

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF JULY, 2003, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
 Bruce C. Goodson, Vice Chairman, Roberts District
 John J. McGlennon, Jamestown District
 Michael J. Brown, Powhatan District
 James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator
 Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Harrison requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Jason Meekins, a Junior at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, concurred with the Route 60 E relocation project being broken into two projects, recommended that a police officer be placed at the intersection in Lee Hall to keep the flow of traffic moving, and commented on the average cost to teach students as reported in a recent article in the *Wall Street Journal* vs. the average cost to teach students in the Williamsburg-James City County School System.

E. CONSENT CALENDAR

Mr. Harrison pulled Item Number 4, Erosion and Sediment Control Ordinance Violation – Civil Charge, from the Consent Calendar.

Mr. Kennedy pulled Item Number 5, Award of Construction Contract – Louise Lane, from the Consent Calendar.

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

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

1. Minutes
 - a. June 24.2003. Regular Meeting
2. Revenue Sharing Projects Amendments

RESOLUTION

VDOT REVENUE SHARING PROJECTS AMENDMENTS

WHEREAS, the Revenue Sharing Program, administered by the State of Virginia, provides valuable matching funds on a one-to-one basis for construction of needed roadway projects in James City County; and

WHEREAS, the Board has been notified by the Virginia Department of Transportation (VDOT) that the Croaker Road (0607-047-113, C502)(UPC 3089) Project can productively utilize Revenue Sharing Program funding; and

WHEREAS, the Board wishes to install landscaping on a wider range of roadways in the County.

NOW, THEREFORE. BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Virginia Department of Transportation to transfer \$200,000 of revenue sharing funds from Project 0622-047-P46, N501 (UPC 11264) to Project 0607-047-113, C502 (UPC 3089).

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, requests that Project 5000-047-174, L801 (UPC 00061576) be amended to add the following routes to the list of routes to be landscaped:

Route 60	Route 615
Route 31	Route 199
Route 5	Route 321
Route 614	Route 30

3. Resolution of Approval for AVID Medical. Inc.. Revenue Bond Issue

RESOLUTION

APPROVAL FOR AVID MEDICAL. INC., REVENUE BOND ISSUE

WHEREAS. the Industrial Development Authority of the County of James City; Virginia (the "Authority") on May 16, 2002, considered the application of AVID Medical. Inc., (the "Applicant"), a Delaware corporation, having its principal place of business currently at 9000 Westmont Drive, Toano, Virginia 23168. In that application, the Applicant requested the Authority to issue, pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the "Act"), up to \$3.5 million of its revenue bonds for a manufacturing facility (the "Bonds"); and

WHEREAS, the proceeds of the Bonds would be used to assist the Applicant in financing: (1) the acquisition, construction, and equipping of an approximately 45,000-square-foot expansion of the Applicant's existing facility, which expansion would be used in the manufacturing of medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which would be located on a three-acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia (the "Project"); and (2) the payment of the costs of issuing the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that both the governmental unit having jurisdiction over the issuer of private activity bonds and the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, must approve the issuance of the bonds. The Project is located in James City County, Virginia (the "County"), the Authority issues its bonds on behalf of the County and the Board of Supervisors of the County (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority held a public hearing on May 16,2002, regarding this matter on behalf of the Authority and the County and adopted an inducement resolution, and this Board adopted a resolution in June 2002 approving the Project; and

WHEREAS, however, subsequent to the adoption of the aforementioned resolutions by the Authority and the County, the Applicant and its lender agreed to finance construction of the Project through an interim taxable conventional loan with the issuance of the bonds being delayed until on or about the time of construction completion. The Code requires that bonds for manufacturing purposes be issued within one year of the approval of the Board, thus necessitating a new approval by the Board and a new public hearing; and

WHEREAS, the Authority held a new public hearing as required by Section 147(f) of the Code and by the Act on June 17,2003, and has recommended that the Board approve the issuance of the Bonds and has forwarded to the Board: (1) a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, which was adopted following its public hearing on June 17, 2003; (2) a copy of the Authority's original inducement resolution adopted on May 16,2002; (3) a copy of the Fiscal Impact Statement submitted by the Applicant; and (4) a reasonably detailed summary of the comments made at the public hearings on June 17,2003, and May 16,2002.

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

1. The recitals made in the first and second paragraphs of this resolution are hereby adopted as a part of this resolution.
2. The Board approves the issuance of the Bonds by the Authority in an aggregate principal amount not to exceed \$3.5 million for the benefit of the Applicant to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended.
3. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Applicant or the Project; and, as required by the Act and Virginia law, the Bonds shall provide that none of the Commonwealth of Virginia, the County, or the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon, or other costs incident thereto except from the revenues and moneys

pledged therefor, and neither the faith and credit, nor the taxing power of the Commonwealth of Virginia, nor any political subdivision thereof shall be pledged thereto.

4. The County, including its elected representatives, officers, employees, and agents shall not be liable and hereby disclaims all Liability for any damage to the Applicant or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
5. This Resolution shall take effect immediately upon its adoption.

4. Erosion and Sediment Control Ordinance Violation – Civil Charge

- a. Powhatan Enterprises, Inc.
- b. John Grier Construction
- c. Charles Crawford

Mr. McGlennon inquired if the number of civil charges for Ordinance violations have increased due to unusual events or better enforcement of the Ordinances.

Mr. Darryl C. Cook, Environmental Director, stated that the violations were for Erosion and Sediment Control, not the Chesapeake Bay, and that this is an active construction period and the frequency of violations typically increase during this period.

Mr. McGlennon requested an annual report tracking the violations during each year.

Mr. McGlennon made a motion to adopt the resolutions.

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

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE

POWHATAN ENTERPRISES, INC.

WHEREAS, on June 5, 2003, Lawrence Beamer of Powhatan Enterprises, Inc., violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at Lots 12 and 13 in the Powhatan Secondary subdivision, Phase 7A, designated as a portion of Parcel No. (01-00021) on James City County Real Estate Tax Map No. (38-3) (the "Property"); and

WHEREAS, Mr. Beamer has abated the violation at the Property; and

WHEREAS, Mr. Beamer has agreed to pay \$700 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$700 civil charge from Lawrence Beamer of Powhatan Enterprises, Inc., as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

JOHN CRIER CONSTRUCTION

WHEREAS, on June 9, 2003, Joseph Terrell, Sr., of John Grier Construction, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at Lot 34 (A-B), and 33 (A-B), in the Longhill Gate subdivision, commonly known as 8312, 8314, 8316, and 8318 Barons Court (the "Property"); and

WHEREAS, Mr. Terrell has abated the violation at the Property; and

WHEREAS, Mr. Terrell has agreed to pay \$700 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$700 civil charge from Joseph Terrell, Sr., of John Grier Construction, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

CHARLES CRAWFORD

WHEREAS, on May 1, 2003, Charles Crawford of Toano, Virginia, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 7709 Richmond Road, designated as Parcel No. (01-3) on James City County Real Estate Tax Map No. (13-3) (the "Property"); and

WHEREAS, Mr. Crawford has abated the violation at the Property; and

WHEREAS, Mr. Crawford has agreed to pay \$250 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$250 civil charge from Charles Crawford of Toano, Virginia, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

5. Award of Construction Contract – Louise Lane

Mr. John T. P. Home, Development Manager, stated that funds are available to improve Louise Lane from a dirt road to Virginia Department of Transportation (VDOT) standards for inclusion in the VDOT Secondary Road System, and recommended the Board approve the resolution awarding the bid to Toano Contractors, Inc., the lowest responsive bidder.

Mr. Kennedy asked when the work on Louise Lane would take place,

Mr. Home stated that construction, if approved by the Board, would begin late this summer and the roadway will be completed by the end of the year.

Mr. Kennedy inquired about the status of Racefield Drive improvements.

Mr. Home stated that staff anticipates the paving will be completed in August.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF CONSTRUCTION CONTRACT - LOUISE LANE

WHEREAS, Louise Lane is currently a dirt street; and

WHEREAS, funds are available to construct Louise Lane to Virginia Department of Transportation (VDOT) standards for inclusion in the VDOT Secondary Road System; and

WHEREAS, four firms submitted bid, with Toano Contractors, Inc., submitting the lowest responsible bid of \$187,000; and

WHEREAS, the bid is within budget, funds are available, and Toano Contractors, Inc., has been determined capable of performing the work associated with the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute a contract with Toano Contractors, Inc., for this work in the amount of \$187,000.

F. PUBLIC HEARINGS

1. Case No. SUP-11-03. AJC Woodworks

Ms. Sarah Weisiger, Planner, stated that Tony Casanave applied for a special use permit (SUP) to construct and operate a woodworking shop behind an existing dwelling and garage on approximately 1.5 acres zoned A-1, General Agricultural, at 8305 Richmond Road, further identified as Parcel No. (1-3) on the James City County Real Estate Tax Map No. (12-4).

Staff found the proposal, with conditions, to be compatible with the main use of the property and generally consistent with the surrounding property and the Comprehensive Plan.

The Planning Commission, at its meeting on June 2, 3003, recommended approval of the SUP application, with conditions, by a vote of **6-0**.

Staff recommended approval of the special use permit.

Mr. Goodson inquired if staff worked directly with the applicant.

Ms. Weisiger stated that staff did work with the applicant

Mr. Harrison opened the Public Hearing,

1. Ms. Jenny McCray, 165 Riverview Plantation Drive, stated support for the application and its potential benefit to the community.

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

Mr. Kennedy made a motion to adopt the resolution,

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

RESOLUTION

CASE NO. SUP-11-03. AJC WOODWORKS

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance, specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Mr. Tony Casanave has applied for a special use permit to allow a building for use as a woodworking shop to be approximately 4,000 square feet located behind a house and garage at 8305 Richmond Road; and

WHEREAS, the property is located on land zoned A-I, General Agricultural, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission, following its public hearing on June 2, 2003, voted 6-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-11-03 as described herein with the following conditions:

1. The property shall be developed generally in accordance with the master plan titled, "AJC Woodworks Master Plan for 8305 Richmond Road SUP-11-03," dated May 19, 2003, with minor changes approved by the Development Review Committee
2. This special use permit is for the use as a woodworking shop for the manufacture of wood products. The property shall not be used as a retail store or shop.
3. A site plan shall be submitted to and approved by the Planning Director,
4. A minimum 25-foot-wide undisturbed wooded buffer as shown in the Master Plan shall remain along the property line to the north, parallel to the area of the proposed workshop and parking area. In addition, enhanced landscaping consisting of evergreen shrubs to be planted ten feet on center shall be provided along the edge between the disturbed area and the undisturbed wooded buffer. Along the property line to the south, landscaping shall provide transitional screening of a total width of 25 feet, parallel to the area of the proposed workshop and proposed parking area. Additional landscaping is required to sufficiently buffer views of the workshop from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and must be approved by the Planning Director.
5. Only one entrance shall be allowed onto Route 60. The property shall have a commercial entrance that is designed to accommodate a shoulder bike lane as approved by the Planning Director.
6. Hours of operation including the operation of power tools and truck deliveries and pickups shall be limited to 7:30 a.m. to 7:00 p.m., Monday through Saturday.
7. All walls and doors shall have insulation for noise reduction. Plans and specifications shall be approved by the Planning Director prior to issuance of a building permit. Workshop doors and windows shall be closed while power tools are in operation.
8. One freestanding sign shall be permitted on site. The sign shall be limited to no larger than 16 square feet with a maximum height of 7 feet. The sign may only be externally illuminated by ground mounted lights concealed by landscaping. The sign shall be approved by the Planning Director.
9. The height of the proposed building shall not exceed 15 feet over natural grade
10. The existing residence shall continue to be used primarily as a single-family dwelling but may contain an accessory office for the woodworking shop. Any exterior modifications to the dwelling shall be approved by the Planning Director.
11. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. ZO-2-03/MP-1-03. Hiden Property Proffer Amendment

Mr. Matthew D. Arcieri, Planner, stated that Mr. Vernon Geddy, III, applied on behalf of Powhatan Crossing, Inc., for a Master Plan amendment and rezoning of 218.3 acres for the Hiden property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers at 4100 Monticello Avenue, further identified as Parcel Nos. (1-10) and (1-9) on the James City County Real Estate Tax Map Nos. (37-4) and (37-3).

Mr. Arcieri stated that the applicant submitted a new set of revised proffers on July 7 for the Board's consideration but withdrew that set of proffers and requested the Board consider the amendment with the revised proffers submitted with amendment application.

Staff found the revised proffers and master plan to be consistent with surrounding development and zoning and the Comprehensive Plan.

The Planning Commission, at its meeting on June 2, 2003, recommended approval of the case by a vote of 4-2.

Staff recommended approval of the rezoning and master plan amendment and acceptance of the voluntary proffers.

The Board and staff held a brief discussion regarding the amount of buffer space proffered, and the parking spaces allotted for public use.

Mr. Harrison opened the **Public Hearing**.

1. Mr. Vernon Geddy, III, on behalf of the applicant, requested the Board's approval of the application, and provided the Board with an overview of the application and a comparison of the proffer amendments to the approved project and proffers.

The Board and Mr. Geddy discussed the offered proffers, change in proposal from original application, benefits to the applicant for an age-restricted community, public and private amenities on the site, and the expected water consumption for multi-family vs. time-share developments.

Mr. Rich Costello, AES, stated that the water usage projections do not include irrigation. The current proposal would include the JCSA's water restrictions and County's water conservation measures.

Mr. Costello also stated that the traffic studies conducted for the applications was based on similar developments of 400 units.

The Board, Mr. Geddy, and staff discussed the procedures for a gated community proposal, downstream environmental protection action to protect against the negative impacts of the proposal, by-right development density of the site, and further discussion regarding the offered proffers for the 50 units.

2. Mr. Ed Oyer, 139 Indian Circle, stated that as density increases the recharge area for water decreases and the Powhatan Creek Watershed gets more sediment from the additional runoff, inquired about the perceived need to develop with little buffer between the properties and structures, and requested the Board keep density low and side setbacks larger.

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

The Board and staff held a brief discussion regarding the possible benefits and costs of the proposal

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

REZONING-2-03/MASTER PLAN-1-03.

HIDEN PROPERTY PROFFER AMENDMENT

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case Nos. Z-2-03iMP-1-03, with Master Plan, for rezoning 228.2 acres from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 2, 2003, recommended approval of Case Nos. Z-2-03/MP-1-03, by a vote of 4-2; and

WHEREAS, the properties are located at 4100 Monticello Avenue and further identified as Parcel Nos. (1-10) and (1-11) on James City County Real Estate Tax Map No. (37-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-2-03/MP-1-03 and accept the voluntary proffers.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, recommended the solution for the 1-64 traffic bottleneck would be to install the proposed third tunnel next to the Hampton Roads Bridge Tunnel and make the new tunnel four lanes eastbound in the mornings and four lanes westbound in the afternoons.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board have a Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of a parcel of property for public use.

Mr. Wanner recommended that at the conclusion of the Board's business, the Board adjourn to 4 p.m. on July 22 for a Work Session.

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon recommended that citizens contact Dominion Virginia Power with tree trimming concerns prior to the scheduled trimming date and stated the County has little ability to influence the contractor or Dominion Virginia Power in trimming issues.

Mr. Harrison requested the Board convey concern to the Virginia Department of Transportation's representative at the next Highway Matters on July 22 regarding the condition of drainage ditches along

Ironbound Road and in Ironbound Square and express the fact that the issues are larger than just a maintenance problem.

Mr. Harrison invited citizens to attend a Town Meeting on July 17 at the James City/Williamsburg Community Center to voice their opinions regarding the proposed Comprehensive Plan or other items of interest.

J. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of a parcel of property for public use.

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

At 8:14 p.m. Mr. Harrison convened the Board into Closed Session.

At 8:50 p.m., Mr. Harrison reconvened the Board into Open Session.

Mr. Goodson made a motion to adopt the resolution

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

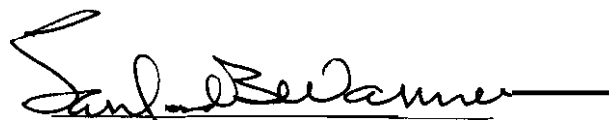
WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(3) to consider the disposition of a parcel of property for public use.

J. ADJOURNMENT

At 8:54 p.m. Mr. Harrison adjourned the Board until 4 p.m. on July 22, 2003


Sanford B. Wanner
Clerk to the Board

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AT A JOINT WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, AND THE PLANNING COMMISSION, HELD ON THE 22ND DAY OF JULY, 2003, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

- Jay T. Harrison, Sr., Chairman, Berkeley District
- Bruce C. Goodson, Vice Chairman, Roberts District
- John J. McGlennon, Jamestown District
- Michael J. Brown, Powhatan District
- James G. Kennedy, Stonehouse District

- Sanford B. Wanner, County Administrator
- Frank M. Morton, III, County Attorney

Mr. Harrison welcomed the Planning Commission to the Joint Meeting and thanked the Commission for all its work on the Draft 2003 Comprehensive Plan update.

B. BOARD DISCUSSION

Mr. Brown recommended that in light of the situation with Thomas Nelson Community College (TNCC), that the following language be added to the *Education: Adult and Vocational Education* located on page 31 of the Draft 2003 Comprehensive Plan, "Explore the feasibility of a County provided professional technical workforce center that incorporates current Williamsburg-James City County School system vocational training and future Thomas Nelson Community College technical training as well as private-sector participatory training opportunities."

The Board and staff briefly discussed TNCC's site visit and the potential impact of TNCC's decision on the Land Use portion of the 2003 Comprehensive Plan.

Mr. Goodson recommended that Errata No. 11, referencing page 25, Item No. 13 of the Draft 2003 Comprehensive Plan specifically mention the BASF property.

The Board and staff discussed the language of Errata No. 19, referencing Item Nos. 19 and 21 on page 67 of the Draft.

Mr. Brown recommended Action No. 21 on page 67 of the Draft be deleted.

Mr. Brown recommended that Errata Action No. 22, referencing Item No. 7B on page 78 of the Draft, have added a clause at the end of the paragraph to read, "...and to adjoining developments where practical and desired by the neighborhoods involved."

The Board and staff discussed the clause amendment and concurred to amend the clause by adding "... and desired."

Mr. Kennedy recommended temporary emergency routes be established in neighborhoods that have limited access and that the routes need not be open to the public unless there is an emergency.

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AMENDED AND RESTATED

HIDEN PROPERTY PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made as of this 8th day of July, 2003, by POWHATAN CROSSING, INC., a Virginia corporation, (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the present or former owner of certain real property (the "Property") in James City County, Virginia consisting of approximately 403.7 acres more particularly described on Exhibit A attached hereto and made a part hereof.

B. In 1997 the Owner applied for and James City County (the "County") granted a rezoning of the Property from R-8, Rural Residential District, to PUD-R, Planned Unit Development-Residential District, with proffered conditions as set forth in Hiden Property Proffers dated October 29, 1997 and recorded in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 97019406 (the "Original Proffers"). In connection with the rezoning, Owner submitted and the County approved a Master Plan in accordance with the County Zoning Ordinance entitled "Master Plan Hiden Property" and dated September 10, 1997 and revised October

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15, 1997 (the "Original Master Plan").

C. Owner has now applied for an amendment to the approved Original Master Plan for the Property pursuant to the County Zoning Ordinance and, in connection therewith, desires to amend and restate the Original Proffers.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the applied for amendment to the Original Master Plan and the Original Proffers and pursuant to Section 15.2-2297, et seq. of the Code of Virginia, 1950, as amended, and Section 24-16, et seq. of Chapter 20 of the Code of James City County, Virginia in accordance with Section 24-497(d) of the Code of James City County, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the applied for amendments are not granted by the County, these Amended and Restated Proffers shall thereupon be null and void and the Original Proffers and Original Master Plan shall remain in full force and effect.

CONDITIONS

1. Owners Association. All owners of lots or units within the Property by virtue of ownership of their lot or unit shall be

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members of a property owners association with the power to levy mandatory assessments. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the association(s) shall be submitted to and reviewed by the County Attorney. The Governing Documents shall require that the association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, private roads and parking areas, if applicable, 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 and for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

2. Density. (a) There shall be no more than 150 single family lots permitted in Area 1 on the Property.

(b) There shall be no more than 400 dwelling units permitted in Area 2 on the Property. All dwelling units developed in Area 2 shall be age restricted to persons fifty-five (55) years of age or older ("Restricted Units") in accordance with the following parameters:

(i) It is the intent of the parties that Restricted Units shall be occupied by persons fifty-five (55) years of age

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or older and that no Restricted Units shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55) but over the age of eighteen (18) shall be entitled to occupy Restricted Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph (ii) below.

(ii) Each Restricted Unit within the Property shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act, 42 U.S.C. 53601 et seq. and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. 53601 et seq.; the Virginia Fair Housing Law Va. Code 536-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a declaration of restrictive covenants

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and property owners' association documents applicable to the Restricted Units and each deed to a Restricted Unit shall make reference to such provisions.

(c) Any accessory commercial uses located in Area 2, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Area 2. Commercial uses shall not be advertised from any public right-of-way.

3. Road Improvements. (a) Monticello Avenue. (i) Owner shall make a contribution of \$2,800.00 to the County for each of the first 250 lots or units shown on subdivision plats or site plans of the Property. Such contributions shall be made available by the County for use by the District for the construction of Monticello Avenue or used by the County for any other project included in the County's capital improvement program, the need for which is generated in whole or in part by the development of the Property. Such contributions shall be made at the time of final subdivision plat or site plan approval for such lots or units.

(ii) There shall be no more than two entrances into the Property from Monticello Avenue, one into the portion of the property south of Monticello Avenue and one into the portion of the property north of Monticello Avenue. The two entrances shall

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be aligned. Owner shall construct right and left turn lanes on both approaches at the entrances to the Property from Monticello Avenue at the time such entrances are constructed.

(iii) At the request of the County, Owner shall install a traffic signal at the intersection of Monticello Avenue and the entrances to the Property at the earlier of (i) when Virginia Department of Transportation ("VDOT") signal warrants are met or (ii) when development has commenced on either side of Monticello Avenue and the County has issued certificates of occupancy for more than 55 lots or dwelling units utilizing the entrances onto Monticello Avenue; provided that VDOT and the County approves the installation of the traffic signal at that time. When certificates of occupancy for 412 dwelling units on the Property have been issued and if the traffic signal has not been installed at that time, Owner shall cause an updated traffic signal warrant analysis using actual traffic counts shall be submitted to VDOT and the County.

(b) All road improvements proffered hereby shall be constructed in accordance with VDOT standards

(c) Unless otherwise approved by the Director of Planning, Owner shall reserve a public right-of-way to provide a pedestrian connection from the Powhatan Secondary development to the

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Property and shall dedicate such right-of-way to the County upon the written request of the County Administrator.

4. Monticello Avenue Greenbelt. At the time of the conveyance of the Monticello Avenue right-of-way to the County or the District, the Owner shall designate 150-foot greenbelt buffers along the Property's Monticello Avenue frontage measured from a right-of-way line assuming a 120 foot right-of-way for Monticello Avenue (measured 60 feet on either side of the centerline of the right-of-way). The greenbelt buffers shall be exclusive of any lots or units and shall be undisturbed, except for, with the approval of the Development Review Committee, utilities, drainage improvements, community entrance roads as shown generally on the Master Plan, pedestrian/bicycle trails, lighting, entrance features and signs.

5. Archaeology. A Phase I Archaeological Study for Master Plan area 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

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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.

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6. Environmental Protections. (a) The Owner and/or the owners association shall grant, free of charge, to the Williamsburg Land Conservancy, another County approved land conservation entity and/or the County a conservation easement with terms consistent with these Proffers over the area designated on the Master Plan as Conservation Area generally in the locations shown on the Master Plan. The exact boundaries of the Conservation Area shall be shown on subdivision plats and/or site plans of the Property based on the buffer line and Conservation Area shown and set out on the map entitled "Master Plan Amendment for Hiden Property for Jamestown, LLC" made by AES Consulting Engineers, Project No. 9254, dated 2/24/03, revised 4/25/03. The conservation easement over the Conservation Area shown on each individual subdivision plat or site plan shall be granted at the time of final approval thereof by the County. The Conservation Area shall remain undisturbed and in its natural state, preserving indigenous vegetation except as set forth below. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Conservation Area; (ii) select hand clearing and pruning of trees shall be permitted in the Conservation Area to

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permit sight lines or vistas, and (iii) utilities, roads, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area. No stormwater best management practices ("BMPs") shall be permitted in the 100 foot Resource Protection Area ("RPA") imposed by County ordinance along the main stem of Powhatan Creek. With the prior approval of the County Environmental Division on a case by case basis, BMPs may be located in other RPAs and elsewhere in the Conservation Area, including RPA extensions shown on the Master Plan, but shall not be located in nor impact the channel flow unless specifically approved by the Environmental Division. The greenway proffered in Proffer 7 below and County trails and passive recreational facilities and structures located therein shall be permitted within the Conservation Area. If vegetation is removed from the Conservation Area it shall be replaced by indigenous vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Owner, at the request of the County, shall retain an environmental consultant acceptable to the County to prepare a three tiered restoration plan for the areas indicated on the "Revised Environmental Constraints Map Hiden Property" made by Williamsburg Environmental Group, Inc. and dated 8/1/97 and revised 9/16/97

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where timbering operations resulted in the removal of trees from or land disturbance within the Conservation Area to provide for the restoration of ground cover, shrubs and trees for that portion of the Conservation Area as determined to be necessary by the consultant. If temporary stormwater BMP's are located in the Conservation Area, the restoration plan shall include a replanting plan for such BMP areas. The restoration plan shall include a phasing plan to ensure areas of the Conservation Area being restored have been stabilized prior to the commencement of development on adjacent developable areas. The restoration plan shall be submitted to the Environmental Division for review and approval. Owner shall implement the recommendations of the approved restoration plan. Road and utility crossings shall be generally perpendicular through the Conservation Area and Owner shall endeavor to design utility systems that do not intrude into the Conservation Area. The Conservation Area shall be maintained by Owner unless the Williamsburg Land Conservancy, the other County approved land conservation entity or the County assumes responsibility therefor under its easement or the Conservation Area is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. The Conservation Area shall be exclusive of Lots.

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(b) All stormwater runoff from paved parking areas or roads and from all building structures over 150 square feet in Area 2 of the Property shall be directed into BMPs unless otherwise approved by the Environmental Division

7. Greenway. Owner shall grant the County an easement within the Conservation Area for a greenway through the Property in the general location shown on the Master Plan as "James City County Greenway Trail" as subdivision plats or site plans for adjacent Property are approved and/or recorded. The County shall be entitled to construct a trail with a minimum 10' wide travel path (which will be open to the general public during daylight hours only), including necessary bridges, if any, through the James City County Greenway Trail and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The location of the "James City County Greenway Trail" shall be varied within the Conservation Area by the Environmental Division to ensure the ability to construct a viable trail network. Owner shall grant the County suitable parking opportunities (through shared use of parking facilities required by site improvements) to the general public using the trail.

8. Recreation. (a) Owner shall provide the recreational

facilities listed below in Area 1 shown on the Master Plan and make the cash contributions to the County described below before the County is obligated to approve final subdivision plats for more than 100 lots in Area 1:

- Parkland, including one playground of at least 1.9 acres
- Cash contribution of \$9,900 in lieu of multi-purpose courts
- Cash contribution of \$4,300 in lieu of playing fields.

(b) Owner shall provide the recreational facilities listed below in Area 2 shown on the Master Plan and make the cash contributions described below to the County before the County is obligated to approve final subdivision plats or site plans for more than 235 dwelling units in Area 2:

- Recreation areas of at total of least 2.5 acres.
- Cash contribution of \$13,650 in lieu of multi-purpose court.
- Cash contribution of \$5,950 in lieu of playing fields.

The recreational facilities in Area 2 may be open only to owners in Area 2

(c) All cash contributions proffered by this Proffer 8 shall be used by the County for recreation capital improvements, which may include trails within the greenway proffered in Proffer 7. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject

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to the approval of the Development Review Committee. All recreational facilities proffered hereby shall be conveyed to and maintained by the owners association and shall be open to all members of the association in good standing.

(d) Owner shall construct a shoulder lane bikeway in accordance with VDOT standards along both sides of the main public collector roads within the Property north of Monticello Avenue.

9. Entrance Signs. The entrance signs, lighting, landscaping and entrance features at the entrances to the Property from Monticello Avenue shall be subject to the review and approval of the Director of Planning before a sign permit for such signs is issued. The entrance signs shall be monument type signs.

10. Powhatan Crossing Buffer. The Owner shall maintain a buffer along the Property's common boundary line with the Powhatan Crossing subdivision with the width and in the locations shown on the Master Plan. This buffer shall be exclusive of any lots and shall be undisturbed, except for, with the approval of the Development Review Committee, berms, landscape features, walls or fences or utility easements.

11. Cash Contributions for Community Impacts. (a) A

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contribution of \$750.00 for each of the first 50 dwelling units developed on Area 2 of 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 Area 2 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 Area 2 of the Property.

(b) A contribution of \$700.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 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 Area 2 of the Property, including, without limitation, for emergency services equipment replacement and supply, traffic signal preemption equipment, library uses, and public use sites.

(c) A contribution of \$500.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 of the Property.

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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 Area 2 of the Property, including, without limitation, stream stabilization or other stormwater management projects in the Powhatan Creek watershed.

(d) The contributions described above, unless otherwise specified, shall be payable for each of the dwelling units developed within Area 2 of the Property at the time of final subdivision plat or final site plan approval by the County for the particular phase or section of dwelling units.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. 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 CPI as of December 1 in the year preceding the calendar year most

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currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, 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 CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (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

12. No Access to Powhatan Crossing. Prior to final approval of the first subdivision plat or site plan for development on the Property, Owner shall (i) convey to the Powhatan Crossing Homeowners Association by quitclaim deed all its right, title and interest in and to the access easement from Powhatan Crossing Drive to the Property adjacent to the recreational lot in Powhatan Crossing, (ii) install a permanent cul de sac at the end of Powhatan Crossing Drive, and (iii) convey to the Powhatan Crossing Homeowners Association by

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quitclaim deed a strip of land between the permanent cul de sac and the Property such that the public road and the Property are no longer adjacent.

13. Water Conservation. The Owner and/or the owners association shall be responsible for developing water conservation standards to be submitted to and approved by the JCSA and subsequently 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, including groundwater. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

14. Height Limitation. There shall be no building greater than two and one-half stories in height Located within 300 feet of the Powhatan Crossing subdivision.

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15. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

16. Severability. If any condition or part thereof set forth herein shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the invalidity or unenforceability of such condition or part thereof shall not invalidate any other remaining condition contained in these Proffers.

WITNESS the following signatures and seals:

POWHATAN CROSSING, INC.

By:

Title: President

STATE OF VIRGINIA
CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 8th day of July, 2003 by C. Lewis Waltrip, II as President of Powhatan Crossing, Inc.

Vernon M. Geddy III
NOTARY PUBLIC

My commission expires:

12/31/04

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185
(757) 220-6500

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Legal Description

The following is a description of a portion of the property known as the Hiden Tract, located in James City County, Virginia, and conveyed to Powhatan Crossing, Inc. by deeds recorded in the Circuit Court of James City County as follows; Martha Hiden Estate et al by deed dated December 11, 1996, Deed Book 819 Page 564; Mayo W. Waltrip by deed dated November 22, 1994, Deed Book 715 Page 804; Martha W. Hussey, et al by deed dated January 6, 1997, Document No. 97000170. Said property is a portion of that shown on a survey prepared by Langley & McDonald, Inc. entitled "Plat of Subdivision, HIDDEN TRACT, Powhatan District, James City County" dated December 16, 1999.

Beginning at a point on the southerly right-of-way line of Monticello Avenue at the intersection of the Resource Protection Area (Also known as the RPA) and said right-of-way line, thence along the right-of-way line in a westerly direction S73 08'34"W, 441.70' to a point in the centerline of Powhatan Swamp; thence along the centerline of Powhatan Swamp in a southerly direction S26 16'53"E, 126.41' to a point; thence S11 12'01"W, 405.63' to a point; thence S13 23'33"W, 242.98' to a point; thence S02 14'45"E, 287.24' to a point; thence S16 56'57"E, 308.88' to a point; thence S33 17'37"E, 676.67' to a point; thence S22 52'37"E, 723.84' to a point; thence S25 52'09"E, 163.94' to a point; thence S27 07'04"E, 216.16' to a point; thence S51 08'48"E, 359.77' to a point; thence S74 27'52"E, 472.78' to a point; thence S39 32'10"E, 459.73' to a point; thence S32 35'22"E, 731.42' to a point; thence S31 21'48"E, 346.02' to a point; thence S50 31'44"E, 493.01' to a point, said point being in the centerline of Powhatan Swamp; thence along a branch of Powhatan Swamp in an easterly direction N56 03'42"E, 367.90' to a point; thence N8Z 39'36"E, 185.00' to a point; thence leaving the branch of Powhatan Swamp in a northerly direction N30 35'12"W, 146.08' to a point; thence N03 31'40"W, 23.68' to a point; thence NZ9 15'50"W, 38.99' to a point; thence N45 17'30"W, 22.82' to a point; thence NZE 14'56"W, 26.07' to a point; thence N34 14'43"W, 29.56' to a point; thence N40 53'16"E, 48.52' to a point; thence N23 21'49"W, 20.94' to a point; thence N29 34'31"W, 26.12' to a point; thence N13 31'38"W, 28.99' to a point; thence NOS

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02'04"W, 24.00' to a point; thence N03 45'55"W, 50.42' to a point; thence N15 07'58"E, 81.31' to a point; thence N34 06'20"E, 32.87' to a point; thence N40 21'07"E, 21.50' to a point; thence N11 29'56"W, 17.43' to a point; thence N13 39'32"E, 27.94' to a point; thence N71 39'19"W, 28.35' to a point; thence N53 09'04"E, 52.67' to a point; ; thence N47 33'56"E, 34.83' to a point; thence N18 58'38"W, 21.62' to a point at the intersection of said RPA line with the property of Paul R. Griesenauer, et al; thence along the line of Griesenauer in a northeasterly direction N53 40'48"E, 20.81' to a point; thence N51 07'29"E, 9.73' to a point; thence N67 01'13"E, 42.24' to a point; thence N42 47'00"E, 39.49' to a point; thence N13 03'22"E, 26.69' to a point; thence N19 31'49"E, 21.09' to a point; thence N01 51'17"E, 27.38' to a point; thence N30 55'00"E, 10.82' to a point; thence N08 03'43"E, 34.71' to a point; thence N45 06'27"E, 32.63' to a point; thence N57 10'32"E, 12.50'; thence N38 12'43"E, 24.55' to a point; thence N34 58'08"E, 45.82' to a point; thence N20 46'03"E, 26.88' to a point; thence N51 59'19"E, 33.99' to a point; thence N05 36'32"W, 29.35' to a point; thence N31 28'28"E, 45.70' to a point; thence N18 40'47"E, 33.06' to a point; thence N45 51'13"E, 30.39' to a point; thence N74 32'33"E, 27.38' to a point; thence S86 02'45"E, 20.80' to a point; thence N80 52'02"E, 42.91' to a point; thence S27 23'41"E, 17.01' to a point; thence S88 47'23"E, 30.04' to a point; thence N34 55'57"E, 14.54' to a point; thence N70 03'30"E, 20.16' to a point; thence N43 08'15"E, 19.26' to a point; thence N55 57'08"E, 46.75' to a point; thence N34 54'32"E, 6.85' to a point; thence S50 01'24"E, 174.50' to a point on the right of way of Powhatan Springs Road; thence along said right of way N56 17'06"E, 49.47' to a point; thence along the arc of a curve to the right having a radius of 50', a distance of 115.93' to a point; thence N54 11'11"E, 10.31' to a point; thence N34 41'24"W, 234.30' to a point; thence N44 10'37"E, 18.51' to a point; thence N43 18'02"E, 58.01' to a point; thence N36 09'03"E, 30.88' to a point; thence N48 42'36"E, 37.57' to a point; thence N45 12'43"E, 22.74' to a point; thence N52 18'14"E, 43.00' to a point; thence S64 49'25"E, 18.84' to a point; thence N67 00'21"E, 25.94' to a point; thence N63 24'17"E, 31.59' to a point; thence N24 01'08"E, 149.69' to a point on the southerly line of Powhatan Crossing Subdivision; thence along said line N85 50'34"W, 995.41' to a point; thence N04 09'26"E, 204.75' to a point; thence S87 15'25"W, 275.55' to a point; thence S86 37'00"W, 338.81' to a point; thence N08 47'40"E, 57.45' to a point; thence N12 29'19"E, 115.68' to

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a point; thence N17 40'06"W, 134.93' to a point; thence N42 38'10"E, 100.00' to a point; thence N12 47'00"E, 90.00' to a point; thence N26 19'58"W, 45.59' to a point; thence N30 05'24"E, 99.28' to a point; thence N29 19'39"E, 151.62' to a point; thence N27 18'17"E, 96.13' to a point; thence N22 12'01"E, 106.76' to a point; thence N33 04'45"E, 195.25' to a point; thence N35 32'07"E, 112.18' to a point at the corner of Powhatan Crossing Subdivision and the property of Powhatan Associates; thence along the line of Powhatan Associates N46 07'03"W, 195.50' to a point; thence N45 06'03"W, 108.50' to a point; thence N41 52'03"W, 170.50' to a point; thence N46 28'03"W, 475.30' to a point; thence N46 08'03"W, 126.40' to a point; thence N06 43'57"E, 112.50' to a point; thence N22 46'03"W, 162.00' to a point; thence N36 59'03"W, 255.90' to a point; thence N30 37'03"W, 194.80' to a point; thence N51 04'03"W, 183.00' to a point, thence N22 52'03"W, 143.50' to a point; thence N12 08'03"W, 149.10' to a point; thence N06 25'48"W, 125.82' to a point on the southerly right-of-way of Proposed Alternate Route 5 (Monticello Avenue) thence along said right-of-way in westerly direction S73 08'34"W, 873.10 to a point; thence S16 51'26"E, 150.00' to a point, being a point of said right-of-way line and corner of the HRSD Utility Lot; thence S16 51'26"E, 150.00' along the line of the HRSD Utility Lot; thence S73 08'34"W, 150.00' to a point; thence N16 51'26"W, 150.00' to a point, being a point of said HRSD Utility Lot and the Monticello Avenue right-of-way; thence S73 08'34"W, 132.15' along said Monticello Avenue right-of-way to a point; thence N16 51'26"W, 150.00' to a point; thence S73 08'34"W, 35.98' to the point of beginning.

Said parcel of land containing 218.2 acres, more or less.

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VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
 This document was admitted to record on 18 July 03
 at 9:00 AM/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
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