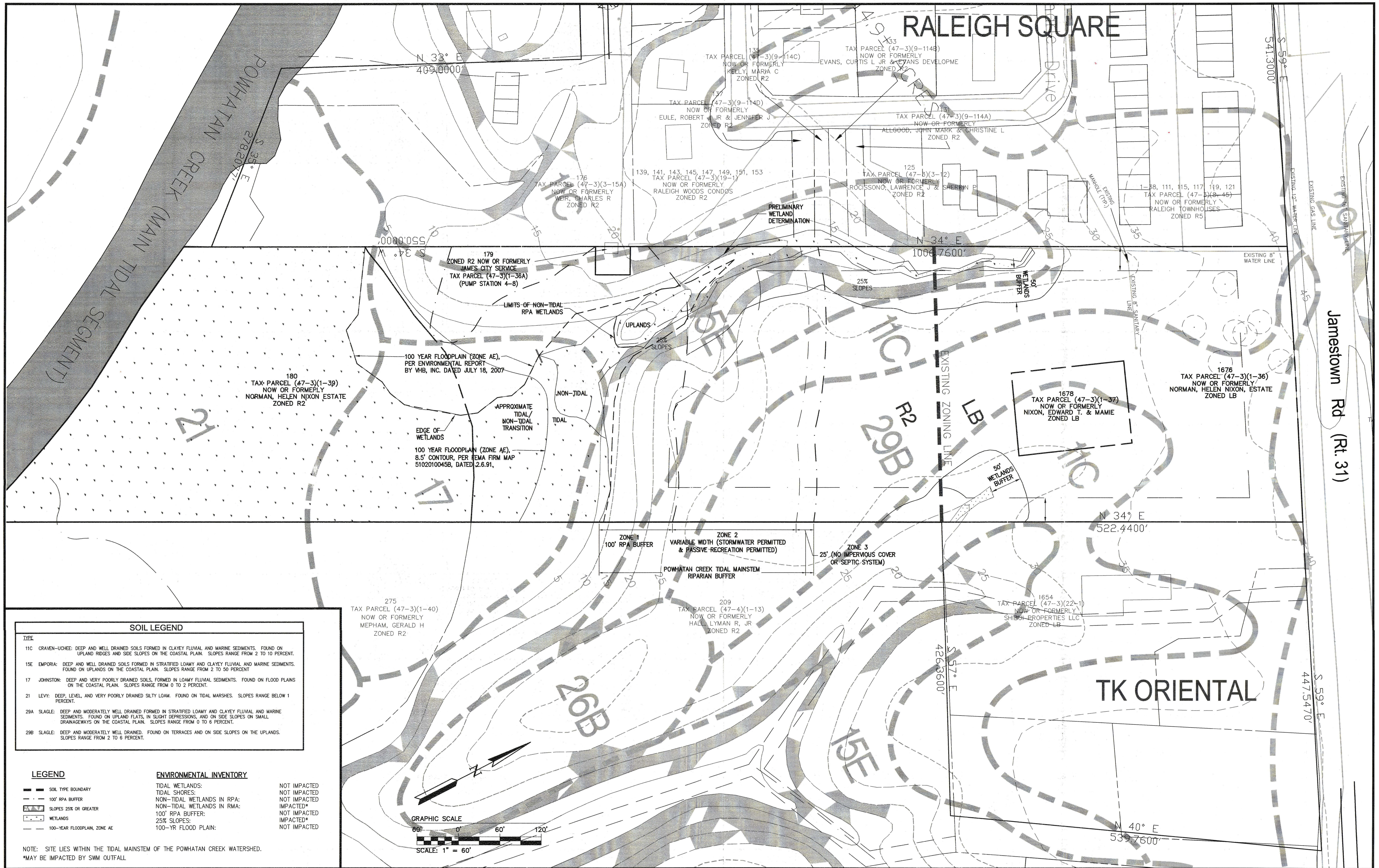


5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-0040
Fax (757) 220-8994

INDEX OF SHEETS

SHEET NUMBER	DESCRIPTION
1	COVER SHEET
2	ENVIRONMENTAL INVENTORY
3	MASTER PLAN
4	CONCEPTUAL STORMWATER MANAGEMENT PLAN

	3	3/17/08	REVISED PER COUNTY COMMENTS		J5
	2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT		J5
	1	9/18/07	REVISED PER COUNTY COMMENTS		B
APPROVAL	No.	DATE	REVISION / COMMENT / NOTE		

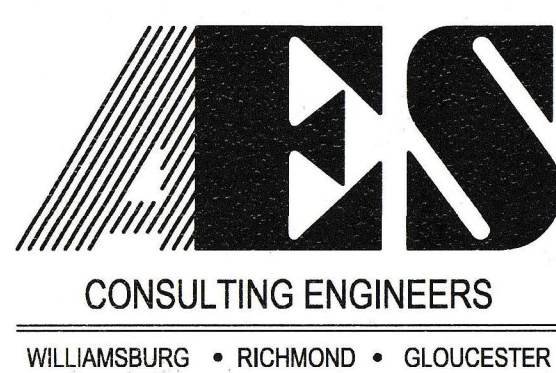


SOIL LEGEND	
TYPE	
11C	GRAVEN-UCHEE: DEEP AND WELL DRAINED SOILS FORMED IN CLAYEY FLUVIAL AND MARINE SEDIMENTS. FOUND ON UPLAND RIDGES AND SIDE SLOPES ON THE COASTAL PLAIN. SLOPES RANGE FROM 2 TO 10 PERCENT.
15E	EMPORIA: DEEP AND WELL DRAINED SOILS FORMED IN STRATIFIED LOAMY AND CLAYEY FLUVIAL AND MARINE SEDIMENTS. FOUND ON UPLANDS ON THE COASTAL PLAIN. SLOPES RANGE FROM 2 TO 50 PERCENT.
17	JOHNSTON: DEEP AND VERY POORLY DRAINED SOILS, FORMED IN LOAMY FLUVIAL SEDIMENTS. FOUND ON FLOOD PLAINS ON THE COASTAL PLAIN. SLOPES RANGE FROM 0 TO 2 PERCENT.
21	LEVY: DEEP, LEVEL, AND VERY POORLY DRAINED SILTY LOAM. FOUND ON TIDAL MARSHES. SLOPES RANGE BELOW 1 PERCENT.
29A	SLAGLE: DEEP AND MODERATELY WELL DRAINED FORMED IN STRATIFIED LOAMY AND CLAYEY FLUVIAL AND MARINE SEDIMENTS. FOUND ON UPLAND FLATS, IN SLIGHT DEPRESSIONS, AND ON SIDE SLOPES ON SMALL DRAINAGEWAYS ON THE COASTAL PLAIN. SLOPES RANGE FROM 0 TO 6 PERCENT.
29B	SLAGLE: DEEP AND MODERATELY WELL DRAINED. FOUND ON TERRACES AND ON SIDE SLOPES ON THE UPLANDS. SLOPES RANGE FROM 2 TO 6 PERCENT.

LEGEND		ENVIRONMENTAL INVENTORY	
---	SOIL TYPE BOUNDARY	TIDAL WETLANDS:	NOT IMPACTED
---	100' RPA BUFFER	TIDAL SHORES:	NOT IMPACTED
---	SLOPES 25% OR GREATER	NON-TIDAL WETLANDS IN RPA:	NOT IMPACTED
---	WETLANDS	NON-TIDAL WETLANDS IN RMA:	IMPACTED*
---	100' RPA BUFFER	100' RPA BUFFER:	NOT IMPACTED
---	100-YR FLOODPLAIN, ZONE AE	25% SLOPES:	IMPACTED*
		100-YR FLOOD PLAIN:	NOT IMPACTED

NOTE: SITE LIES WITHIN THE TIDAL MAINSTEM OF THE POWHATAN CREEK WATERSHED.
*MAY BE IMPACTED BY SWM OUTFALL

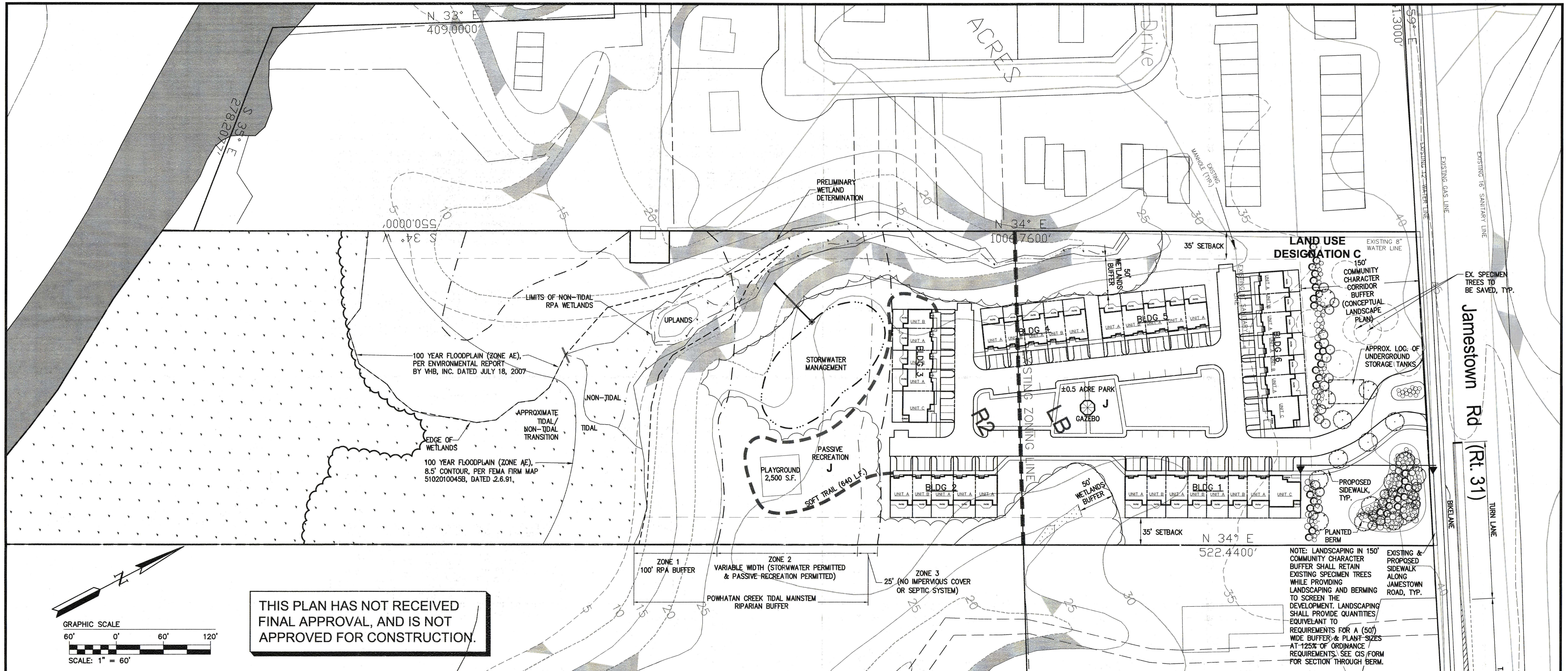
No.	DATE	REVISION / COMMENT / NOTE	REVIEWED BY	DESIGNED BY
2	3/17/08	REVISED PER COUNTY COMMENTS	MRA	JSP
1	9/18/07	REVISED PER COUNTY COMMENTS	SJR	JSP



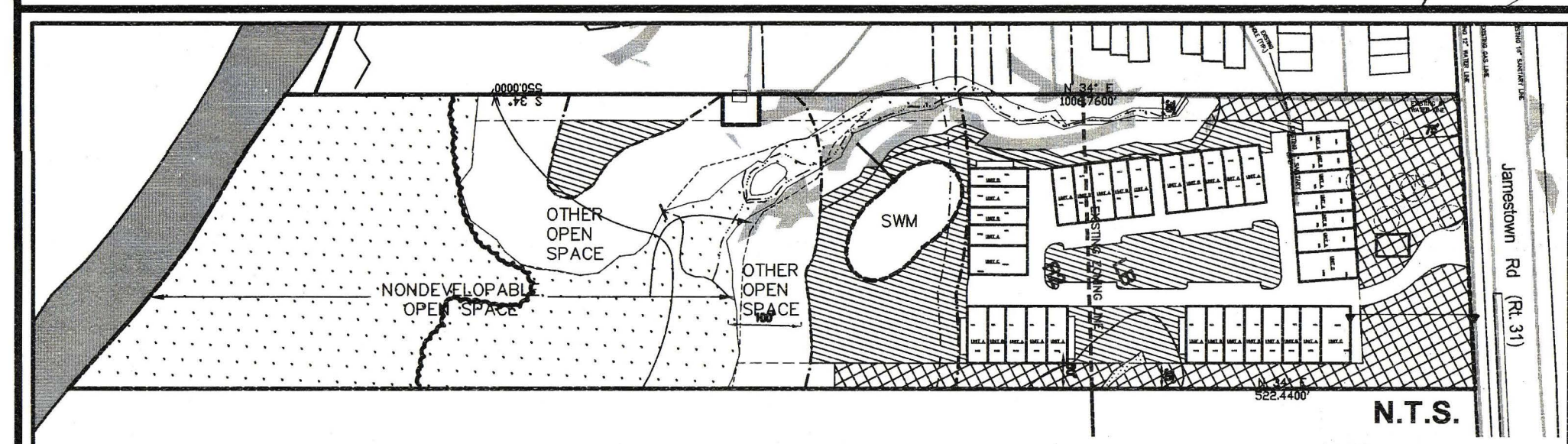
5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-0040
Fax (757) 220-8994

ENVIRONMENTAL INVENTORY	
POWHATAN TERRACE	
REZONING AND SPECIAL USE PERMIT	
for	
ASSOCIATED DEVELOPERS, INC.	
JAMESTOWN DISTRICT	JAMES CITY COUNTY
VIRGINIA	

Designed JSP	Drawn MRA
Scale 1"=60'	Date 6/1/07
Project No. 9462-02	
Drawing No. 2 OF 4	



THIS PLAN HAS NOT RECEIVED
FINAL APPROVAL, AND IS NOT
APPROVED FOR CONSTRUCTION.



LOCATION OF REQUIRED 40% OPEN SPACE WITHIN THE DEVELOPABLE AREA

AREA	DEVELOPABLE OPEN SPACE COMPONENT	ACRES
	SETBACKS AND R.O.W. BUFFERS	2.1
	DEVELOPABLE OPEN SPACE NOT PART OF ANY REQUIRED YARD	2.1
	TOTAL	4.2

NOTE: PER 24-552 A MINIMUM OF 40 PERCENT OF THE NET DEVELOPABLE AREA OF THE SITE (4.2 AC) MUST BE PERMANENTLY SET ASIDE AS OPEN SPACE. TO HELP MEET THAT REQUIREMENT, THE DEVELOPABLE AREA WITHIN ROW AND PERIMETER BUFFERS/SETBACKS MAY BE COUNTED FOR UP TO FIFTY PERCENT (IN THIS CASE 2.1 AC) OF THE REQUIRED OPEN SPACE.

SITE AREA SUMMARY

NET DEVELOPABLE AREA CALCULATION

DESCRIBED AREA	ACRES	% OF OVERALL PROPERTY
GROSS LAND AREA	16.5	100%
AREAS SUBTRACTED		
25% SLOPES OR GREATER, STREAM BEDS, MARSH AREAS, AREAS SUBJECT TO FLOODING & PONDS	0.4	2.4%
	5.7	34.5%
NET DEVELOPABLE AREA	10.4	63.1%

COMPOSITION OF DEVELOPABLE AREA

	DESCRIBED AREA	ACRES	% OF NET DEVELOPABLE	% OF OVERALL PROPERTY
NON-OPEN SPACE AREAS	ROADS AND PARKING AREA (EXCLUSIVE OF LOTS)	0.9	8.7%	5.5%
	AREA IN TOWNHOME LOTS	1.8	17.3%	10.9%
	STORM WATER MANAGEMENT FACILITY	0.4	3.8%	2.4%
	SUBTOTAL	3.1	29.8%	18.8%
OPEN SPACE	DEVELOPABLE OPEN SPACE WITHIN REQUIRED PERIMETER BUFFERS	2.5	24.0%	15.2%
	DEVELOPABLE OPEN SPACE NOT PART OF ANY REQUIRED YARD	2.6	25.0%	15.8%
	DEVELOPABLE OPEN SPACE WITHIN 100' RPA BUFFER	2.2	21.2%	13.3%
	NONDEVELOPABLE OPEN SPACE	6.1	N/A	13.3%
	TOTAL OPEN SPACE	13.4	N/A	81.2%

GROSS DENSITY CALCULATIONS

GROSS DENSITY: 2.18± D.U./AC*

*GROSS DENSITY IS CALCULATED AS FOLLOWS:

36 (TOTAL NUMBER OF DWELLING UNITS)
16.5 (TOTAL AREA OF SITE)

GROSS DENSITY (W/ REMOVAL OF CONSERVATION LAND USE AS PER JCC COMPREHENSIVE PLAN): 3.53± D.U./AC**

**GROSS DENSITY IS CALCULATED AS FOLLOWS:

36 (TOTAL NUMBER OF DWELLING UNITS)
16.5 - 6.3 (TOTAL AREA OF SITE) - (CONSERVATION LAND USE)

LEGEND

LANDUSE C: ATTACHED STRUCTURES LESS THAN THREE STORIES AND CONTAINING MORE THAN FOUR DWELLING UNITS.

LANDUSE J: AREAS OF COMMON OPEN SPACE, WITH RECREATION AREAS NOTED.

WETLANDS

100-YEAR FLOODPLAIN, ZONE AE

IMPERVIOUS CALCULATIONS

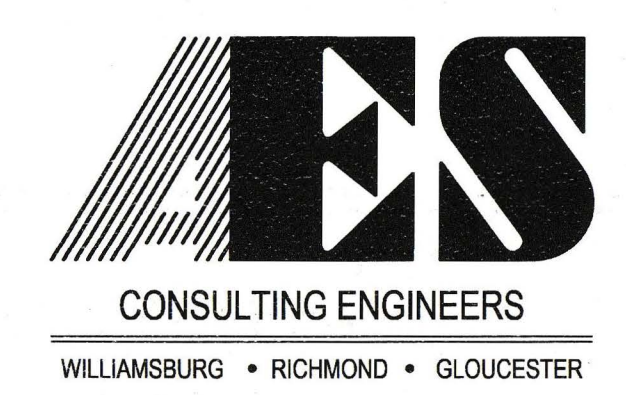
PARKING, ROADS, AND DUMPSTER PADS	1.2± AC
SIDEWALKS	0.3± AC
BUILDINGS	0.9± AC
TOTAL IMPERVIOUS AREA	2.4± AC (14.5% OF OVERALL PROPERTY)

JCC COMPREHENSIVE PARKS AND RECREATION MASTER PLAN TABLE

JCC RECREATION PLAN STANDARDS (36 TOWNHOMES)	REQUIRED	PROVIDED
PARK LAND	0.22 ACRES	0.5± ACRES
PLAYGROUND	0.122 PLAYGROUND	1 PLAYGROUND
TRAILS	0.094 MILES/496 L.F.	0.12 MILES/640± L.F.
COURT	0.047 COURT	PART OF ADDITIONAL 0.28 ACRES OF PARK LAND
SOFTBALL FIELD	0.012 SOFTBALL FIELD (420 S.F. ASSUMING 35,000 S.F. FIELD)	PART OF ADDITIONAL 0.28 ACRES OF PARK LAND

NOTE: CALCULATIONS BASED ON RECOMMENDED PROFFERS FOR TOWNHOUSE AND MULTI-FAMILY DEVELOPMENTS PER JAMES CITY COUNTY COMPREHENSIVE PARKS AND RECREATION MASTER PLAN.

No.	DATE	REVISION / COMMENT / NOTE	REVISION BY	REVIEWED BY
3	3/17/08	REVISED PER COUNTY COMMENTS	MRA	JSP
2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	MRA	JSP
1	9/18/07	REVISED PER COUNTY COMMENTS	SJR	JSP



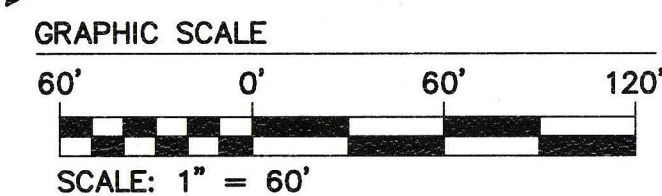
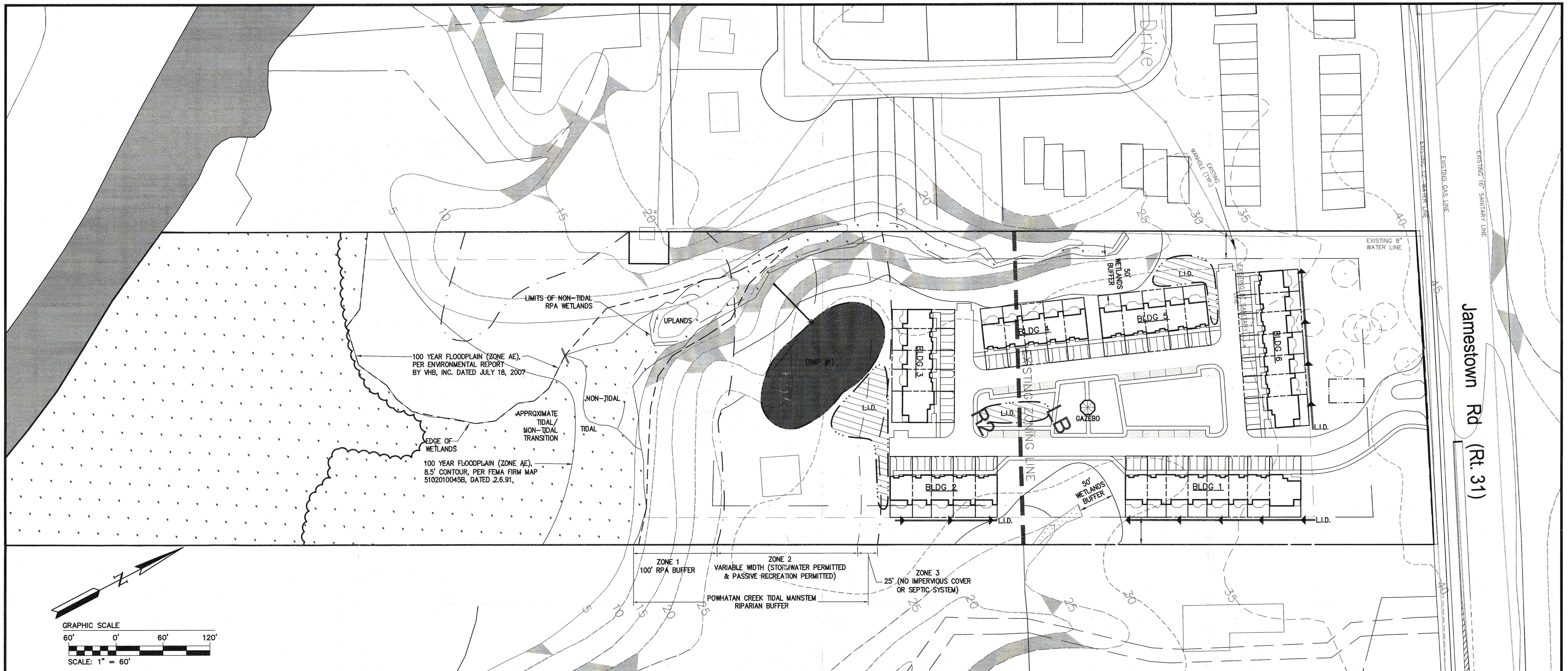
5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-0040
Fax (757) 220-8994

BINDING MASTER PLAN
PER ZONING ORDINANCE SECTIONS 24-454 (b) (1)-(5) & 24-554 (a)-(e)

POWATAN TERRACE
REZONING AND SPECIAL USE PERMIT
for
ASSOCIATED DEVELOPERS, INC.

JAMESTOWN DISTRICT JAMES CITY COUNTY VIRGINIA

Designed JSP	Drawn MRA
Scale 1"=60'	Date 6/1/07
Project No. 9462-02	Drawing No. 3 OF 4



LEGEND

- PROPOSED STORMWATER MANAGEMENT PONDS
- L.I.D. / BIORETENTION
- POTENTIAL DRY SWALE (L.I.D.)
- POROUS PAVEMENT (L.I.D.)
- WETLANDS
- 100-YEAR FLOODPLAIN, ZONE AE

BMP POINT ANALYSIS

TOTAL AREA OF SITE = 16.5 AC.

IN PRELIMINARY ANALYSIS OF THE STORMWATER MANAGEMENT REQUIREMENTS FOR THIS SITE A VOLUME STORAGE CAPACITY OF 76,512 CUBIC FEET IS PROVIDED. PLANNED NORMAL POOL ELEVATIONS WILL CONTAIN 23,360 CUBIC FEET. UNDER THE JAMES CITY COUNTY GUIDELINES FOR BMP'S, THE EXTENDED DETENTION WET POND MAY HAVE ONE HALF OF THE WATER QUALITY VOLUME STORED IN THE PERMANENT POOL AND ONE HALF OF THE WATER QUALITY VOLUME RELEASED IN A 24-HOUR PERIOD. THIS BMP LOCATION WILL PROVIDE THE ENTIRE WATER QUALITY VOLUME STORED WITHIN THE WET POND. (SEE ATTACHED BMP POINT WORKSHEET FOR 10-POINT ANALYSIS)

NOTE:

THE DEVELOPER SHALL ATTEMPT TO MINIMIZE THE SIZE OF THE WET POND (BMP#1). IN ORDER TO MINIMIZE THE SIZE OF THE WET POND (BMP #1), THE DEVELOPER, WITH THE APPROVAL OF THE ENVIRONMENTAL DIVISION, MAY USE ANY SSC OR ADDITIONAL WATER QUALITY MEASURES NOT ALREADY USED TO MEET THE 3 REQUIRED SSC UNITS, TO MEET THE 10 POINT BMP CRITERIA.

SPECIAL STORMWATER CRITERIA

SPECIAL STORMWATER CRITERIA WILL APPLY TO THIS SITE, BECAUSE IT DRAINS TO TIDAL MAINSTEM OF POWHATAN CREEK.

THE SITE HAS A SSC CLASS 3 DESIGNATION (1-10 DISTURBED ACRES) AND REQUIRES 3 SSC UNIT MEASURES FOR COMPLIANCE. A COMBINATION OF THE MEASURES LISTED BELOW SHALL BE USED TO PROVIDE THE 3 SSC UNITS.

SSC MEASURE	CRITERIA / CONDITIONS	SSC POINTS
BIORETENTION BASINS	650 S.F. MIN. (3 POSSIBLE LOCATIONS SHOWN)	1 EA.
PROVIDE AS-BUILT DRAWINGS FOR ENTIRE STORM DRAINAGE SYSTEM	ALL STORM PIPING, INLETS AND BMP'S	0.5
ENHANCED SLOPE STABILIZATION ON ALL CUT AND FILL SLOPE	GEOTEXTILE MATTING APPLIED TO ALL DISTURBED SLOPES 4:1 OR GREATER	1
ENHANCED OUTLET PROTECTION FROM BMP OUTFALL	INSTALLED AT OUTFALL OF BMP #1	1

ADDITIONAL WATER QUALITY/ENVIRONMENTAL PROTECTION MEASURES

ADDITIONAL MEASURE	CRITERIA / CONDITIONS
POROUS PAVEMENT	APPLIED TO ALL PARALLEL PARKING SPACES
RAIN BARRELS	ON REAR OF ALL UNITS
DRY SWALES	AS SHOWN

No.	DATE	REVISION / COMMENT / NOTE	REVIEWED BY	REVIEWED DATE
3	3/17/08	REVISED PER COUNTY COMMENTS	MRA	JSP
2	2/01/08	REVISED PER COUNTY COMMENTS AND CITIZENS' INPUT	MRA	JSP
1	9/18/07	REVISED PER COUNTY COMMENTS	SJR	JSP



5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
(757) 253-0040
Fax (757) 220-8994

BINDING CONCEPTUAL STORMWATER MANAGEMENT PLAN PER ZONING ORDINANCE SECTIONS 24-484 (b) (1)-(5) & 24-554 (a)-(e)	
POWHATAN TERRACE	
REZONING AND SPECIAL USE PERMIT for ASSOCIATED DEVELOPERS, INC.	
Designed JSP	Drawn MRA
Scale 1"=60'	Date 6/1/07
Project No. 9462-02	
Drawing No. 4 OF 4	
JAMESTOWN DISTRICT	JAMES CITY COUNTY
VIRGINIA	

Designed JSP	Drawn MRA
Scale 1"=60'	Date 6/1/07
Project No. 9462-02	
Drawing No. 4 OF 4	

Prepared by and Return to:
Gregory R. Davis, Esq., VSB 26248
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, VA 23188
(757) 259-3800

Parcel ID: 4730100036

PROFFERS

These Amended and Restated Proffers made this 28th day of October, 2024 by and among:

JTR PROPERTIES, LLC, a Virginia limited liability company, ("Owner"), to be indexed as Grantor, and

JAMES CITY COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("County"), to be indexed as Grantee, provides as follows:

RECITALS

R-1. Owner is the fee simple title holder of that certain real property (the "Property") located in James City County, Virginia, more particular described as follows:

All that certain piece or parcel of land situate, lying and being in the County of James City, Virginia, shown and designated and described as "JTR PROPERTIES LLC PARCEL ID: 4730100036 1676 JAMESTOWN ROAD DOC. NO. 110019987 ZONED: R2 OLD AREA: 466,224 SQ. FT./10.7030 AC. NEW AREA: 671,686 SQ. FT./15.42± AC." on that certain plat entitled "Boundary Line Extinguishment Being The Property Of JTR Properties, LLC Parcels 4730100036, 4730100037, And 473010039 James City County, Virginia" made by Stephen A. Romeo, Land Surveyor of vhb and dated September 14, 2022 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 202216017 and is incorporated herein by reference for a more complete description of the property hereby conveyed.

Together with all and singular the improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

This conveyance is subject to all easements, restrictions, and limitations of record or apparent on the ground, specifically including, but not limited to (i) the Proffers recorded in the Clerk's Office aforesaid as Instrument No. 080020381, as subsequently amended, and (ii) the Deed of Easement for Natural Open Space recorded in the Clerk's Office aforesaid as Instrument No. 202302104.

Being the same property conveyed to JTR Properties, LLC by deed in lieu of foreclosure by Powhatan Terrace, LLC dated May 2, 2024 recorded in the aforementioned Clerk's Office as Instrument No. 202412340.

R-2. The Property was in the past the subject of a rezoning, master plan and special use permit as part of a planned development of thirty-six (36) townhomes to be known as "Powhatan Terrace". The case numbers assigned to consideration of past land use cases involving the Property are as follows:

Rezoning: Z-0007-2007

Master Plan: MP-0005-2007

Special Use Permit: SUP-0020-2007

R-3. As a part of the rezoning and master plan approvals under the case numbers referenced above, the Property was subject to certain proffers which were later amended, as follows (collectively the "Prior Proffers"):

a. Proffers dated February 13, 2008 of record in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City ("Clerk's Office") as Instrument No. 080020381.

b. First Amendment to Proffers dated November 28, 2017 of record in the Clerk's Office as Instrument No. 180002012.

c. Second Amendment to Proffers dated January 23, 2019 of record in the Clerk's Office as Instrument No. 190003588.

d. Third Amendment to Proffers dated December 21, 2020 of record in the Clerk's Office as Instrument No. 210008965.

R-4. The Prior Proffers included a requirement that the Property be developed generally as shown a master plan more particularly described in the Prior Proffers (the "Prior Master Plan").

R-5. The Owner has applied for a rezoning to amend the Prior Proffers and the Prior Master Plan to permit development of the Property in a far less intensive manner, in particular creation of four (4) large residential lots each containing one (1) single family dwelling (the "Project") as opposed to the thirty-six (36) unit townhouse project approved by the Prior Proffers and Prior Master Plan. The application for rezoning to so amend the Prior Proffers and Prior Master Plan have been assigned County case numbers Z-24-0010 and MP-24-0004 (collectively the "Application").

R-6. The Property is currently zoned R-2 with proffers under the County Zoning Ordinance, Section 24-1 of the James City County Code et. seq. (the "Zoning Ordinance").

R-7. The provisions of the Zoning Ordinance may be deemed inadequate to address impacts upon the County generated by the Project. Accordingly, the Owner, in furtherance of the above described rezoning application, desires to amend the Prior Proffers and Prior Master Plan, and to proffer certain conditions governing the Project and development of the Property in

accordance with the provisions of Section 15.2-2303 et. seq. of the Code of Virginia, as amended and Section 24-16 of the Zoning Ordinance.

Now therefore, for and in consideration of the approval by the County Board of Supervisors of the applications of Owner described above and pursuant to Section 24-1 et. seq. of the Zoning Ordinance and Section 15.2-2303 et. seq. of the Code of Virginia, it is agreed that the following conditions shall be met and satisfied in developing the Project upon the Property:

PROFFERS

1. **Proffers.** These proffers amend and supersede the Prior Proffers.
2. **Master Plan.** The Property shall be developed generally as shown on the certain master plan entitled: "Master Plan Amendment" dated September 25, 2024, made by VHB Consulting Engineers which is attached these proffers and incorporated by this reference (the "Master Plan"). Minor changes determined by the County Development Review Committee as not changing the basic concept or character of the development shall be permitted. The Master Plan amends and supersedes the Prior Master Plan.
3. **Residential Development.** The Property shall be utilized for residential purposes only, and there shall be no more than four (4) single family residential dwelling units (one (1) dwelling per lot) developed within the Property.
4. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all homeowners in the Property, by virtue of their property ownership, shall be members.
 - a. 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 prior to subdivision approval or such later deadline as may be approved by the Director of Planning.
 - b. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management structures (if any) and private roads, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments.
 - c. 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.
5. **Water Conservation.** Water conservation standards shall be submitted to the James City Service Authority ("JCSA") as a part of the subdivision submittal for development on the Property and 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 approval.

6. Private Drives. All entrances, interior roads and drive aisles within the Property shall be private and shall be constructed in accordance with applicable County private street standards. Private roads shall be maintained by the Association.

7. Community Character Corridor Buffer. There shall be a minimum 150 foot buffer established along the Jamestown Road frontage of the Property as generally shown on the Master Plan. The buffer may not be built upon, cleared or contain any dwelling unit or improvements.

a. Owner shall submit a tree survey depicting specimen trees within the community character corridor buffer with the plans for development of the Property and shall use its best efforts to preserve such specimen trees.

b. Dead, diseased and dying trees or shrubbery or invasive or poisonous plants may be removed from the buffer area without County review or approval.

c. A sidewalk and landscaping shall be permitted in the buffer area. Neighborhood signage and associated lighting shall be permitted in the buffer in locations(s) already cleared as of the date of the Application.

d. Supplemental plantings approved by the Director of Planning or designee shall be permitted within the previously-cleared or improved area of the buffer in order to meet stormwater management and water quality standards.

8. Sidewalk. A sidewalk five (5) feet in width shall be constructed parallel to Jamestown Road within the buffer area described in paragraph 7 above, connecting to the existing sidewalk at the Raleigh Square or westerly property line. Such sidewalk shall be completed prior to the issuance of a building permit for the first residential dwelling unit within the Property. Nothing in these Proffers shall be construed to preclude the owner of any lot created within the Property from obtaining a land disturbing and stormwater construction permit allowing site work on a lot prior to sidewalk completion.

9. Headings. All section headings and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.

10. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

11. Conflicts. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County Zoning Administrator subject to the appeal processes to the Board of Supervisors and the Courts as otherwise provided by law.

12. Successors and Assigns. These Proffers shall be binding upon its transferees and successors in title.

13. Reasonableness. These Proffers are made and offered voluntarily by the Owner which acknowledges that the Proffers provide for reasonable conditions because (i) the rezoning itself gives rise to the need for the conditions; (ii) the conditions have a reasonable relation to the rezoning; and (iii) all conditions are in conformity with the County's comprehensive plan.

14. Void if Rezoning Not Approved. In the event that the proposed rezoning and proffer/master plan amendments are not approved by the County, these Proffers shall be null and void.

WITNESS the following signatures, thereunto duly authorized:

JTR PROPERTIES, LLC,
a Virginia limited liability company

By: [Signature]
Print _____ Name: _____
 Jennifer L. Wise
Title: POA

STATE OF Florida
CITY/COUNTY OF Broward, to wit:

The foregoing instrument was acknowledged before me this 29th day of October, 2024 by Jennifer Wise as POA of JTR Properties, LLC, a Virginia limited liability company.

[Signature]
Notary Public [Affix Notarial Stamp]

My Commission Expires: 05/08/2028
Notary Registration No.: HH 52538



080 020381

 **COPY**

PROFFERS

THESE PROFFERS are made this 13th day of February, 2008 by INVESTMENT PROPERTIES OF VIRGINIA, LLC (together with its successors and assigns, the "Owner") and ASSOCIATED DEVELOPERS, INC., a Virginia corporation ("Buyer").

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 1676 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100036, the second with an address of 1678 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4730100037, and the third with an address of 180 Red Oak Landing Road, Williamsburg, Virginia and being Tax Parcel 4730100039, being more particularly described on Exhibit A attached hereto (together, the "Property"). A portion of the Property is now zoned L-B and a portion is now zoned R-2.

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 L-B and R-2 to R-2, , with proffers, and for a Special Use Permit to permit a residential cluster development of up to 36 townhouse units.

D. Buyer has submitted to the County a master plan entitled "Master Plan for Rezoning of Powhatan Terrace" prepared by AES Consulting Engineers dated June 1, 2007 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

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.

✓ 15
PLEASE RETURN TO:
COUNTY ATTORNEY
JCE - BLDG. C

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 36 residential townhouse dwelling units on the Property. All residential dwelling units on the Property shall be offered for sale by the developer thereof.

2. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all unit 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, recreation areas, private roads and parking areas, shall require each initial purchaser of a unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the unit (but no less than \$100.00) and shall require that the association (i) assess all members for the maintenance of all properties owned or

maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant 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 or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan or from rain barrels and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundment.

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 \$844.00 for each dwelling unit 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 \$4,870.00 for each dwelling unit 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 solely for school use.

(c) A contribution of \$1,000.00 for each dwelling unit 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.

(d) A contribution of \$300.00 for each dwelling unit on the Property shall be made to the County for off-site stream restoration 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 unit. In the event dwelling units, such as townhouse units, require both a site plan and subdivision plat, the contributions described above shall be payable for each such dwelling unit shall be paid at the time of final subdivision plat approval.

(f) The per unit contribution(s) paid pursuant to this Section shall be adjusted annually beginning January 1, 2009 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 unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit 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 unit 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 or units. The entrance as shown generally on the Master Plan, landscaping and berms, the trails, sidewalks and bike lanes as shown generally on the Master Plan, and with the approval of the Development Review Committee, utilities, lighting, entrance features and signs shall be permitted in the buffer. Dead, diseased and dying trees or shrubbery, and invasive or poisonous plants may be removed from the buffer area. A combination of preservation of existing trees, enhanced landscaping (defined as 125% of County Zoning Ordinance ("Ordinance") plant size requirements) and berms shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning which shall, when

the landscaping has reached maturity, screen the adjacent units from the direct view of vehicles traveling on Jamestown Road. The perimeter buffers between the sides/back of buildings and the adjacent properties shall contain enhanced landscaping (defined as 125% of Ordinance size requirements) in accordance with a landscaping plan approved by the Director of Planning. The buffers shall be planted or the planting bonded in an amount and form approved by the County Attorney prior to the County being obligated to issue building permits for dwelling units located on the Property.

6. Entrances/Turn Lanes. There shall be one entrance into the Property to and from Jamestown Road as generally shown on the Master Plan. A northbound left turn lane with a taper and transition and an southbound right turn taper on Jamestown Road shall be constructed at the entrance to the Property. The turn lane and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

7. Recreation. Owner shall provide the park, playground and passive recreational area shown on the Master Plan before the County is obligated to grant certificates of occupancy for more than 18 dwelling units on the Property. Owner shall install a mulch trail generally in the location shown on the Master Plan with the design and exact location of the mulch trails subject to the approval of the Director of Planning. 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.

8. Private Drives. All entrance roads, interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property shall be private and shall be constructed in

accordance with applicable County private street standards. Private roads shall be maintained by the Association. Owner shall deposit into a maintenance reserve fund to be managed by the Association an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a public street of the same length as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

9. Environmental Protections. (a) Owner shall submit to the County a stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated June 1, 2007 ("Stormwater Plan") and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County's 10 point stormwater management system requirements and the special stormwater criteria applicable in the Powhatan Creek watershed ("SSC") and, in addition, including features and measures over and above those necessary to meet the 10 point and SSC requirements, which shall include, without limitation, bio-retention basins, provision of as-built drawings for the entire stormwater system, enhanced slope stabilization on all cut and fill slope, enhanced outlet protection on BMP outfall, porous pavement, rain barrels and dry swales subject to the criteria and conditions set forth on the Stormwater Plan. The stormwater plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior written approval of the Environmental Director or his designee. The

approved stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

(b) The owner of the Property shall cause a survey to be conducted of the Property for rare, threatened and endangered species prior to any land disturbing activity on the Property. The location of any rare, threatened and endangered species located on the Property shall be shown on all subdivision or other development plans of the Property. Before any land disturbing activity is allowed in the vicinity of any rare, threatened and endangered species identified, if any, on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning and shall be incorporated into the development plans for the Property and implemented in the development of the Property.

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. Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the architectural styles depicted in the architectural renderings prepared by Guernsey Tingle Architects submitted with the rezoning application. The Director of Planning shall review and either approve or provide written comments setting forth changes necessary to obtain approval within 45 days of the date of submission of the plans in question. Final plans and completed buildings shall be consistent with the approved conceptual plans as determined by the Director of Planning.

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

any of the specimen trees die prior to issuance of certificates of occupancy for all units on the Property, the dead tree shall be replaced with a new tree with at least a two and one-half inch caliper.

13. Green Building; EarthCraft House Certification. Each residential unit shall be certified under the EarthCraft House Virginia certification process and a copy of the certification shall be provided to the Director of Planning.

14. Streetscape Guidelines. The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process. Streetscape improvements shall be either (i) installed within six months of the issuance of any certificate of occupancy for any residential units in adjacent structures or (ii) bonded in form and amount satisfactory to the County Attorney prior to the issuance of any certificate of occupancy for any residential units in adjacent structures.

15. Nutrient Management Plan. The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the building permits for more than 50% of the units

shown on the subdivision plat. Upon approval, the Owner so long as it controls the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

16. 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 install a sidewalk along the Jamestown Road frontage of the Property.

17. Underground Storage Tanks. The existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of any building permit for structures on the Property.

18. 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.

19. Price Restricted Units. A minimum of three of the units shall be reserved and offered for sale at a sales price to buyer at or below \$195,000 subject to adjustment as set forth herein ("Restricted Units"). The maximum price set forth herein shall be adjusted annually, or January 1st of each year, by increasing such prices by the cumulative rate of inflation as measured by the Index annual average change for the period from January 1, 2009 until January 1 of the year in question. The Director of Planning shall be provided with a copy of the

settlement statement for each sale of a Restricted Unit. The Governing Documents shall include a provision, approved by the County Attorney, providing that the Restricted Units must be occupied by the owner thereof or a family member of the owner. Short term rentals of these Restricted Unit by the owner thereof shall be permitted if the owner dies or is transferred out of the area and in similar situations.

WITNESS the following signature.

INVESTMENT PROPERTIES OF VIRGINIA, LLC

By: [Signature]

Title: MANAGER

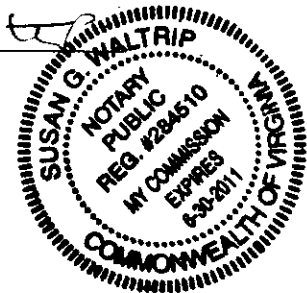
STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 17th day of March, 2008, by Michael C. Brown as manager of Investment Properties of Virginia, LLC.

[Signature]
NOTARY PUBLIC

My commission expires: 06/30/2011.
Registration No.: 284510



ASSOCIATED DEVELOPERS, INC.

By: [Signature]

Title: president

STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 14th day of March, 2008, by Henry Stephens President of Associated Developers, Inc.

[Signature]
NOTARY PUBLIC

My commission expires: 2-28-2011

Registration No.: 183223



EXHIBIT A

PARCEL ONE

All that certain piece or parcel of land, with the buildings and improvements thereon, consisting of 10.00 acres, more or less, situate in Jamestown District, James City County, Virginia, bounded and described as follows: Beginning at an iron stake on the southerly side of the road leading from the Main and Ambler's Farms to Powell's Mill crossing Route 31 to Jamestown on the dividing line between the land hereby conveyed and that of Robinson; thence in a westerly direction along said road the distance of 400 feet to another iron stake; thence said lot extends back in a southerly direction between parallel lines the distance of 1050 feet, more or less, to iron stakes marking its corners; and being a portion of a tract of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed, intestate; the said tract having been conveyed to him by J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City Deed Book 24, page 531; the undivided one-half interest of the said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City Deed Book 25, pages 514-5.

PARCEL TWO

All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate in Jamestown Magisterial District, James City County, Virginia, lying on the southerly side of the 10.00+/- acre parcel of Nixon, consisting of 6.082 acres, more or less, and described as follows: commencing at an iron stake 1,050 feet from the road leading from Ambler's and the Main Farm to Five Forks and Powell's Mill Road running thence a distance of 200 feet more or less in a southerly direction in a straight line to the low water mark of Powhatan Creek; thence in a westerly direction along the low water mark of Powhatan Creek as it meanders a distance of 400 feet more or less to a point; thence in a northerly direction in a straight line a distance of 200 feet more or less to an iron stake, the corner to the property hereby conveyed and other lands of Nixon; thence in an easterly direction along the line of the property hereby conveyed and other lands of Nixon a distance of 400 feet, more or less, to an iron stake corner to the property hereby conveyed and other lands of Nixon, being the point of departure. Said property is bounded on the northerly side of other lands of Nixon; on the southerly side by Powhatan Creek; on the easterly side by the lands of Robinson; and on the westerly side by the remaining lands of Hess N. Hart and Harry Hart, her husband, Mary B. Norman and J. D. Norman, her husband, Dorothy N. Waltrip and G. K. Waltrip, her husband. Said property is a portion of the track of land containing 140.62 acres as shown by survey and plat recorded in James City Plat Book 2, page 19, and is a portion of the same property of which T. T. Nixon died seized and possessed intestate; the said tract having been conveyed to him and J. N. Richardson by deed from Henry O. Wright and wife, dated April 15, 1929, and recorded in James City County Deed Book 24, page 531, the undivided one-half interest of said Richardson having been conveyed to the said T. T. Nixon by deed dated June 5, 1930, and recorded in James City County Deed Book 25, page 514.

PARCEL THREE

ALL that certain lot, piece or parcel of land situate, lying and being in Jamestown District, James City County, Virginia, as shown on that certain plat entitled, "E. T. Nixon, Plat of Survey, Containing .43 Acres, Two Miles Southeast of Williamsburg, James City County, Virginia" dated February 8, 1960 made by R. B. Cartwright, Certified Land Surveyor, and recorded April 1, 1960 in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City in Deed Book 74, page 100; and being more particularly described as follows: Beginning at an angle iron down a private lane leading South from State Route #31; thence South 69° 30' East 116.28 feet to an angle iron; thence South 20° 00' West 162.28 feet to an angle iron; thence North 69° 30' West 116.28 feet to an angle iron; thence North 20° 00' East 162.28 feet to an angle iron, the point of beginning.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 13 Aug 68
at 2:53 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

Parcel Nos: 4730100036, 4730100037, 4730100039

Prepared by:
Andrew M. Franck (VSB #48293)
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, Virginia 23185

Return to:
James City County Attorney
101-C Mounts Bay Road
Williamsburg, Virginia 23185

FIRST AMENDMENT TO PROFFERS

THIS FIRST AMENDMENT TO PROFFERS is made this 28th day of November, 2017 by JTR PROPERTIES LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner"), to be indexed as "Grantor." JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, to be indexed as "Grantee."

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia (the "Property"), now zoned R2 - General Residential, and subject to Proffers dated February 13, 2008, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080020381 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend Condition 1 of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

AMENDMENTS TO CONDITIONS

1. The last sentence of Condition 1 (Master Plan) of the Existing Proffers is hereby amended to read as follows: "All residential dwelling units on the Property shall be offered for sale or rental by the developer thereof."

2. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

WITNESS the following signature and seal.

JTR PROPERTIES LLC

By: Sterling M. Nichols (SEAL)

Title: owner



COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 28th day of November, 2017, by Sterling M. Nichols as owner of JTR Properties LLC.

Trittie Ann Mountcastle
NOTARY PUBLIC

My commission expires: 1/31/19
Registration No.: 7639488

INSTRUMENT 180002012
RECORDED IN THE CLERK'S OFFICE OF
WMSBG/JAMES CITY CIRCUIT ON
January 25, 2018 AT 10:21 AM
MONA A. FOLEY, CLERK
RECORDED BY: JLZ

Parcel Nos: 4730100036, 4730100037, 4730100039

Prepared by:
Andrew M. Franck (VSB #48293)
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, Virginia 23185

Return to:
James City County Attorney
101-C Mounts Bay Road
Williamsburg, Virginia 23185

SECOND AMENDMENT TO PROFFERS

THIS SECOND AMENDMENT TO PROFFERS is made this 23rd day of January, 2019 by JTR PROPERTIES LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner"), to be indexed as "Grantor." JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia, to be indexed as "Grantee."

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia (the "Property"), now zoned R2 - General Residential, and subject to Proffers dated February 13, 2008, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080020381, as amended by First Amendment to Proffers dated November 28, 2017 recorded in the aforementioned Clerk's Office as Instrument No. 180002012 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend Condition 19 of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

AMENDMENTS TO CONDITIONS

1. Condition 19 (Price Restricted Units) of the Existing Proffers is hereby amended to read in its entirety as follows:

"19. Price Restricted Units. A minimum of eight of the units shall be reserved and offered for rent for a period of at least thirty years following issuance of a Certificate of Occupancy at a rental rate targeted to households at or below sixty percent (60%) of the Area Median Income (AMI). Rent limits shall meet IRS Section 42 Low-Income Housing Tax Credit (LIHTC) Affordable Housing Program ("Program") guidelines for that year, and rental rates shall be adjusted annually according to Program requirements. Rental rates shall be reported to the Director of Planning annually during the thirty-year period."

2. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

WITNESS the following signature and seal.

JTR PROPERTIES LLC

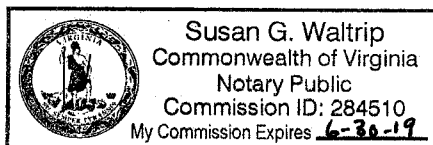
By: *Sterling M. Nichols* (SEAL)
Sterling M. Nichols, owner

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

The foregoing instrument was acknowledged this 11th day of ~~January~~ ^{March}, 2019, by Sterling M. Nichols as owner of JTR Properties LLC.

Susan G. Waltrip
NOTARY PUBLIC

My commission expires: 06/30/2019



INSTRUMENT 190003588
RECORDED IN THE CLERK'S OFFICE OF
WMSBG/JAMES CITY CIRCUIT ON
MARCH 15, 2019 AT 10:56 AM
MONA A. FOLEY, CLERK
RECORDED BY: JLZ



OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE : 03/15/2019 TIME : 10:56:14
RECEIPT # : 19000007836 TRANSACTION # : 19031500049
CASHIER : JLZ REGISTER # : B350
INSTRUMENT : 190003588 BOOK : PAGE :
GRANTOR : JTR PROPERTIES LLC
GRANTEE : JAMES CITY COUNTY
RECEIVED OF : JAMES CITY COUNTY VA
ADDRESS :
CASH : \$0.00
DESCRIPTION 1 : 2 AMEND INST 080020381 180002012
NAMES : 0
CONSIDERATION : \$0.00

CASE # : 830CLR190003588

FILING TYPE : AMEND
RECORDED : 03/15/2019
EX : N
EX : N

PAYMENT : FULL PAYMENT
AT : 10:56
LOC : CO
PCT : 100%

PAGES : 002

OP : 0

MAP :

PIN :

ACCOUNT CODE	DESCRIPTION	PAID
035	VOF FEE	\$0.00

TENDERED : \$ 0.00
AMOUNT PAID : \$ 0.00

PAYOR'S COPY

CLERK OF COURT : MONA A. FOLEY

Z-19-0001 PR-107-B
Powhatan Terrace Proffer
Amendment
Proffers Page 3 of 3

RECEIPT COPY 1 OF 2

Parcel Nos: 4730100036, 4730100037, 4730100039

Prepared by:
Andrew M. Franck (VSB #48293)
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, Virginia 23185

Return to:
James City County Attorney
101-D Mounts Bay Road
Williamsburg, Virginia 23185

THIRD AMENDMENT TO PROFFERS

THIS THIRD AMENDMENT TO PROFFERS is made this 21st day of December, 2020 by JTR PROPERTIES LLC, a Virginia limited liability company (together with its successors and assigns, the "Owner"), to be indexed as "Grantor." JAMES CITY COUNTY, a political subdivision of the Commonwealth of Virginia (the "County"), to be indexed as "Grantee."

RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia (the "Property"), now zoned R2 - General Residential, and subject to Proffers dated February 13, 2008, which Proffers are recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 080020381, as amended by First Amendment to Proffers dated November 28, 2017 recorded in the aforementioned Clerk's Office as Instrument No. 180002012 and further amended by Second Amendment to Proffers dated January 23, 2019 recorded in the aforementioned Clerk's Office as Instrument No. 190003588 (the "Existing Proffers"). The Property is more particularly described in the Existing Proffers.

B. Owner desires to amend certain Conditions of the Existing Proffers as set forth below. All capitalized terms used herein not otherwise defined shall have the definition set forth in the Existing Proffers.

AMENDMENTS TO CONDITIONS

1. Condition 2 (Owners Association) of the Existing Proffers is hereby amended to read in its entirety as follows:

"2. Owners Association.

(a) Prior to the first conveyance of any subdivided lot or condominium unit in the Property to an owner other than the owner at the time of subdivision or recording of the condominium declaration, there shall be organized an owner's association (the "Association") in accordance with Virginia law in which all lot or unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and declaration of restrictive covenants or declaration of condominium (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, recreation areas, private roads and parking areas, shall require each initial purchaser of a lot or unit to make a capital contribution to the Association for reserves in an amount equal to one-sixth of the annual general assessment applicable to the lot or unit (but no less than \$100.00) and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' lots or units 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.

(b) During times prior to conveyance of any subdivided lot or condominium unit in the Property when the entire Property remains under common ownership, the Owner shall be responsible to fulfill any obligations otherwise imposed on the Association under these Proffers other than those related to administration of the Association which shall not apply until single ownership of the Property is severed. Commencing in the year in which a certificate of occupancy for any dwelling unit in the Property is issued and continuing until an Association is formed for the Property, Owner shall maintain and administer a maintenance, replacement and repair reserve fund for improvements at the Property including the Private Drives (as defined in Condition 8 below), stormwater management BMPs, recreation areas, and parking areas, and Owner shall contribute to such fund at least the sum of \$300.00 per dwelling unit per year. At such time as an Association is established, the Owner shall transfer the balance of said reserve fund to the Association to be used in its reserve fund as described above. The County shall be provided evidence of the reserve fund at least annually during such period prior to an Association

being formed. For a period of thirty years commencing in the year in which a certificate of occupancy for any dwelling unit in the Property is issued, the Owner shall cause the reserve fund to be administered in accordance with the IRS Section 42 Low-Income Housing Tax Credit (LIHTC) Affordable Housing Program ("LIHTC Program") or funding sources associated therewith applicable to the Property."

2. Condition 4 (Cash Contributions for Community Impacts) of the Existing Proffers

is hereby amended to read in its entirety as follows:

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

(a) A contribution of \$300.00 for each dwelling unit on the Property shall be made to the County for off-site stream restoration in the Powhatan Creek watershed.

(b) The contributions described above, unless otherwise specified, shall be payable for each dwelling unit on the Property after completion of the final inspection and prior to the time of issuance of a certificate of occupancy for such unit.

(c) The per unit contribution(s) paid pursuant to this Section 4 shall be adjusted annually beginning January 1, 2009 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 unit contribution be adjusted to a sum less than the amount set forth in paragraph (a) of this Section. The adjustment shall be made by multiplying the per unit 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 Director of Financial & Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County."

3. Condition 8 (Private Drives) of the Existing Proffers is hereby amended to read in its entirety as follows:

“8. Private Drives. All entrance and interior roads, driveways, lanes or drive aisles connecting the parking areas on the Property (collectively, the “Private Drives”) shall be private and shall be constructed in accordance with applicable County private street standards. The Private Drives shall be maintained by the Owner until such time as the Association is established, and thereafter by the Association. If, at the time an Association is established, the amount of the reserve fund to be transferred from the Owner to the Association pursuant to Condition 2 above is less than the amount equal to 150% of the maintenance fee that would be required for a public street of the same length as established by VDOT – Subdivision Street Requirements, the Owner shall contribute an additional amount to the Association for its reserves to make up such deficiency.”

4. Condition 13 (Green Building; Earthcraft House Certification) of the Existing Proffers is hereby amended to read in its entirety as follows:

“13. Green Building. The development will be designed to meet the criteria to achieve certification under the Energy Star Multifamily New Construction Program (“Energy Star”) and incorporate all items required to meet the baseline energy performance standards established by the Residential Energy Services Network (“RESNET”). A copy of the Energy Star certification, or documentation of design elements utilized to meet certification criteria, shall be provided to the Director of Planning for the applicable dwelling units prior to issuance of the certificates of occupancy for such units. Prior to issuance of final site plan approval, the Owner shall submit for approval to the Director of Planning the program specifications for both Energy Star certification and RESNET baseline energy performance standards applicable to the project as well as design and construction documents for the project incorporating elements to meet those specifications and standards. The validation process for Energy Star certifications and RESNET standards shall be overseen by an appropriate accredited professional and approved by the Director of Planning or his designee.”

5. Condition 15 (Nutrition Management Plan) of the Existing Proffers is hereby amended to read in its entirety as follows:

“15. Nutrient Management Plan. The Owner shall be responsible for contacting an agent of the Colonial Soil and Water Conservation District (“CSWCD”) or, if a CSWCD 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. The Plans shall be submitted to the County’s Director of Stormwater & Resource Protection for review and approval prior to the issuance of the building permits for more than 50% of the units shown on the Master Plan. Upon approval, the Owner, until such time as the Association is established and thereafter the Association, shall be responsible for ensuring that any nutrients applied to the common areas be applied in strict accordance with the Plan. If the Property is subdivided, (a) the Owner shall provide the Plans applicable to any individual lot to the initial purchaser thereof, and (b) within twelve (12) months after establishment of the Association and every three years thereafter, the Association shall cause a turf management information seminar to be conducted at the Property which shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants. As used in this Section 15, the term “common areas” shall mean the landscaped portions of the Property.”

6. Condition 17 (Underground Storage Tanks) of the Existing Proffers is hereby amended to read in its entirety as follows:

“17. Underground Storage Tanks. Any existing underground storage tanks on the Property shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of any building permit for structures on the Property. In the course of disturbing land and constructing improvements on the Property, Owner shall comply with (a) the requirements of the Virginia Department of Environmental Quality closing letter dated September 27, 2020 (FAC#5012852); and (b) the recommendations set forth in Section 6.0 of the Post Characterization Site Monitoring Report dated September 16, 2020 and prepared by Bay Environmental, Inc.”

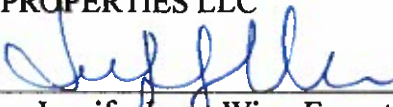
7. Condition 19 (Price Restricted Units) of the Existing Proffers is hereby amended to read in its entirety as follows:

“19. Price Restricted Units. All units shall be reserved and offered for rent for a period of at least thirty years following issuance of a Certificate of Occupancy at a rental rate targeted to households at or below sixty percent (60%) of the Area Median Income (AMI) in compliance with the requirements (including but not limited to rent limits): (a) of the LIHTC Program; and (b) for 100% cash proffer reduction under the County’s Housing Opportunities Policy adopted November 27, 2012. Rental rates shall be reported to the Director of Planning annually during the thirty-year period.”

8. Except as specifically amended herein, the Existing Proffers remain unchanged and in full force and effect.

WITNESS the following signature and seal.

JTR PROPERTIES LLC

By:  (SEAL)
Jennifer Lynn Wise, Executor of the
Estate of Sterling M. Nichols, Member

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF James City County, to-wit:

The foregoing instrument was acknowledged this 21st day of December, 2020,
by Jennifer Lynn Wise, Executor of the Estate of Sterling M. Nichols, Member of JTR Properties
LLC, on behalf of the company.

My commission expires: 4/30/2022


NOTARY PUBLIC



INSTRUMENT 210008965
RECORDED IN THE CLERK'S OFFICE OF
WMSBG/JAMES CITY CIRCUIT ON
MAY 3, 2021 AT 01:17 PM
MONA A. FOLEY, CLERK
RECORDED BY: SPA

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
November 6, 2024
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson
Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Josh Crump, Principal Planner
Ben Loppacker, Planner
Will Albiston, Community Development Assistant

Mr. O'Connor noted there was an alteration to the Agenda. He stated Item No. 1 under Public Hearings would not be heard as the applicant had withdrawn the application. Mr. O'Connor further noted the applicant had not indicated a future date on moving forward with the application at the current time. He stated if anyone was present to speak on Item No. 1 then speakers were welcome to do so during Public Comment, reiterating no Public Hearing would take place on SUP-24-0012. 3512 Barrett's Ferry Drive Tourist Home as the application had been withdrawn.

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. Rodgers noted the Development Review Committee (DRC) met on October 23, 2024, to review two business items. He further noted both items had the same applicant, Bright Beginnings Pre-K. Mr. Rodgers stated the applicant had appealed the Director of Planning's decision on both applications which cited identical reasons for the request. He added two Williamsburg-James City County (WJCC) Schools were affected by the project request. Mr. Rodgers cited the first case was SP-24-0062. Bright Beginnings Pre-K Center at Clara Byrd Baker Elementary - Appeal of the Director of Planning's determination. He noted WJCC

Schools had submitted a site plan to allow for the construction of a 42,000-square-foot Pre-K Center on Ironbound Road. Mr. Rodgers cited the County's Zoning Ordinance requirements regarding pedestrian and bicycle accommodations. He noted a sidewalk existed along the school's frontage which was within the right-of-way, but no bike lane existed along this section of Ironbound Road. Mr. Rodgers explained the applicant had requested a modification from the sidewalk and bike lane requirement which were based on exceptions listed in Section 24-35(d)(2) of the County's Zoning Ordinance. He stated the applicant requested the incorporation of a multiuse path, adding it was a safer alternative for children. Mr. Rodgers spoke to these points in more detail. He said the applicant indicated that the Virginia Department of Transportation (VDOT) had approved the applicant's multiuse path alternative. Mr. Rodgers detailed the Planning Director's denial of the request which included topographical and safety factors. He noted that staff recommended the DRC uphold the Planning Director's decision. Mr. Rodgers further noted that following discussion, the DRC made a motion to approve the exception which allowed the existing sidewalk to remain with no additional construction of bicycle or pedestrian accommodations taking place. He noted the motion was approved by a 3-1 vote. Mr. Rodgers stated the second item, SP-24-0063. Bright Beginnings Pre-K Center at Norge Elementary - Appeal of the Director of Planning, included the site plan submittal by WJCC Schools for the construction of a 42,000-square-foot Pre-K Center on Richmond Road. He noted that despite address differences, both cases had very similar arguments and concerns. Mr. Rodgers further noted that the appellant stated SP-24-0063 required a right-of-way extension which complicated an electric traffic signal, streets signs, and other factors along this section of Richmond Road for any VDOT standard installation option for the site. He detailed the Planning Director's denial of the request which included topographical exemption. Mr. Rodgers noted that following discussion, the DRC voted to approve the exception by a 4-0 vote.

Mr. O'Connor noted there was no Policy Committee report.

Mr. Haldeman confirmed that was correct.

E. CONSENT AGENDA

1. Minutes of the October 2, 2024, Regular Meeting
2. Development Review Committee Action Item: SP-24-0062 Bright Beginnings Pre-K Center at Clara Byrd Baker Elementary - Appeal of the Director of Planning
3. Development Review Committee Action Item: SP-24-0063 Bright Beginnings Pre-K Center at Norge Elementary - Appeal of the Director of Planning

Mr. Haldeman made a motion to approve the Consent Agenda.

On a voice vote, the Commission approved the Consent Agenda. (7-0)

F. PUBLIC HEARING(S)

1. SUP-24-0012. 3512 Barrett's Ferry Drive Tourist Home

As noted earlier in the meeting, Item No. 1 was pulled upon the withdrawal of the application.

2. MP-24-0004/Z-24-0010. Powhatan Terrace Master Plan and Proffer Amendment

Mr. Josh Crump, Principal Planner, addressed the Commission noting the details of the application which included amendment of the Master Plan and proffers on a 15.42-acre parcel located at 1676 Jamestown Road. He stated the parcel was designated R-2, General Residential. Mr. Crump noted the original proffers and Master Plan were intended for an affordable multifamily development known as Powhatan Terrace, adding that the property owner was currently requesting the amendment to allow four single-family lots. He noted the changes included a new Master Plan for four single-family lots, 150-foot vegetated buffer, and a 5-foot sidewalk along Jamestown Road. Mr. Crump stated staff found the application to be consistent with the Zoning Ordinance and Comprehensive Plan. He noted staff recommended the Planning Commission recommend approval of the amended Master Plan and proffers to the Board of Supervisors. Mr. Crump further noted the applicant, Mr. Greg Davis, on behalf of JTR Properties, LLC, was in attendance for a brief presentation.

Mr. O'Connor thanked Mr. Crump.

Mr. O'Connor opened the Public Hearing.

Mr. Greg Davis, Kaufman & Canoles, P.C., 4801 Courthouse Street, addressed the Commission noting the members of the project team in attendance. He noted Mr. Scott Wise was the applicant and his daughter and son-in-law intended to build a home on the property if the case was approved. Mr. Davis stated the proposal addressed a less intensive residential development than the original Master Plan with a reduction from the 36-unit cluster development to the four single-family lots. He highlighted the reduced intensity points of the plan in a presentation. Mr. Davis noted the proffered open space would remain. He continued highlighting other aspects of the property to address stormwater drainage and other aspects. Mr. Davis stated neighbors had expressed no objection to the amendment. He recommended the Planning Commission recommend approval to the Board of Supervisors.

Mr. O'Connor asked if any Commissioners had questions.

Mr. Haldeman asked about the microbio-retention basin term.

Mr. Steve Romeo, Vanasse Hangen Brustlin, Inc., 351 McLaws Circle, responded that the term referenced a small retention basin. He noted the Raleigh Square development discharge flowed onto the applicant's property and created a steep gully. Mr. Romeo stated the basin was a small rock area which stabilized the water flow through the rocks before moving through the channel.

Mr. O'Connor closed the Public Hearing as there were no additional speakers.

Mr. Rodgers disclosed he had known Mr. Wise for many years, and he noted his judgment would not be affected. Mr. Rodgers added that this case was in his district; therefore, he was interested. He referenced concerns he heard voiced by residents in the area regarding too many units and too much runoff. Mr. Rodgers noted this was a winning situation to address some of those concerns and he was in support of the case.

Mr. Mayes expressed his agreement with Mr. Rodgers, adding the proposed amendment was a good use of the property. He offered his support of the application also.

Mr. O'Connor referenced the timeline of this application and the applicant's hard work particularly regarding the environmental aspects. He referenced his longevity on the Planning Commission and his concerns regarding Master Plan amendments. Mr. O'Connor noted the loss of the potential 36 units for affordable housing, but he also acknowledged the sensitive environmental issues at the site. He stated his support.

Mr. Everson made the motion to approve MP-24-0004/Z-24-0010. Powhatan Terrace Master Plan and Proffer Amendment, with the submitted conditions.

On a roll call vote, the Commission voted to recommend approval. (7-0)

3. SUP-24-0025. 7516 Richmond Road Dollar Tree

Mr. Josh Crump, Principal Planner, addressed the Commission stating the details of the Special Use Permit (SUP). He noted the proposed commercial building would house a Dollar Tree store and be approximately 9,900 square feet in size. Mr. Crump provided a visual depiction of the traffic entrances/exits off Richmond Road and Norge Lane. He cited staff's proposed conditions to mitigate potential impacts in conjunction with architectural elevation consistencies and other factors. Mr. Crump noted staff found the proposal compatible with surrounding zoning and a general compatibility with the Comprehensive Plan and Zoning Ordinance. He noted staff recommended the Planning Commission recommend approval of the SUP to the Board of Supervisors subject to the proposed conditions. Mr. Crump stated members of the applicant's team were also present.

Mr. O'Connor asked if any Commissioners had questions.

Mr. Haldeman referenced Croaker Road, which was opposite The Station at Norge, and questioned if the property extended to that point.

Mr. Crump noted a new road was being built and he highlighted the extension with an aerial view in the PowerPoint presentation.

Several Commissioners noted the road was already completed with turn lanes.

Mr. O'Connor thanked Mr. Crump.

Mr. O'Connor opened the Public Hearing.

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, LLP, 1177 Jamestown Road, addressed the Commission noting he was the applicant's representative. He identified other members present, but names were inaudible. He stated he and the applicant agreed with the staff report, adding the proposal was a good use of the location. Mr. Geddy requested approval of the application.

Mr. O'Connor asked if any Commissioners had questions. He noted he had one regarding potential plans for the vacant parcel northeast.

Mr. Geddy stated he was unable to answer as he was only representing the Dollar Tree developer.

Mr. O'Connor noted he understood and thanked Mr. Geddy.

Mr. O'Connor closed the Public Hearing as there were no additional speakers.

Mr. Polster noted his pleasure at seeing the Dollar Tree application for this area. He added the traffic pattern was very helpful for alleviating concerns in the area. Mr. Polster noted his support of the application.

Mr. O'Connor stated the area had seen major improvements with the installation of sidewalks, stormwater improvements, as well as road improvements at Croaker Road and Richmond Road. He noted the County and VDOT had made major strides in the safety of that area.

Mr. Polster made a motion to recommend approval of SUP-24-0025. 7516 Richmond Road Dollar Tree with the proposed conditions to the Board of Supervisors.

Mr. Polster disclosed he had spoken previously with Mr. Geddy.

Mr. Everson noted he had also spoken with Mr. Geddy.

Mr. O'Connor thanked the Commissioners.

On a roll call vote, the Commission voted to recommend approval. (7-0)

G. PLANNING COMMISSION CONSIDERATIONS

None.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - November 2024

Ms. Istenes stated that she did not have any additional information.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. O'Connor noted Mr. Haldeman and Dr. Allmann had switched months for coverage at the Board of Supervisors meetings. He noted Mr. Haldeman would cover the November meeting with Dr. Allman covering the December meeting.

Mr. Polster referenced the bike lane issue that had been noted in both applications under Public Hearings as a possible staff consideration. He noted an SUP near St. Olaf's Catholic Church in Norge that had required some sidewalk adjustments as well as installation of a bike lane. Mr. Polster stated that in the Comprehensive Plan there was mention of the widening of Route 60 in Norge and Toano. He added discussion regarding powerlines and other factors in relation to the bike lane, adding the bike lane issue needed to be addressed. Mr. Polster spoke to that point in more detail regarding staff and the Ordinance and the County's Bike Fund.

Ms. Istenes noted she would follow up with Mr. Paul Holt, Director of Community Development, on Mr. Polster's points. She further noted she had expressed similar thoughts regarding the Ordinance's contents to Mr. Holt. Ms. Istenes stated Mr. Holt was aware of the Ordinance for the bike lane which was a 2011 document.

Mr. O'Connor referenced an earlier Ironbound Road bike lane application that had come before the Planning Commission, adding that bike lane would not have been advantageous for the bikers. He noted it benefitted school-age children riding bikes to school, but not the larger groups of riders traveling together in the community. Mr. O'Connor stated those lanes moved riders onto the road. He noted he was in favor of a shareway with VDOT when resurfacing occurred.

Mr. Polster referenced the Powhatan Bike Trail and how it traverses through numerous neighborhoods. He noted the Trail provided a safe alternative for bikes.

Mr. Everson noted a recent article regarding the change to a City of Newport News parking Ordinance that focused primarily on residential areas. He referenced a recent visit to the Williamsburg Crossing area and the expansive parking lot that was virtually empty. Mr. Everson questioned if a review of the County's parking requirements had been done, particularly for future retail development. He spoke to these points in more detail.

Mr. Polster noted he had read the same article as Mr. Everson. He referenced Smith Baptist

Church in Lightfoot and its SUP regarding parking spaces and the County Ordinance. Mr. Polster noted parking spaces in relation to high-density developments. He cited parking needs and requirements.

Discussion ensued.

Mr. O'Connor cited parking requirements had varied based on the uses in several situations. He thanked the Commissioners for the discussion.

J. ADJOURNMENT

Mr. Polster made a motion to adjourn.

The meeting was adjourned at approximately 6:37 p.m.

Susan Istenes, Secretary

Tim O'Connor, Chair

SPECIAL USE PERMIT-24-0025. 7516 Richmond Road Dollar Tree
Staff Report for the December 10, 2024, Board of Supervisors Public Hearing

SUMMARY FACTS

Applicant: Mr. Ethan Alexander, Kimley-Horn and Associates, Inc.

Landowner: Norge Center, Inc., c/o Mr. Gary Massie

Proposal: A Special Use Permit (SUP) for a commercial building which exceeds 5,000 square feet of floor area pursuant to Section 24-11(a)(2) of the County Code.

Location: 7516 Richmond Road

Tax Map/Parcel No.: 2320100071B

Project Acreage: ± 1.56 acres

Zoning: B-1, General Business, with Proffers

Comprehensive Plan: Community Commercial

Primary Service Area (PSA): Inside

Staff Contact: Morgan Risinger, Senior Planner

PUBLIC HEARING DATES

Planning Commission: November 6, 2024, 6:00 p.m.

Board of Supervisors: December 10, 2024, 5:00 p.m.

FACTORS FAVORABLE

1. Staff finds the proposal generally consistent with the Comprehensive Plan.
2. Subject to the proposed conditions, staff finds the proposal will not negatively impact surrounding development.
3. Impacts: See Impact Analysis on Pages 5-6.

FACTORS UNFAVORABLE

1. Impacts: See Impact Analysis on Pages 5-6.

PLANNING COMMISSION RECOMMENDATION

At its November 6, 2024, meeting, the Planning Commission voted 7-0 to recommend the Board of Supervisors approve the application, subject to the proposed conditions.

CHANGES SINCE THE PLANNING COMMISSION MEETING

None.

SUMMARY STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application, subject to the proposed conditions.

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-24-0025. 7516 Richmond Road Dollar Tree
Staff Report for the December 10, 2024, Board of Supervisors Public Hearing

PROJECT DESCRIPTION

Mr. Ethan Alexander, Kimley-Horn and Associates, Inc., has applied for an SUP for a proposed Dollar Tree store with a total of 9,977 square feet to be constructed at 7516 Richmond Road. The property is currently an undeveloped outparcel within the Norge Crossing Shopping Center. The shopping center property was rezoned to the B-1, General Business, Zoning District in 1986 and the associated proffers. The proffers were subsequently amended in 1988. The property is designated as Community Commercial, is located within the Norge Community Character Area (CCA), and is located along the Richmond Road Community Character Corridor (CCC) on the Comprehensive Plan Land Use Map. The parcel is also located within the PSA.

Retail variety stores are a by-right permitted use in the B-1 Zoning District and are not prohibited by the proffers. However, Section 24-11(b) of the County Code requires SUPs for new buildings, additions or expansions when they, in combination with the existing structures, exceed the thresholds in Section 24-11(a), exceed 5,000 square feet of commercial floor area or generate 75 or more peak hour trips, and are located on the same property as the existing structures or on a property that is a logical component of the development. As the Norge Crossing Shopping Center contains commercial floor area exceeding 10,000 square feet in size, and uses which generate over 100 peak hour trips to and from the shopping center, and the proposed Dollar Tree store is over 5,000 square feet in size, and is a logical component as a result of the shared access to public roads and shared traffic circulation internal to the shopping center, an SUP is required for the project.

The Community Impact Statement indicates that the proposed use would generate 69 P.M. peak hour vehicle trips which does not exceed the 75-trip threshold in Section 24-11(b) or the 100-trip threshold to require a Traffic Impact Analysis pursuant to Section 24-23(a). As the

proffers do not permit additional entrances to be constructed to Richmond Road, the proposed use will access the private roads internal to the shopping center. These internal roads have existing entrances on Richmond Road, Norge Lane, and Croaker Road.

The proposal includes a total of 37 vehicular parking spaces on the property as well as a parking lot drive aisle connection to the existing O'Reilly Auto Parts store located at 7512 Richmond Road. An easement for the construction of the drive aisle connection as well as the continued public travel between the properties has been executed and recorded at the Williamsburg/James City County Courthouse by the property owners. The development will include sidewalk connections with the existing sidewalk along Richmond Road and the sidewalk along the private road that is currently under construction.

Furthermore, staff has proposed conditions to mitigate potential impacts to the Norge CCA and Richmond Road CCC. The application included architectural elevations for the proposed use which are included in Attachment No. 5. Staff finds that the proposed architectural elevations are generally compatible with the existing buildings located within the shopping center and has proposed Condition No. 3 to ensure the elevations are adhered to during the site plan and building permit reviews. Additionally, proposed Condition Nos. 4 and 5 require the screening of dumpsters and HVAC/mechanical units and require the freestanding sign for the development to be consistent with the architectural elevations.

In addition to the conditions regarding architectural design, staff has proposed Condition Nos. 2, 6, and 7 to further mitigate impacts to the Norge CCA and Richmond Road CCC. These conditions prohibit the display of merchandise outside of the store, prohibit light trespass across property lines and limit the height of light poles to 20 feet, and require the 50-foot Richmond Road CCC buffer to be planted with

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SPECIAL USE PERMIT-24-0025. 7516 Richmond Road Dollar Tree
Staff Report for the December 10, 2024, Board of Supervisors Public Hearing

native species with an increased quantity of 125% of the minimum requirement in the Zoning Ordinance.

PLANNING AND ZONING HISTORY

- In 1986, the Board of Supervisors approved the rezoning of approximately 37.13 acres of land bounded by Norge Lane, Richmond Road, and Croaker Road from A-1, General Agricultural to B-1, General Business, with Proffers. Relevant proffers from this rezoning include the following, which apply today and are not affected by this SUP application:
 - Proffer Community Character: A 50-foot buffer strip along the entire Richmond Road frontage is required.
 - 100-foot Setback: A 100-foot setback is required for structures adjacent to Richmond Road.
- In 1988, the Board of Supervisors approved amendments to the existing proffers (Case No. Z-0011-1988) to facilitate development of the adjacent shopping center. Additionally, a subdivision plat was recorded to create five outparcels, including the 7516 Richmond Road property, from the larger shopping center parcel.
- In 2020, a site plan was approved to create a new entrance to the shopping center from Croaker Road. The entrance aligns with the entrance to the Station at Norge Apartments and is connected to the private road network internal to the shopping center.
- In 2023, a conceptual plan application and a site plan application were submitted to the County for the proposed Dollar Tree project which is currently under review.

- In 2024, a subdivision plat was recorded which adjusted the boundary of the 7516 Richmond Road parcel to conform with the layout of the private road internal to the shopping center which is under construction.

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SPECIAL USE PERMIT-24-0025. 7516 Richmond Road Dollar Tree
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SURROUNDING ZONING AND DEVELOPMENT

- The property is located internal to the Norge Crossing Shopping Center which is zoned B-1, General Business, with Proffers, designated Community Commercial on the Comprehensive Plan Land Use Map, and located inside the PSA. The shopping center is currently comprised of a mix of commercial and office uses as well as vacant outparcels.
- The following table lists information on the parcels adjacent to the shopping center:

	ZONING DESIGNATION	EXISTING LAND USE	FUTURE LAND USE DESIGNATION
NORTH	PL, Public Lands and A-1, General Agricultural	The James City County Library and single-family residential	Federal, State, or County Land and Rural Lands
SOUTH	M-1, Limited Business/Industrial and MU, Mixed Use	Commercial and civic uses	Mixed Use
EAST	A-1, General Agricultural and R-8, Rural Residential	Single-family residential and civic uses	Low Density Residential
WEST	A-1, General Agricultural and R-5, Multifamily Residential	Multifamily residential and vacant land	Mixed Use and Moderate Density Residential

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Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Public Transportation: Vehicular</u>	<u>No Mitigation Required</u>	- The proposed building will take access from a private road internal to the Norge Crossing Shopping Center. The shopping center currently has entrances on Richmond Road, Norge Lane, and Croaker Road. - The application indicates that a maximum of 69 P.M. peak hour trips would be generated to and from the proposed use.
<u>Public Transportation: Bicycle/Pedestrian</u>	<u>No Mitigation Required</u>	- Public pedestrian/bicycle accommodations are not necessitated because of this proposed use. - A sidewalk connection will be provided to the sidewalk located within the Richmond Road right-of-way. - This parcel is within walking distance to a WATA transit line.
<u>Public Safety</u>	<u>No Mitigation Required</u>	- The property is located within a 5-minute radius of Fire Station 1. - The proposal does not generate impacts that require mitigation to the County's emergency services or facilities.
<u>Public Schools</u>	<u>No Mitigation Required</u>	- The proposal is not expected to generate impacts to public schools.
<u>Public Parks and Recreation</u>	<u>No Mitigation Required</u>	- The proposal is not expected to generate impacts to public parks and recreation.
<u>Public Libraries and Cultural Centers</u>	<u>No Mitigation Required</u>	- The proposal is not expected to generate impacts to public libraries and cultural centers.
<u>Groundwater and Drinking Water Resources</u>	<u>Mitigated</u>	- Condition No. 8 requires water conservation and irrigation standards to be enforced on-site.
<u>Watersheds, Streams, and Reservoirs</u> Project is located in the Yarmouth Creek Watershed.	<u>No Mitigation Required</u>	- The Stormwater and Resource Protection Division reviewed the proposal and had no proposed conditions for the project. The detailed stormwater management design is under review through the site plan application.

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SPECIAL USE PERMIT-24-0025. 7516 Richmond Road Dollar Tree
Staff Report for the December 10, 2024, Board of Supervisors Public Hearing

Impacts/Potentially Unfavorable Conditions	Status <i>(No Mitigation Required/Mitigated/Not Fully Mitigated)</i>	Considerations/Proposed Mitigation of Potentially Unfavorable Conditions
<u>Cultural/Historic</u>	<u>No Mitigation Required</u>	- A Phase I Archaeological Study of a currently undisturbed portion of the property conducted as part of the site plan application found that the project will not affect any archaeological sites.
<u>Nearby and Surrounding Properties</u>	<u>Mitigated</u>	- The proposed conditions are anticipated to mitigate the impacts of this new development on the adjacent properties and maintain community character. These conditions include: - Condition No. 2 prohibits the display, sale, or storage of merchandise outside of the store. - Condition No. 3 requires the building to be consistent with the architectural elevations provided in Attachment No. 5. - Condition No. 4 requires dumpsters and HVAC/mechanical units to be screened from adjacent properties. - Condition No. 5 limits the property to one freestanding sign which is required to have a design consistent with the architecture of the building. - Condition No. 6 restricts the property from having any light trespass and limits the height of light poles to 20 feet. - Condition No. 7 requires the 50-foot CCC buffer along Richmond Road to be planted with native species and plant quantities to be increased to 125% of the Zoning Ordinance's minimum requirement.
<u>Community Character</u>	<u>Mitigated</u>	
<u>Covenants and Restrictions</u>	<u>No Mitigation Required</u>	- The applicant has verified that he is not aware of any covenants or restrictions on the property that prohibit the proposed use.

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-24-0025. 7516 Richmond Road Dollar Tree
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COMPREHENSIVE PLAN

The property is designated Community Commercial on the Comprehensive Plan Land Use Map and is also located within the Norge CCA.

For Community Commercial, the Comprehensive Plan recommends community-scale commercial, professional, and office uses such as branch banks, places of public assembly, convenience stores, day care centers, general retail stores, grocery stores, indoor recreation facilities, medical offices, office parks, public facilities, service establishments, shopping centers, restaurants, and theaters. The recommended Floor Area Ratio (FAR) range is 0.2-0.4, except that lower FARs are acceptable if open space is preserved for future expansion or buffers. Additional considerations include locating commercial development adjacent to compatible uses and have limited impacts on adjacent residential areas.

For the Norge CCA, the following specific design standards intended to guide future development and redevelopment in Norge:

- The architecture, scale, materials, spacing, and color of buildings should complement the historic character of the area.
- Building setbacks should be consistent with nearby historic buildings and structures.
- Where possible, parking should be located to the rear of buildings. Parking should be screened from roadway and adjacent properties.
- Shared access and parking should be pursued before constructing new access breaks and parking facilities.

- Existing specimen trees and shrubs should be preserved to the extent possible.
- New landscaping should be of a type, size, and scale to complement and enhance the building and site design. Native plant and tree species are encouraged.
- Signage should be of scale, size, color, and materials to complement the historic character of the area.
- Pedestrian and bicycle access and circulation should be promoted through the provision of sidewalks, bike racks, benches, crosswalks, street trees, and other design features which help accomplish this goal.
- Mixed use development which provides residential, commercial, and office uses in close proximity is encouraged.
- Efforts to maintain and reinforce the boundaries of Norge and Toano through open space and site design measures are strongly encouraged.

Overall, given that the use is recommended within the Community Character designation, and that the provided architectural elevations and proposed conditions will ensure that the proposed development is compatible with existing development in the shopping center and mitigate impacts to adjacent properties, staff finds that the application is generally consistent with the recommendations of the Comprehensive Plan.

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-24-0025. 7516 Richmond Road Dollar Tree
Staff Report for the December 10, 2024, Board of Supervisors Public Hearing

STAFF RECOMMENDATION

Staff finds that the proposal is compatible with surrounding zoning and development and is generally consistent with the Comprehensive Plan. Staff recommends the Board of Supervisors approve this application, subject to the proposed conditions.

MR/ap
SUP24-25DollarTree

Attachments:

1. Resolution
2. Location Map
3. Community Impact Statement
4. Master Plan
5. Architectural Elevations
6. 1988 Proffers
7. Unapproved Minutes of the November 6, 2024, Planning Commission Meeting

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

RESOLUTION

CASE NO. SUP-24-0025. 7516 RICHMOND ROAD DOLLAR TREE

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

WHEREAS, Mr. Ethan Alexander of Kimley-Horn and Associates, Inc., has applied for an SUP on behalf of Norge Center, Inc., c/o Mr. Gary Massie, to construct a commercial building which exceeds 5,000 square feet of floor area pursuant to Section 24-11(a)(2) of the County Code on property located at 7516 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2320100071B (the “Property”); and

WHEREAS, the Planning Commission, following its public hearing on November 6, 2024, recommended approval of Case No. SUP-24-0025 by a vote of 7-0; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-24-0025; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with good zoning practices and the Comprehensive Plan Land Use Map designation for the Property.

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 (the “County Code”), does hereby approve the issuance of Case No. SUP-24-0025 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the construction of a commercial building which exceeds 5,000 square feet of floor area pursuant to James City County Code (“County Code”) Section 24-11(a)(2) (the “Project”), on property located at 7516 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2320100071B (the “Property”). The Property shall be developed substantially in accordance with the Master Plan titled “Masterplan Exhibit” prepared by Kimley-Horn and Associates, Inc., and dated September 19, 2024 (the “Master Plan”), with any deviations considered per Section 24-23(a)(2) of the County Code, as amended.
2. Outside Display, Sale, or Storage. No outside display, sale, or storage of merchandise shall be permitted on the Property.
3. Architectural Review. The design and materials for the Project shall be consistent with the architectural elevations titled, “Norge, VA Dollar Tree - Norge Crossing” prepared by RRMM Architects and dated September 19, 2024. The final architectural design for the Project shall be included within the site plan for the development. Prior to final site plan approval, the Director of Planning or designee shall review and approve the final architectural design for the Project to ensure consistency with the architectural elevations. In the event the Director of Planning disapproves, the applicant may appeal the decision of the Director of Planning to the Development Review Committee, which shall forward a recommendation to the Planning Commission.

4. Screening of Site Features. All dumpsters and roof and ground-mounted HVAC and mechanical units located on the Property shall be screened by the architecture of the building or by an enclosure composed of masonry, closed-cell PVC, prefinished metal, or cementitious panels, in detail and colors to blend with adjacent building materials. Such features and enclosures shall be shown on the site plan and shall be reviewed and approved by the Director of Planning or designee to ensure consistency with this condition prior to final site plan approval.
5. Freestanding Signage. The Property shall be allowed one exterior freestanding sign. The freestanding sign shall be externally illuminated, monument style, not to exceed 8 feet in height and have a base of masonry or other materials similar in type and color with the architecture of the Project. The Director of Planning or designee shall approve the design of the sign prior to final site plan approval and prior to any subsequent sign modifications.
6. Exterior Lighting. All new exterior light fixtures on the Property, including new building lighting, shall have recessed fixtures with no lens, bulb, or globe extending below the casing. All new light poles shall not exceed 20 feet in height from finished grade. No light trespass, defined as 0.1-foot-candle or higher, shall extend across any property line. A lighting plan shall be approved by the Director of Planning or designee prior to final site plan approval.
7. Richmond Road Buffer. Prior to final approval of any site plan, the Director of Planning or designee shall review and approve a landscape plan for the Property. The landscape plan shall provide a 50-foot vegetated Community Character Corridor buffer ("Buffer") along the Richmond Road right-of-way in accordance with Section 24-98 of the Zoning Ordinance. A majority of tree, shrub, and/or ornamental grass plantings shall be native species to meet the requirements of Section 24-96 of the County Code. Any land disturbance or grading in the Buffer shall be the minimum necessary and shall require additional plantings consisting of no less than 125% of the required plantings per the Zoning Ordinance or as may be otherwise approved by the Director of Planning or designee, such that at maturity the plantings match or exceed the mature height and density of trees and shrubs within the Buffer. All landscaping on the landscape plan shall be guaranteed, in a form acceptable to the County's Attorney, prior to site plan approval. The landscaping shown on the approved landscape plans(s) shall be installed prior to the issuance of a Final Certificate of Occupancy for the Project.
8. Water Conservation. Water conservation standards shall be enforced on the Property through an agreement with the James City Service Authority (JCSA). The standards shall be approved by the JCSA General Manager prior to site plan approval for the permanent modular building shown on the Master Plan and may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Any changes shall be submitted to and approved by the JCSA.
9. Commencement. If construction of the Project has not commenced within 36 months from the date of adoption of this SUP, the SUP shall become void. Construction shall be defined as obtaining building permits and an approved footing inspection and/or foundation inspection.

10. *Severance Clause*. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
	NULL	_____	_____	_____	_____
_____ Teresa J. Saeed	HIPPLE	_____	_____	_____	_____
Deputy Clerk to the Board	MCGLENNON	_____	_____	_____	_____
	ICENHOUR	_____	_____	_____	_____
	LARSON	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2024.

SUP24-25DollarTree-res

JCC SUP-24-0025, 7516 Richmond Road Dollar Tree





September 19th, 2024

Mr. Josh Crump
Principal Planner
James City County
101-A Mounts Bay Road
Williamsburg, VA 23187-8784

RE: *Dollar Tree Norge Special Use Permit Community Impact Statement*
7516 Richmond Road
Norge, Virginia
Kimley-Horn #116773014
City File #SP-23-0105

Dear Mr. Crump,

Project Description

The subject property is located within the Norge Shopping Center at 7516 Richmond Road Williamsburg, Virginia 23188. The proposed development is a 9,977 SQFT Dollar Tree retail store that will occupy the 1.56-acre parcel. The proposed use is under the retail store classification, which is a by-right use under the existing B1 (General Business) zoning. The site will have 2 access points internal to the shopping center and all traffic associated with the Dollar Tree will use the two existing stop lights on Richmond Road and Croaker Rd.

Community Impact

The proposed Dollar Tree store will provide convenient and affordable goods to the Norge Community Character Area. The store will also provide a limited impact to the existing traffic along Richmond Road. A Trip Generation Study that was completed by Kimley-Horn shows only 69 afternoon peak hour trips would be created for the proposed development which will have a minimal impact on the surrounding roadway network. The utility infrastructure that is serving the site was designed to handle the proposed Dollar Tree development, and thus, with this development, there is no strain to the public utility infrastructure. The development will be providing a sidewalk connection to the VDOT sidewalk in the right-of-way to promote pedestrian connectivity to the shopping center.

The proposed Dollar Tree store is proposed on a commercial outparcel of a shopping center. This development is in line with the land use intended for the outparcel.

Please contact me at (757) 213-8600 or danielle.leonor@kimley-horn.com should you have any questions or desire additional information.

Sincerely,

KIMLEY-HORN



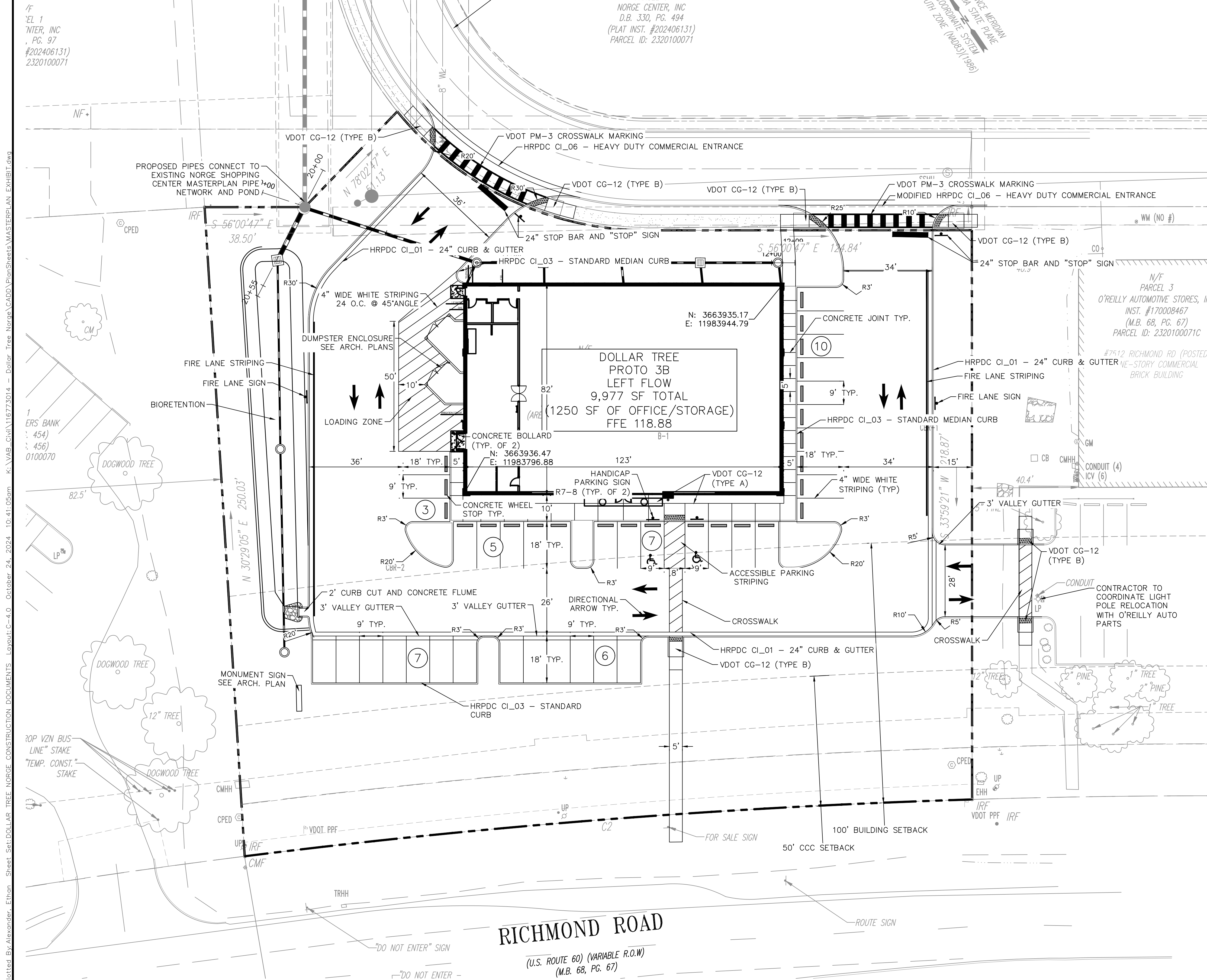
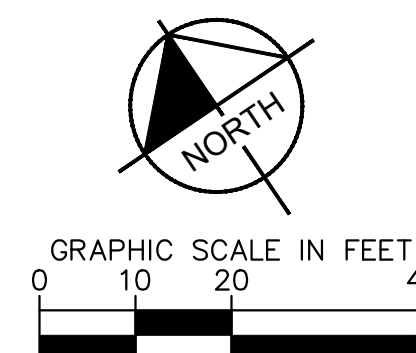
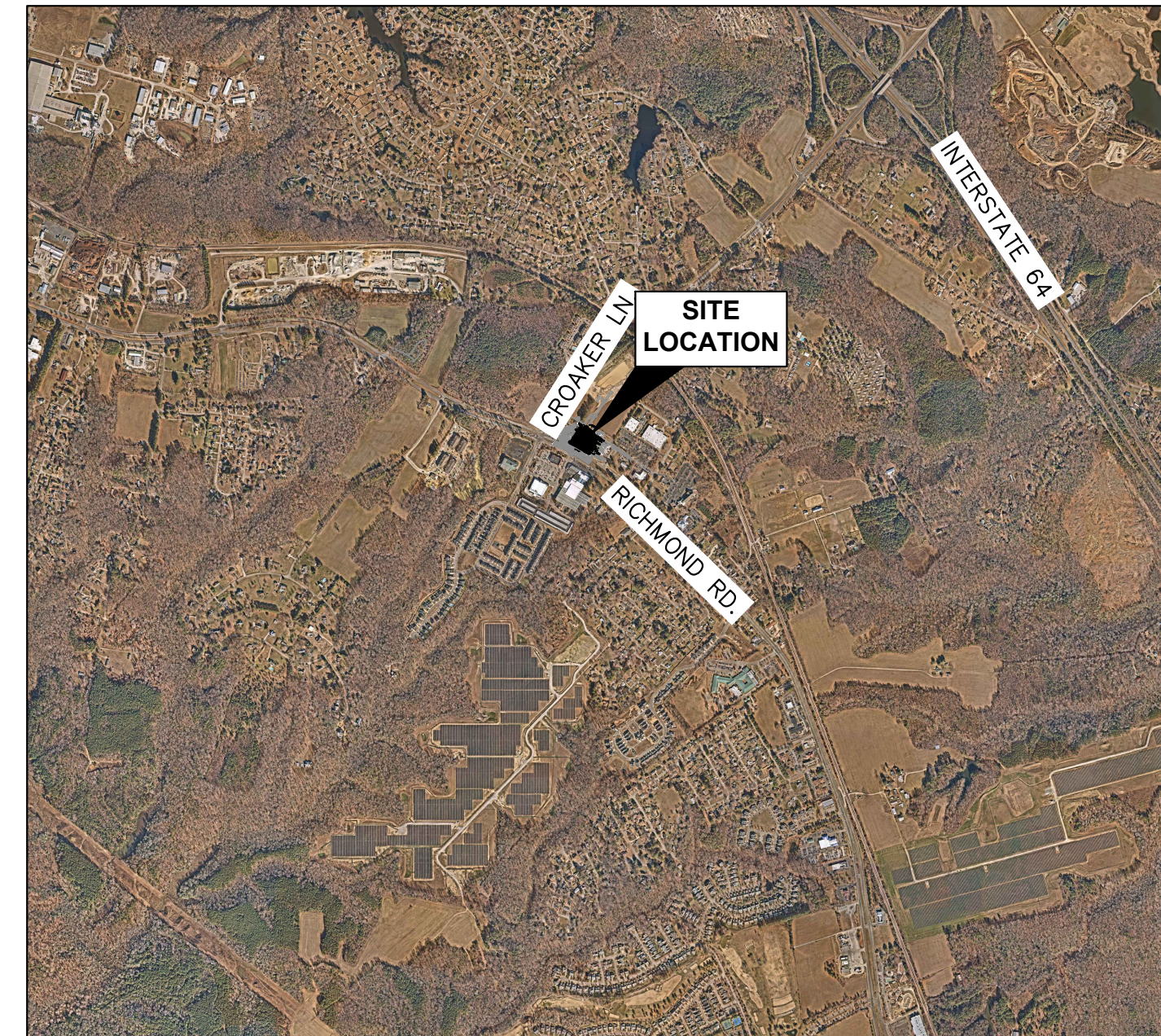
Danielle Leonor, P.E.
Project Manager

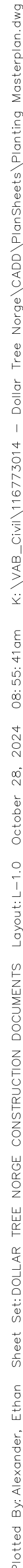
K:\VAB_CIVIL\116773014 - DOLLAR TREE
NORGE\CORRESPONDENCE\COMMENTS\2ND\COUNTY\2024-5-29_COMMENT RESPONSE
LETTER.DOCX

[illegible]

PROJECT NUMBER: 116773014
DRAWN BY: ELA
CHECKED BY: DDL
ISSUE DATE: 10/24/2024

SHEET TITLE: MASTERPLAN EXHIBIT
SHEET NUMBER: EX-1





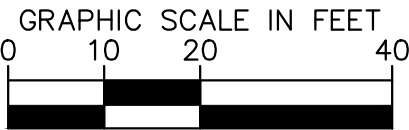
 SOD
  BIORETENTION BASIN FLOOR MIX. SEE NOTE 6 ON THIS SHEET

 PERMANENT SEEDING

General Landscape Area - Buffers (as noted in Sec. 24-96)			
<u>Buffer - North Property</u>		Area = 2,477 SF	
<i>Adjacent Use: Similar Zoning</i>			
<u>Plant Material Type</u>	<u>Quantity Required</u>	<u>Quantity Provided</u>	
Trees	1 per 400 SF=	6	6
Shrubs	3 per 400 SF=	19	20
<u>Buffer - East Property</u>		Area = 1,874 SF	
<i>Adjacent Use: Similar Zoning</i>			
<u>Plant Material Type</u>	<u>Quantity Required</u>	<u>Quantity Provided</u>	
Trees	1 per 400 SF=	5	6
Shrubs	3 per 400 SF=	14	14
<u>Buffer - South Property</u>		Area = 14,101 SF	
<i>Adjacent Use: ROW - Richmond Road</i>			
<u>Plant Material Type</u>	<u>Quantity Required</u>	<u>Quantity Provided</u>	
Trees	1 per 400 SF=	35	35
Shrubs	3 per 400 SF=	106	106
<u>Buffer - West Property</u>		Area = 2,983 SF	
<i>Adjacent Use: Similar Zoning</i>			
<u>Plant Material Type</u>	<u>Quantity Required</u>	<u>Quantity Provided</u>	
Trees	1 per 400 SF=	8	8
Shrubs	3 per 400 SF=	22	22

GENERAL NOTES:

1. SO D ALL AREAS WITHIN PROPERTY LIMITS THAT ARE NOT COVERED WITH MULCHED PLANT BEDS, STONE MULCH, BUILDINGS, HARDSCAPE, PAVEMENT, OR OTHERWISE NOTED.
2. SEED WITH PERMANENT LAWN GRASS ALL AREAS WITHIN THE ADJACENT RIGHT OF WAY'S WHICH ARE NOT OTHERWISE COVERED WITH PLANTING BEDS, PAVEMENT, BUILDINGS, OR HARDSCAPE, PER THE SEEDING SPECIFICATIONS ON SHEET L1.1.
3. EXISTING TREES AND SHRUBS INDICATED TO REMAIN SHALL BE PROTECTED FROM CONSTRUCTION ACTIVITIES BY INSTALLING TREE PROTECTIVE FENCING PER THE PROJECT PLANS AND SPECIFICATIONS.
4. IRRIGATION IS TO BE HANDLED BY THE CONTRACTOR IN THE FIELD. SEE SHEET L-1.1 FOR PLANTING NOTES AND DETAILS.
5. BIORETENTION AREAS ARE TO BE PLANTED WITH THE ERNST SEED MIX - ERNMX-126 (RETENTION BASIN FLOOR MIX, LOW MAINTENANCE)

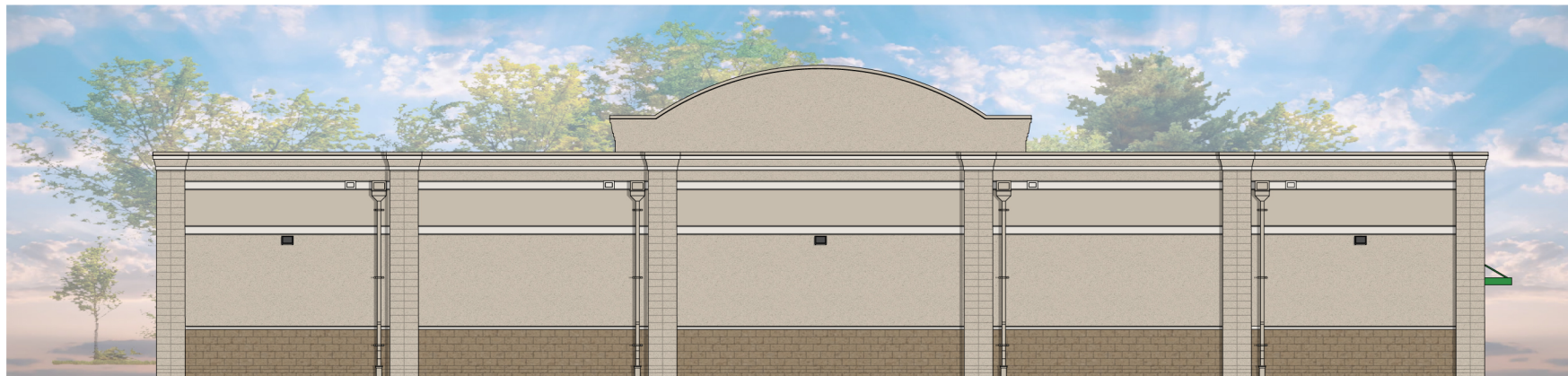




FRONT ELEVATION



RIGHT ELEVATION



REAR ELEVATION



LEFT ELEVATION

Canopy to be supplied and installed by Dollar Tree's sign vendor

- SW ENVY
- SW AESTHETIC WHITE
/ STO SMOKED PUTTY
- SW BALANCED BEIGE
/ STO SANDSTONE
- SW VIRTUAL TAUPE

NORGE , VA

Dollar Tree - Norge Crossing



Revised 9-19-2024



AGREEMENT

WHEREAS, Norge Center, Inc., a Virginia corporation, (hereinafter called "the Owner"), owns certain real property in James City County, Virginia, (hereinafter called "the property"), and more particularly described as follows:

All that certain lot, piece or parcel of land, situate, lying and being in Stonehouse District, James City County, Virginia, fronting on U. S. #60, and shown on that certain plat of survey under the legend of "Section No. 4. 37.13 acres, Mrs. Ellen Taylor Howard," which plat is attached to that certain deed dated April 10, 1940, between R. Kember Taylor, et als and Richard E. Taylor, et ux, of record in the Clerk's Office of the Circuit Court of James City County, Virginia, in Deed Book 32, page 93, and bounded and described on said plat of survey as follows:

Beginning at a point on said highway, which point marks the line dividing the subject property and the property partitioned to Kitty Taylor; thence along said line North 37 degrees and 39 minutes East 2305.0 feet to a point on the center line of the old York River Road; thence along said center line North 89 degrees and 12 minutes East 159.0 feet, North 71 degrees and 33 minutes East 500.0 feet, North 65 degrees and 35 minutes East 135.0 feet to a point on the line dividing the subject property and the property of Our Savior Lutheran Church; thence along said line North 81 degrees and 22 minutes East 231.0 feet to a point on the line dividing the subject property and the property partitioned to Rufus Taylor; thence along said line South 37 degrees and 39 minutes West 3132.0 feet to a point on the East line of Highway #60, thence along said right-of-way on a 3 degree and 20 minute curve to the left 621.0 feet to the point of beginning; containing 37.13 acres, more or less; the lines included in the above description extend across the present right-of-way of the Chesapeake and Ohio Railway, but this is done for the purpose of settling reversion rights in the event of abandonment of any portion of the present right-of-way of said railway; in severalty and divided from the portions of R. Kemper Taylor, Rufus Taylor, Kitty Taylor and Minnie Taylor Bentley.

WHEREAS, the Owner acquired the said real estate from Ellen Taylor Howard after the property was rezoned from General Agricultural District, A-1, to the General Business District, B-1; and

SHORT, SHORT, TELSTAD & KERR, P.C., ATTORNEYS AT LAW, 710 DENBIGH BLVD., BLDG. #1, SUITE A, NEWPORT NEWS, VA. 23602

WHEREAS, the property was subjected to certain conditions for its development as set forth in an agreement with Ellen Taylor Howard and James City County executed December 23, 1986; and

WHEREAS, the Owner desires to alter the development plans and, therefore, has requested of James City County that condition number 1. of the aforesaid agreement be amended.

NOW, THEREFORE, in consideration of the County of James City amending condition number 1, the Owner agrees that in addition to the regulations provided for in the General Business District, B-1, but subject to the limitations set forth in the aforesaid Codes, they will meet and comply with all of the following conditions for the development of the Property:

1. Site development, excluding outparcels, will be for a shopping center not to exceed 362,000 square feet of gross floor area.
2. Owner agrees to impose a 100 foot structural setback from the right-of-way of Richmond Road. In addition, the Owner agrees to impose a 50 foot buffer strip along the entire Richmond Road frontage and a 30 foot buffer zone along Norge Lane, the C & O Railroad, and also that portion of the property fronting on Croaker Road. The buffer zones will exclude parking and be broken only by necessary access roads, project signage and utilities. A landscaping plan will be submitted for approval by the James City County Staff and the Site Plan Review Committee for these buffer zones concurrent with the first site plan submitted on the subject property. The Owner agrees to implement the approved Landscaping Plan for this Buffer Zone concurrent with the site development of the first parcel.

This agreement specifically excludes the adjoining parcels which are rezoned General Business District, B-1.

3. The Owner agrees to limit the number of access points along the perimeter of the subject property to one on Richmond Road, four on Norge lane and one on Croaker Road (Route 607).

4. The Owner agrees to exclude the following uses permitted in the General Business, B-1, zoning district:

- a. Funeral Homes
- b. Cemeteries

5. The Owner agrees to design, furnish the equipment, and install a traffic signal at Norge Lane and Richmond Road concurrent with development of any portion of the property, excluding outparcels as depicted on the preliminary site plan as submitted.

6. The Owner agrees to install all left and right turn lanes as approved by the Site Plan Review Committee, concurrent with the development of the appropriate phase of site construction.

7. The Owner will subdivide the property into no more than fourteen (14) parcels.

8. The Owner will dedicate a ten (10) foot right-of-way strip along the northeast border of the property fronting on Norge Lane for widening and improving of the existing road. In addition, the Owner agrees to improve Norge Lane concurrent with the appropriate phase of site construction in accordance with current VDOT requirements for the level of traffic envisioned by the preliminary site plan, said improvements to be approved by VDOT, and the appropriate planning commission review committee.

NORGE CENTER, INC., a Virginia corporation

By:

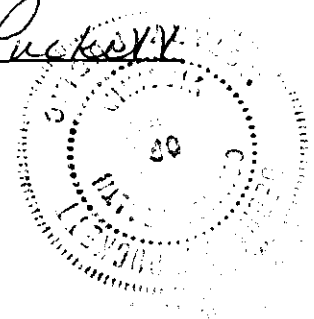
Robert L. King
Robert L. King, President

STATE OF VIRGINIA AT LARGE
City of Newport News, to-wit:

The foregoing instrument was acknowledged before me this
2nd day of June, 1988, by Robert L. King, President of
NORGE CENTER, INC., a Virginia corporation.

Helene S. Ward
NOTARY PUBLIC

My commission expires: 8-7-89



VIRGINIA: City of Williamsburg and County of
James City, to wit:

In the Clerk's office of the Circuit Court of the
City of Williamsburg and County of James City the
_____ day of June, 1988. This agreed

_____ was presented with certificate annexed and
admitted to record at 1:41 o'clock

Teste: Helene S. Ward, Clerk

by Helene S. Ward
Deputy Clerk

5225

00 105 1 6162 2095164

FULL PAYMENT

CASE NUMBER

01/LR885625

PAYOR NAME

06/JAMES CITY CO

GRANTOR

22/NORGE CENTER INC

GRANTEE

23/JAMES CITY CO

DESC OF PROPERTY

24/SEC 4 37.13 AC

DATE OF INSTRUMENT

25/6/2/88

PURPOSE

33/AGREE

301 DEEDS	1	10.00
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AMOUNT TENDERED	10.00
-----------------	-------

CHANGE	.00
--------	-----

TOTAL	10.00
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WMSBURG/JAMES CITY CIRCUIT CT

06/08/88 13:41

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185
November 6, 2024
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson
Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Josh Crump, Principal Planner
Ben Loppacker, Planner
Will Albiston, Community Development Assistant

Mr. O'Connor noted there was an alteration to the Agenda. He stated Item No. 1 under Public Hearings would not be heard as the applicant had withdrawn the application. Mr. O'Connor further noted the applicant had not indicated a future date on moving forward with the application at the current time. He stated if anyone was present to speak on Item No. 1 then speakers were welcome to do so during Public Comment, reiterating no Public Hearing would take place on SUP-24-0012. 3512 Barrett's Ferry Drive Tourist Home as the application had been withdrawn.

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

As no one wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Mr. Rodgers noted the Development Review Committee (DRC) met on October 23, 2024, to review two business items. He further noted both items had the same applicant, Bright Beginnings Pre-K. Mr. Rodgers stated the applicant had appealed the Director of Planning's decision on both applications which cited identical reasons for the request. He added two Williamsburg-James City County (WJCC) Schools were affected by the project request. Mr. Rodgers cited the first case was SP-24-0062. Bright Beginnings Pre-K Center at Clara Byrd Baker Elementary - Appeal of the Director of Planning's determination. He noted WJCC

Schools had submitted a site plan to allow for the construction of a 42,000-square-foot Pre-K Center on Ironbound Road. Mr. Rodgers cited the County's Zoning Ordinance requirements regarding pedestrian and bicycle accommodations. He noted a sidewalk existed along the school's frontage which was within the right-of-way, but no bike lane existed along this section of Ironbound Road. Mr. Rodgers explained the applicant had requested a modification from the sidewalk and bike lane requirement which were based on exceptions listed in Section 24-35(d)(2) of the County's Zoning Ordinance. He stated the applicant requested the incorporation of a multiuse path, adding it was a safer alternative for children. Mr. Rodgers spoke to these points in more detail. He said the applicant indicated that the Virginia Department of Transportation (VDOT) had approved the applicant's multiuse path alternative. Mr. Rodgers detailed the Planning Director's denial of the request which included topographical and safety factors. He noted that staff recommended the DRC uphold the Planning Director's decision. Mr. Rodgers further noted that following discussion, the DRC made a motion to approve the exception which allowed the existing sidewalk to remain with no additional construction of bicycle or pedestrian accommodations taking place. He noted the motion was approved by a 3-1 vote. Mr. Rodgers stated the second item, SP-24-0063. Bright Beginnings Pre-K Center at Norge Elementary - Appeal of the Director of Planning, included the site plan submittal by WJCC Schools for the construction of a 42,000-square-foot Pre-K Center on Richmond Road. He noted that despite address differences, both cases had very similar arguments and concerns. Mr. Rodgers further noted that the appellant stated SP-24-0063 required a right-of-way extension which complicated an electric traffic signal, streets signs, and other factors along this section of Richmond Road for any VDOT standard installation option for the site. He detailed the Planning Director's denial of the request which included topographical exemption. Mr. Rodgers noted that following discussion, the DRC voted to approve the exception by a 4-0 vote.

Mr. O'Connor noted there was no Policy Committee report.

Mr. Haldeman confirmed that was correct.

E. CONSENT AGENDA

1. Minutes of the October 2, 2024, Regular Meeting
2. Development Review Committee Action Item: SP-24-0062 Bright Beginnings Pre-K Center at Clara Byrd Baker Elementary - Appeal of the Director of Planning
3. Development Review Committee Action Item: SP-24-0063 Bright Beginnings Pre-K Center at Norge Elementary - Appeal of the Director of Planning

Mr. Haldeman made a motion to approve the Consent Agenda.

On a voice vote, the Commission approved the Consent Agenda. (7-0)

F. PUBLIC HEARING(S)

1. SUP-24-0012. 3512 Barrett's Ferry Drive Tourist Home

As noted earlier in the meeting, Item No. 1 was pulled upon the withdrawal of the application.

2. MP-24-0004/Z-24-0010. Powhatan Terrace Master Plan and Proffer Amendment

Mr. Josh Crump, Principal Planner, addressed the Commission noting the details of the application which included amendment of the Master Plan and proffers on a 15.42-acre parcel located at 1676 Jamestown Road. He stated the parcel was designated R-2, General Residential. Mr. Crump noted the original proffers and Master Plan were intended for an affordable multifamily development known as Powhatan Terrace, adding that the property owner was currently requesting the amendment to allow four single-family lots. He noted the changes included a new Master Plan for four single-family lots, 150-foot vegetated buffer, and a 5-foot sidewalk along Jamestown Road. Mr. Crump stated staff found the application to be consistent with the Zoning Ordinance and Comprehensive Plan. He noted staff recommended the Planning Commission recommend approval of the amended Master Plan and proffers to the Board of Supervisors. Mr. Crump further noted the applicant, Mr. Greg Davis, on behalf of JTR Properties, LLC, was in attendance for a brief presentation.

Mr. O'Connor thanked Mr. Crump.

Mr. O'Connor opened the Public Hearing.

Mr. Greg Davis, Kaufman & Canoles, P.C., 4801 Courthouse Street, addressed the Commission noting the members of the project team in attendance. He noted Mr. Scott Wise was the applicant and his daughter and son-in-law intended to build a home on the property if the case was approved. Mr. Davis stated the proposal addressed a less intensive residential development than the original Master Plan with a reduction from the 36-unit cluster development to the four single-family lots. He highlighted the reduced intensity points of the plan in a presentation. Mr. Davis noted the proffered open space would remain. He continued highlighting other aspects of the property to address stormwater drainage and other aspects. Mr. Davis stated neighbors had expressed no objection to the amendment. He recommended the Planning Commission recommend approval to the Board of Supervisors.

Mr. O'Connor asked if any Commissioners had questions.

Mr. Haldeman asked about the microbio-retention basin term.

Mr. Steve Romeo, Vanasse Hangen Brustlin, Inc., 351 McLaws Circle, responded that the term referenced a small retention basin. He noted the Raleigh Square development discharge flowed onto the applicant's property and created a steep gully. Mr. Romeo stated the basin was a small rock area which stabilized the water flow through the rocks before moving through the channel.

Mr. O'Connor closed the Public Hearing as there were no additional speakers.

Mr. Rodgers disclosed he had known Mr. Wise for many years, and he noted his judgment would not be affected. Mr. Rodgers added that this case was in his district; therefore, he was interested. He referenced concerns he heard voiced by residents in the area regarding too many units and too much runoff. Mr. Rodgers noted this was a winning situation to address some of those concerns and he was in support of the case.

Mr. Mayes expressed his agreement with Mr. Rodgers, adding the proposed amendment was a good use of the property. He offered his support of the application also.

Mr. O'Connor referenced the timeline of this application and the applicant's hard work particularly regarding the environmental aspects. He referenced his longevity on the Planning Commission and his concerns regarding Master Plan amendments. Mr. O'Connor noted the loss of the potential 36 units for affordable housing, but he also acknowledged the sensitive environmental issues at the site. He stated his support.

Mr. Everson made the motion to approve MP-24-0004/Z-24-0010. Powhatan Terrace Master Plan and Proffer Amendment, with the submitted conditions.

On a roll call vote, the Commission voted to recommend approval. (7-0)

3. SUP-24-0025. 7516 Richmond Road Dollar Tree

Mr. Josh Crump, Principal Planner, addressed the Commission stating the details of the Special Use Permit (SUP). He noted the proposed commercial building would house a Dollar Tree store and be approximately 9,900 square feet in size. Mr. Crump provided a visual depiction of the traffic entrances/exits off Richmond Road and Norge Lane. He cited staff's proposed conditions to mitigate potential impacts in conjunction with architectural elevation consistencies and other factors. Mr. Crump noted staff found the proposal compatible with surrounding zoning and a general compatibility with the Comprehensive Plan and Zoning Ordinance. He noted staff recommended the Planning Commission recommend approval of the SUP to the Board of Supervisors subject to the proposed conditions. Mr. Crump stated members of the applicant's team were also present.

Mr. O'Connor asked if any Commissioners had questions.

Mr. Haldeman referenced Croaker Road, which was opposite The Station at Norge, and questioned if the property extended to that point.

Mr. Crump noted a new road was being built and he highlighted the extension with an aerial view in the PowerPoint presentation.

Several Commissioners noted the road was already completed with turn lanes.

Mr. O'Connor thanked Mr. Crump.

Mr. O'Connor opened the Public Hearing.

Mr. Vernon Geddy, Geddy, Harris, Franck & Hickman, LLP, 1177 Jamestown Road, addressed the Commission noting he was the applicant's representative. He identified other members present, but names were inaudible. He stated he and the applicant agreed with the staff report, adding the proposal was a good use of the location. Mr. Geddy requested approval of the application.

Mr. O'Connor asked if any Commissioners had questions. He noted he had one regarding potential plans for the vacant parcel northeast.

Mr. Geddy stated he was unable to answer as he was only representing the Dollar Tree developer.

Mr. O'Connor noted he understood and thanked Mr. Geddy.

Mr. O'Connor closed the Public Hearing as there were no additional speakers.

Mr. Polster noted his pleasure at seeing the Dollar Tree application for this area. He added the traffic pattern was very helpful for alleviating concerns in the area. Mr. Polster noted his support of the application.

Mr. O'Connor stated the area had seen major improvements with the installation of sidewalks, stormwater improvements, as well as road improvements at Croaker Road and Richmond Road. He noted the County and VDOT had made major strides in the safety of that area.

Mr. Polster made a motion to recommend approval of SUP-24-0025. 7516 Richmond Road Dollar Tree with the proposed conditions to the Board of Supervisors.

Mr. Polster disclosed he had spoken previously with Mr. Geddy.

Mr. Everson noted he had also spoken with Mr. Geddy.

Mr. O'Connor thanked the Commissioners.

On a roll call vote, the Commission voted to recommend approval. (7-0)

G. PLANNING COMMISSION CONSIDERATIONS

None.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - November 2024

Ms. Istenes stated that she did not have any additional information.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. O'Connor noted Mr. Haldeman and Dr. Allmann had switched months for coverage at the Board of Supervisors meetings. He noted Mr. Haldeman would cover the November meeting with Dr. Allman covering the December meeting.

Mr. Polster referenced the bike lane issue that had been noted in both applications under Public Hearings as a possible staff consideration. He noted an SUP near St. Olaf's Catholic Church in Norge that had required some sidewalk adjustments as well as installation of a bike lane. Mr. Polster stated that in the Comprehensive Plan there was mention of the widening of Route 60 in Norge and Toano. He added discussion regarding powerlines and other factors in relation to the bike lane, adding the bike lane issue needed to be addressed. Mr. Polster spoke to that point in more detail regarding staff and the Ordinance and the County's Bike Fund.

Ms. Istenes noted she would follow up with Mr. Paul Holt, Director of Community Development, on Mr. Polster's points. She further noted she had expressed similar thoughts regarding the Ordinance's contents to Mr. Holt. Ms. Istenes stated Mr. Holt was aware of the Ordinance for the bike lane which was a 2011 document.

Mr. O'Connor referenced an earlier Ironbound Road bike lane application that had come before the Planning Commission, adding that bike lane would not have been advantageous for the bikers. He noted it benefitted school-age children riding bikes to school, but not the larger groups of riders traveling together in the community. Mr. O'Connor stated those lanes moved riders onto the road. He noted he was in favor of a shareway with VDOT when resurfacing occurred.

Mr. Polster referenced the Powhatan Bike Trail and how it traverses through numerous neighborhoods. He noted the Trail provided a safe alternative for bikes.

Mr. Everson noted a recent article regarding the change to a City of Newport News parking Ordinance that focused primarily on residential areas. He referenced a recent visit to the Williamsburg Crossing area and the expansive parking lot that was virtually empty. Mr. Everson questioned if a review of the County's parking requirements had been done, particularly for future retail development. He spoke to these points in more detail.

Mr. Polster noted he had read the same article as Mr. Everson. He referenced Smith Baptist

Church in Lightfoot and its SUP regarding parking spaces and the County Ordinance. Mr. Polster noted parking spaces in relation to high-density developments. He cited parking needs and requirements.

Discussion ensued.

Mr. O'Connor cited parking requirements had varied based on the uses in several situations. He thanked the Commissioners for the discussion.

J. ADJOURNMENT

Mr. Polster made a motion to adjourn.

The meeting was adjourned at approximately 6:37 p.m.

Susan Istenes, Secretary

Tim O'Connor, Chair

MEMORANDUM

DATE: December 10, 2024

TO: The Board of Supervisors

FROM: Scott A. Stevens, County Administrator

SUBJECT: Second Interim Agreement for New Consolidated Government Center

At the January 23, 2024, Board of Supervisors (BOS) meeting, the Board directed the County Administrator to negotiate an interim agreement with Henderson, Inc. and Gilbane Building Company with the intent of moving forward with the construction of a new consolidated government center located at 5231 Longhill Road. That interim agreement was signed and executed in February of 2024. This first interim agreement took the project up to 30% design. County staff has negotiated a second interim agreement that will take the design of the facility up to a 100% completion status along with final site testing and required surveys. The County will continue to solicit input from residents, stakeholders, County staff, and elected officials as the County works towards 100% design. If the County chose to move to the construction phase, a comprehensive agreement to begin construction would be negotiated and brought before the BOS for approval. The cost for the services provided under this second interim agreement is not to exceed \$11.5 million. Funding for this project was previously approved in the County's Capital Improvement Program in fiscal years 2024 and 2026.

Staff recommends adoption of the attached resolution.

SAS/ap
SIntAgrConGCtr-mem

Attachment

RESOLUTION

SECOND INTERIM AGREEMENT FOR NEW CONSOLIDATED GOVERNMENT CENTER

WHEREAS, the James City County Board of Supervisors (the “Board”), on January 23, 2024, directed the County Administrator to execute an interim agreement for the design of a consolidated government center (the “Project”); and

WHEREAS, James City County selected Henderson, Inc., a Virginia stock corporation (“Henderson”) and Gilbane Building Company, a Virginia stock corporation, (“Gilbane”), jointly and severally, hereinafter (“HGJV”), as the primary partners in this project; and

WHEREAS, the interim agreement has concluded with a partial design plan, site testing, and surveys; and

WHEREAS, the County desires to move forward with a 100% complete design plan, site testing, and surveys; funds were previously approved in the County’s Capital Improvement Program in fiscal years 2024 and 2026; and

WHEREAS, the Board desires the County to enter into a second interim agreement with HGJV not to exceed \$11.5 million.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute those documents necessary to enter into a second interim agreement with HGJV for a complete design plan, site testing, and surveys for a new consolidated government center located at 5231 Longhill Road.

Ruth M. Larson
Chair, Board of Supervisors

ATTEST:

	NULL				
	HIPPLE				
	MCGLENNON				
	ICENHOUR				
	LARSON				

Teresa J. Saeed
Deputy Clerk to the Board

VOTES

AYE NAY ABSTAIN ABSENT

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2024.

SIntAgrConGCTr-res