

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF JUNE 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLLCALL**

Michael J. Brown, Chairman, **Powhatan** District  
Jay T. Harrison, Sr., Vice Chairman, Berkeley District  
Bruce C. **Goodson**, Roberts District  
John J. **McGlennon**, **Jamestown** District  
M. Anderson Bradshaw. Stonehouse District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, County Attorney

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

**Hannah Razer**, a fifth-grade student at Stonehouse Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation(**VDOT**) Residency Administrator, stated that the Route 199 lane **shifts** will be in effect until September, stated that he is still waiting for the reports **of the** requested speed studies; the slope repairs of erosion are underway; the Mooretown Road and Lightfoot Road intersection improvements are expected to be completed in the next month, and stated that the intersection improvements at **Longhill** Road and the entrance to the Regency Apartments will be underway in the next **month**.

Mr. Brown requested that the Route 199 approach to the overpass of **Monticello** Avenue be addressed because the dips are becoming more noticeable and may soon **compromise traffic** safety.

Mr. Brown requested that the growing sink hole in the right-turn lane in front of the **Ewell** Station Shopping Center (Route 60 East) turning onto Olde Towne Road be fixed.

Mr. Bradshaw requested a status update on the concerns at Sycamore Landing Road and Ware Creek Road.

Mr. Bradshaw inquired about the progress on addressing the erosion problem on Richmond Road (Route 60).

Mr. Brewer stated that the required environmental documents have been submitted for the erosion repair work and has requested that in the meanwhile a delineator be placed there.

## **E. PRESENTATIONS**

### **1. Hampton Roads Health Coalition - 2005 Wellness in the Workplace Award**

Mr. **Goodson** presented Mr. Bart Johnson, Risk Management Director, and Mr. Cecil Pool, Benefits Administrator, with the 2005 Wellness in the Workplace Award that was presented to the County by the Hampton Roads Health Coalition in recognition of the County's Working Towards Wellness Program, which began in FY 2001.

### **2. PRIDE Team Progress Report**

Ms. Beth Davis, Environmental Education Coordinator, provided an overview of the **PRIDE** (Protecting Resources in Delicate Environments) Team progress report that includes the educational efforts of the County's water quality program, efforts to raise awareness of watershed issues, and efforts to provide residents and neighborhoods with watershed restoration and protections tools; and commented on the County receiving the Environmental Protection & Energy "Best of Category" award from the National Association of Counties for 2005.

Mr. **McGlennon** commented on being impressed in the team's ability to involve so many neighborhoods and volunteers from the County

## **F. PUBLIC COMMENT**

1. Mr. Bradshaw commented on the death of Mr. Jack L. **Massie** and the legacy of benefits to the community Mr. Massie left behind, and sent heartfelt sympathy to the family of Mr. Massie.

2. Ms. Stephanie Smith, 113 **Chinkapin** Lane, representing the Active Williamsburg Alliance, thanked the Board for its commitment to the **Greenways** Master Plan and the fall bond referendum; requested a voice in the allocation of the funds for the greenways, suggested the acquisition of the Country Road; and recommended the installation of safe bicycle and pedestrian crossings at the intersections along Monticello Avenue.

3. Mr. David Gosselin, 4205 Colonies Crossing, representing the Friends of Parks and Recreation, suggested that it would have been a benefit to the community to have a higher bond referendum level up for consideration this fall, stated that there will be support for the proposed referendum, and requested that the Board consider additional funding to fill the gap left by the **referendum proposal** and the actual **funding** needs for the **greenways**.

4. Mr. David Sievers, 2081 **Harrison** Avenue, City of Williamsburg, representing the Student Action Coalition, stated support for the efforts of the County in preserving the environmental character of the area and for applying funds to the Greenways Master Plan; and encouraged the Board to continue to pursue a pedestrian and bike friendly community.

5. Ms. Susan Mulholland, 3912 West Providence Road, representing residents of **Powhatan** Secondary, requested that the Board work towards the installation of a safe pedestrian and bicycle crossings at the intersections along Monticello Avenue; and recommended that the timing of the signals be adjusted to permit safe pedestrian crossing for the Monticello shopping center and Mid-County Park.

6. Mr. Ed Oyer, 139 Indian Circle, encouraged the Board and citizens to visit the Korean War Memorial in Hampton; commented on the water usage numbers in the early **morning** hours and concern that there will not be enough service for the current needs of the community if development continues without the proper infrastructure in place; stated that Route 60 East has been a parking lot twice since the last Board meeting; and commented on an article in the paper that focused on candidates and their position on taxes but no position on curtailing spending.

#### **G. CONSENT CALENDAR**

Mr. Harrison made a motion to adopt the items on the consent calendar including the Advance Hiring of Administrative Assistant - Commonwealth Attorney's Office.

Mr. **McGlennon** noted the Chesapeake Bay Preservation Ordinance Violation - Civil Charge and stated that the County takes these violations seriously.

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

1. Minutes

- a. May 24, 2005, Joint Work Session
- b. June 14, 2005, Regular Meeting

2. Installation of "Watch for Children" Sign - Old Stage Road

### **RESOLUTION**

#### **INSTALLATION OF "WATCH FOR CHILDREN" SIGN -**

#### **OLD STAGE ROAD**

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of Old Stage Road community have requested that "Watch for Children" signs be installed on Old Stage Road as illustrated on the attached drawing titled "Old Stage Road Watch for Children Signs."

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

3. Installation of "Watch for Children" Sign - Mill Creek Landing Subdivision

R E S O L U T I O N

INSTALLATION OF "WATCH FOR CHILDREN" SIGN -

MILL CREEK LANDING SUBDNISION

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Mill Creek Landing community have requested that a "Watch for Children" sign be installed on Bridgewater Drive, as illustrated on the attached drawing titled "Mill Creek Landing Subdivision "Watch for Children Sign.""

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

4. Provosed Relocation of Route 60, Pocahontas Trail

R E S O L U T I O N

PROPOSED RELOCATION OF ROUTE 60. POCAHONTAS TRAIL

WHEREAS, a Location Public Hearing was conducted on May 11, 2005, in James City County by representatives of the Virginia Department of Transportation (VDOT) after due and proper notice for the purpose of considering the proposed location of Route 60, Pocahontas Trail, PPMS Numbers 13496 and 14598 in James City County, at which hearing aerial photographs, drawings, and other pertinent information were made available for public inspection in accordance with State and Federal requirements; and

WHEREAS, all persons and parties in attendance were afforded full opportunity to participate in said public hearing; and

WHEREAS, representatives of James City County were present and participated in said hearing; and

WHEREAS, the Board of Supervisors had previously requested W O T to program this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, hereby endorses the location of the proposed project as presented at the James River Elementary School Public Hearing.

5. Budget Amendment -Reduction in Planning Fee Estimate

**RESOLUTION**

**BUDGET AMENDMENT - REDUCTION IN PLANNING FEE ESTIMATE**

WHEREAS, the Board of Supervisors of James City County has previously adopted a budget for the 2006 fiscal year that included \$30,000 in revenue anticipated from an increase in Planning fees, which has not occurred; and

WHEREAS, FY 2005 year-end spending has been essentially completed, offering additional insight into possible reductions in proposed operating spending to offset the \$30,000 in fee revenue; and

WHEREAS, the FY 2006 Budget included \$33,000 for rental space for Neighborhood Connections that will not be necessary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to amend the previous adopted budget for FY 2006, as follows:

Revenue:

Licenses, Permits, and Fees	
Planning and Zoning Fees	<u>(\$30,000)</u>

Expenditures:

Development Management	
Planning Operating Budget	(\$22,000)
Community <b>S</b> ervices	
Neighborhood Connections	(\$33,000)
Nondepartmental	
Operating Contingency	<u>\$25,000</u>
Total	<u>(\$30,000)</u>

6. Appropriation of Funds - Chesapeake Bay Restoration Fund Grant - \$5,720

R E S O L U T I O N

APPROPRIATION OF FUNDS -

CHESAPEAKE BAY RESTORATION FUND GRANT - \$5,720

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, **has made** funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching and SOL based environmental component to the Division's Total Recreation Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the **\$5,720** grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special **Projects/Grants** Fund.

Revenues:

From the Commonwealth \$5,720

Expenditures:

Chesapeake Bay Restoration Fund \$5,720

7. Appropriation of Funds - VDEM LCAR Update Funds Grant - \$2,000

R E S O L U T I O N

APPROPRIATION OF FUNDS - VDEM LCAR WDATE FUNDS GRANT - \$2,000

WHEREAS, the Virginia Department of Emergency Management (VDEM) has approved monetary assistance to the James City County Division of Emergency Management, providing \$2,000 for Local Capabilities Assessment for Readiness Survey (LCAR).

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

Revenue:

VDEM \$2,000

Expenditure:

LCAR \$2,000

8. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - David R. Tuftee

**RESOLUTION**

**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -**

**CIVIL CHARGE - DAVID R. TUFTEE**

WHEREAS, David R. Tuftee is the owner of a certain parcel of land, commonly know **as** 4047 South Riverside Dnve, designated as Parcel No. (05-06) on James City Real Estate **Tax Map No. (19-1)**, herein referred to as the ("Property"); and

WHEREAS, on or about May 16,2005, it was determined that David R. Tufcee caused to be constructed 480 square feet of deck and building structure within the Resource Protection Area on the Property; and

WHEREAS, David R. Tuftee has agreed to pay \$1,500 to the County **as** a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 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 \$1,500 civil **charge from** David R. **Tuftee** as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

9. Appointment - 2005 County Fair Committee

**RESOLUTION**

**APPOINTMENT - 2005 COUNTY FAIR COMMITTEE**

WHEREAS, annually the Board of Supervisors appoints the James City County Fair Committee; and

WHEREAS, the 2005 County Fair will be held Friday, August 12, and Saturday, August 13.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2005 James City County Fair Committee for the **term** of August 12,2005, through August 13,2005.

2005 James City County Fair Committee Volunteers

Beamon, Dwight  
Bradshaw, Andy  
Bradshaw, Nancy  
Bradshaw, Richard  
Bradsher, Jim  
Danuser, Norman  
Davis, Ann  
Dubois Leanne  
Garrett, Loretta  
Hazelwood, Sylvia  
Heath, Doris  
Jacovelli, Ken  
Johnson, Greg  
Jones, Katie  
Magnant, David

McMichael, William  
Miller, Lynn  
Mansfield, Sue  
Overton, Ed  
Perkins, Diana  
Porter, Bill  
Powell, Ellen  
Ramirez, Tara  
Rinehimer, Brad  
Rupe, Charlie  
Rupe, Mary  
Sims, Angie  
Steward, Edith  
Townsend, J.D.  
Webster, Shirley

10. Appointment of Alternate to Virginia Peninsula Regional Jail Authority Board

RESOLUTION

APPOINTMENT OF ALTERNATE TO

VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY BOARD

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsula Regional Jail Authority (VPRJA); and

WHEREAS, there are occasions that the representative is unable to attend VPRJA meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of **Supervisors** of James City County, Virginia, that William C. Porter, Jr., Assistant County Administrator, is appointed as the County's alternate to the VPRJA Board.

11. Advance Hiring of Administrative Assistant - Commonwealth Attorney's Office

RESOLUTION

ADVANCE HIRING OF ADMINISTRATIVE ASSISTANT -

COMMONWEALTH ATTORNEY'S OFFICE

WHEREAS, the Administrative Assistant will be leaving employment effective July 22, 2005, after 15 years of service with the Commonwealth Attorney's Office; and



WHEREAS, this position is responsible for the overall administration of the Office as well as preparing indictments and scheduling all Circuit Court matters including the Grand Jury; and

WHEREAS, it is necessary to have an overlap of the current and new Administrative Assistants for training purposes to ensure a smooth transition and continued quality **services**; and

WHEREAS, the State Compensation Board has authorized the transfer of sufficient funds from another line item within the Commonwealth Attorney's FY 2006 Budget to pay the salary and fringe benefits of the newly hired Administrative Assistant during the overlap period.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of the Administrative Assistant effective July 1, 2005.

## **H. PUBLIC HEARINGS**

### **1. Case Nos. Z-15-04/MP-11-04/SUP-34-04. Villas at Jamestown (continued from June 14, 2005)**

Ms. Ellen Cook, Planner, stated that Mr. Greg Davis and Mr. Tim Trant submitted an application to rezone 30.36 acres located at 248, 238, 230, and 266 **Ingram** Road from R-8, Rural Residential, to R-2, General Residential, Cluster, with proffers to construct 23 **quadriplexes** for a total of 92 units; all units are proffered to be age restricted. The site is further identified as Parcel Nos. **(1-15)**, **(1-11)**, **(1-10)**, and **(1-19)** on James City County Real Estate **Tax** Map Nos. (46-2) and (47-1).

With the submitted proffers, staff found the proposal will not negatively impact surrounding property. Staff also found the proposal to be consistent with surrounding land uses, the Comprehensive Plan, and the Primary Principles for Five Forks Area of James City County.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the proposal by a vote of 7-0, and also recommended that the applicant revisit the following issues: a 15-foot building setback from the Resource Protection Area (**RPA**) buffer; options other than curb and **gutter** streets; regional stormwater commitment; nutrient management plan provisions; and the impact of the proposed development on Fire and EMS services.

Staff recommended approval of the rezoning, special use permit, and master plan applications, and acceptance of the voluntary proffers.

Mr. **McGlennon** inquired why the proposed management plan now satisfies staff **concerns**.

Ms. Cook stated that the voluntary proffers now specifically clarify the amount of Nitrogen loading and enforcement.

Mr. **McGlennon** inquired when the enforceability will be determined.

Ms. Cook stated that the Homeowners Association on environmental conditions will determine when enforceability of the plan is to be exercised.

Mr. Brown opened the Public Hearing,

1. Mr. Greg Davis, **Kaufman & Canoles**, introduced the project consultant in the audience, provided an overview of the proposed project, and requested approval of the applications.

The Board and Mr. Davis discussed the cost to make improvements to **Ingram Road** for the proposed project; AES research to determine the figures for amounts of nutrients for the Nutrient Management Plan for the maintenance of lawns and landscaping on the property to limit nutrient runoff into **Powhatan Creek** and its tributaries; and the age-restricted portion of the proffers.

The Board requested clarification on the language in the proffers that states in Item No. 7: (a) that the units shall be occupied by persons **55** years of age or older and that no residential unit shall be occupied by a person under the age of 18, and inquired if the interpretation would be correct that there would be no residents of the proposed development under the age of 18.

Mr. Davis stated that the proffer is in **compliance** with applicable Federal and State laws regulating housing intended for persons 55 years of age or older, and that no less than 80 percent of the residents in the project will be less than the age of **55** years.

Mr. Rogers stated that the proffers do not prohibit residents under the age of 18.

1. Mr. Gerald Johnson, representing the **Historic Route 5 Association**, stated that the Association wants to preserve and enhance the **Route 5 corridor**; complimented the applicant for keeping the community informed and working with the existing community in the development of the proposed project; stated concern about the current traffic levels in the Five Forks area and the safety of traffic and pedestrians; encouraged the Board to work with **VDOT** to improve the traffic conditions in the Five Forks area; and asked the Board to assist the applicant in changing to grass swales which are more economical and environmentally responsible manner.

2. Mr. Sasha Digges, 3612 Ironbound Road, stated concern that the proposed project would prohibit families from assisting loved ones in need by not permitting residents under the age of 18; and requested the Board to take care of the children of the community and support the family in those endeavors.

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

Mr. Harrison stated concern that the proposed development singles out a demographic of the population and stated concern that an applicant can take advantage of loopholes in the law.

Mr. **Goodson** stated that the developers should not be held accountable for public services that the development is not going to impact, and recommended that the Board address impacts of development proposal when it considers the development of a cash proffer policy.

Mr. Bradshaw stated that the presumption that an age-restricted community such as this proposal will not impact schools is incorrect, that such a proposal will place higher demands on certain services, and concurred with the suggestion that such considerations be discussed at the appropriate time in connection with the cash proffer policy.

Mr. **McGlennon** stated that age-restricted housing is a concern and inquired if there are adequate medical services for the senior population with continued development such as this proposal.

Mr. Harrison made a motion to adopt the resolutions.

On a roll call vote, the vote was: AYE: **Harrison, Goodson, Bradshaw, Brown** (4). NAY: **McGlennon** (1).

## RESOLUTION

### CASE NO. Z-15-04/MP-11-04. VILLAS AT JAMESTOWN

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. **Z-15-04/MP-11-04** for rezoning 30.36 acres from R-8, Rural Residential, to R-2, General Residential, Cluster with proffers; and
- WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. **Z-15-04/MP-11-04**, by a vote of 7 to 0; and
- WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled "Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC;" and
- WHEREAS, the properties are located at 248, 238, 230, and 226 **Ingram** Road and further identified as Parcel Nos. **(1-15)**, **(1-11)**, and **(1-10)** on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).
- NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, does hereby approve Case No. **Z-15-04/MP-11-04** and accepts the voluntary proffers.

## RESOLUTION

### CASE NO. SUP-34-04. VILLAS AT JAMESTOWN

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit (SUP) process; and
- WHEREAS, Mr. Greg Davis and Mr. Tim **Trant** have applied for an SUP to allow for a density of up to three units per acre in a residential cluster; and
- WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled "Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC"; and
- WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. SUP-34-04 by a 7-0 vote to permit the construction of a **92**-unit development with a gross density not to exceed three units per acre at 248, 238, 230, 226 **Ingram** Road and further identified as Parcel Nos. **(1-15)**, **(1-11)**, and **(1-10)** on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).
- 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. 34-04 as described herein with the following conditions:
1. If construction has not commenced on this project within 36 months ~~from~~ the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining a **land**-disturbing permit.

2. The applicant shall implement LID practices on the site in accordance with the Master Plan and compatible with existing conditions, proposed grading, and drainage patterns. Such LID practices shall be shown on the site plan and shall be consistent with the County's Comprehensive Plan, the goals and strategies of the Powhatan Creek Watershed Management Plan adopted by the County Board of Supervisors, the Primary Principles for Five Forks Area, and applicable laws, ordinances, and regulations.
3. Any site or other development plan for the Property shall provide for curb and gutter design of all internal streets as required by Section 24-549(a)(3)(a) of the County Code; provided, however, that if the County Zoning Ordinance is amended in the future to eliminate the requirement for curb and gutter design of internal streets or if authority to waive the same is otherwise granted by the Board of Supervisors, then this condition may be waived in accordance with any such future amendment or waiver provision.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

2. Ordinance Amendment - Chapter 8. Erosion and Sediment Control. Section 8-5. Permits. Fees, Bonding, etc.; to Increase Fees

Mr. Darryl E. Cook, Environmental Director, presented an ordinance amendment to increase the fee schedule for residential subdivision projects from \$50 per lot to \$70 per lot; residential site plans increase from \$600 per acre for the first 15 acres plus \$400 per acre for each additional acre over 15 acres to \$850 per acre for the first 15 acres and \$560 per acre for each acre over 15; and the fee for each single-family lot would increase from the current level of \$75 to \$100.

Mr. Cook stated that the fees will more fully recover administrative costs associated with the program and requested that the Board adopt the proposed ordinance amendment.

Mr. Bradshaw inquired what the administrative costs and the associated activities are that the increased fees will be utilized for.

Mr. Cook stated that currently seven percent of total department expenditure costs are associated with these projects and that there is one staff member serving all the administrative needs of the division.

Mr. McGlennon stated that he understands the revenue from the increased fees will be utilized for an administrative position which will then permit other staff to focus on duties other than administrative and that the professionals will be back in the field.

Mr. Goodson inquired how much additional revenue would be generated.

Mr. Cook stated that staff anticipates an additional \$45,000, and that if the fee increase proposal is denied, staff would find alternative funding for the position.

Mr. Brown opened the Public Hearing.

1. Mr. Robert Duckett, Director of Public Affairs with the Peninsula Housing and Building Association, stated that developers will accept fee increases if demonstration is provided to show how the increase in fees will provide better service and how the position will be related to the associated fee tasks; and requested that since those points have not been demonstrated, the Board should vote down the proposal.

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

Mr. **McGlennon** made a motion to adopt the amended ordinance and stated that the fees will provide the additional administrative support to the Division which will provide more **service** to customers and is an equitable way to find an alternative to the real estate tax.

Mr. Harrison supported the efforts to look for ways to diversify the County's tax revenue and stated concern about this particular proposal that does not take into consideration the long-term costs associated with the additional position.

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

3. Ordinance to Amend and **Reordain** Chavter 13. Motor Vehicles and Traffic, Article I. In General, Section 13-7. Adoption of State Law; and ArticleII, Driving Automobiles. Etc.. While Intoxicated or Under the Influence of **any** Drug. Section 13-28. Adoption of State Law Generally

Mr. Rogers introduced Ms. Jennifer Lyttle, a Paralegal, working in the County Attorney's Office.

Ms. Lyttle requested that the Board adopt the proposed ordinance amendments that incorporate by reference into the County Code the 2005 amendments made by the General Assembly to Driving Under the Influence (D.U.I.) and traffic laws that will be effective July 1, 2005.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the amended ordinance.

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

## **I. BOARD CONSIDERATION**

1. Resolution Requesting the Circuit Court to Order an Election on Issuance of General Oblieation Bonds in the Maximum Amount of \$15,000,000 for Parks and Recreation **Improvements** and \$20,000,000 for Land or **Voluntary** Land Easements

Ms. Suzanne R. Mellen, Director of Budget and Accounting, provided an **overview** of the proposed request to the Circuit Court to order an election on two questions of issuing general obligation bonds to: finance a portion of the costs of improvements to parks, greenways, trails, and recreational facilities, not to exceed \$15,000,000; and to issue general obligation bonds to finance a portion of the cost of acquiring land or voluntary land conservation agreements that would serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County, not to exceed \$20,000,000.

Staff recommended approval of the resolution that will certify that the project for which general obligation bonds are contemplated is necessary and will promote the public welfare of the residents of the County; that it is advisable to determine the interest of the voters of the County to incur debt in an amount not to exceed \$15,000,000 and \$20,000,000 to finance the projects: and requested that the referendum questions be placed on the ballot.

Mr. **Goodson** made a motion to adopt the resolution.

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

RESOLUTION REQUESTING THE CIRCUIT COURT TO ORDER AN  
ELECTION ON ISSUANCE OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT  
OF \$15,000,000 FOR PARKS AND RECREATION IMPROVEMENTS AND \$20,000,000 FOR LAND  
AND VOLUNTARY LAND CONSERVATION AGREEMENTS

WHEREAS, the Board of Supervisors (the "Board") of James City County, Virginia, (the "County") believes that it is necessary and expedient to undertake (1) improvements to parks, greenways, trails and recreational facilities in the County, (2) the acquisition of land that will serve as green space for the County and (3) the acquisition of voluntary land conservation agreements rights in land that will enable the County to preserve agricultural, forestal, or environmentally sensitive lands in the County (collectively, the "Projects"); and

WHEREAS, the Board desires to determine the interest of the County's qualified voters in issuing debt in the form of general obligation bonds to finance a portion of the cost of such Projects; and

WHEREAS, Section 15.2-2640 of the Code of Virginia of 1950, as amended (the "Code"), requires that the purposes for which the bonds are to be issued and the maximum amount of bonds to be issued be set forth in a resolution; and

WHEREAS, Sections 15.2-2610 and 15.2-2638 of the Code require that voter approval be obtained at a referendum before such bonds can be issued, and Section 15.2-2640 requires that the Board by resolution must request the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Circuit Court") to order an election on the question of contracting the debt and issuing the proposed bonds

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

1. The Board hereby finds and determines that it is necessary and expedient to undertake the Projects, all of which will promote the public welfare of the County and its inhabitants.
2. The Board hereby determines that it is advisable to determine the interest of the qualified voters of the County on the incurrence of debt by the County in the form of the County's general obligation bonds to finance the cost of the Projects.
3. The Board hereby requests that the Circuit Court, pursuant to Sections 15.2-2610, 15.2-2611 and 24.2-684 of the Code, enter an Order requiring County election officials to conduct a special election for the qualified voters of the County on November 8, 2005, the day of the general election, and that referendum questions be placed on the ballot in substantially the following forms:

QUESTION: Shall James City County, Virginia, contract a debt and issue its general obligation bonds in a principal amount not to exceed \$15,000,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of improvements to parks, greenways, trails and recreational facilities?

- ( ) YES
- ( ) NO

QUESTION: Shall James City County, Virginia, contract a debt and issue its general obligation bonds in a principal amount not to exceed \$20,000,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of the acquisition of land and **voluntary** land conservation agreements that will serve as green space for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County?

- ( ) YES
- ( ) NO

- 4. The Clerk of the Board shall certify a copy of this Resolution to the Circuit Court.

#### **J. PUBLIC COMMENT**

1. Mr. David Gosselin, 4205 Colonies Crossing, representing the Friends of Parks and Recreation, thanked the Board for approving the bond referendum, reminded the Board about the increased cost over time of projects that are delayed and requested that the Board recognize that the delay of projects is not fiscally responsible; requested that the Board look for **alternative** ways to fund the other park and recreation facilities; and the Friends of Parks and Recreation will be encouraging citizen approval of the bond referendums this fall.

2. Mr. Jack Schmidt, President of the Board of the Williamsburg Land Conservancy, thanked the Board for supporting the bond referendum.

3. Mr. Ed Oyer, 139 Indian Circle, thanked Mr. Bradshaw for his comments regarding Mr. Jack Massie.

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

Mr. Wanner stated that the Dog Park ribbon-cutting ceremony will be held on June 29 at 10 a.m. and recommended that when the Board completed its business, it adjourn until 7 p.m. on July 12, 2005.

#### **L. BOARD REQUESTS AND DIRECTIVES**

Mr. Harrison recommended following directives to staff: 1) a Board briefing on best property management practices on homeless and the background and diversity of what classifies one as homeless; 2) move forward with having staff develop zoning classification for a homeless shelter and transitional housing in the County; and 3) put together or adopt a task force committee to have a homeless program in the County.

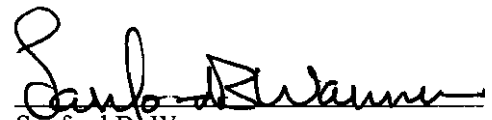
Mr. Wanner stated that he has asked Mr. Doug Powell, Acting Manager of Community Services, to prepare a briefing to the Board on the topic and stated that the data and material for the briefing will take time to compile.

**M. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw (4). NAY: (0).  
ABSENT: Brown (1).

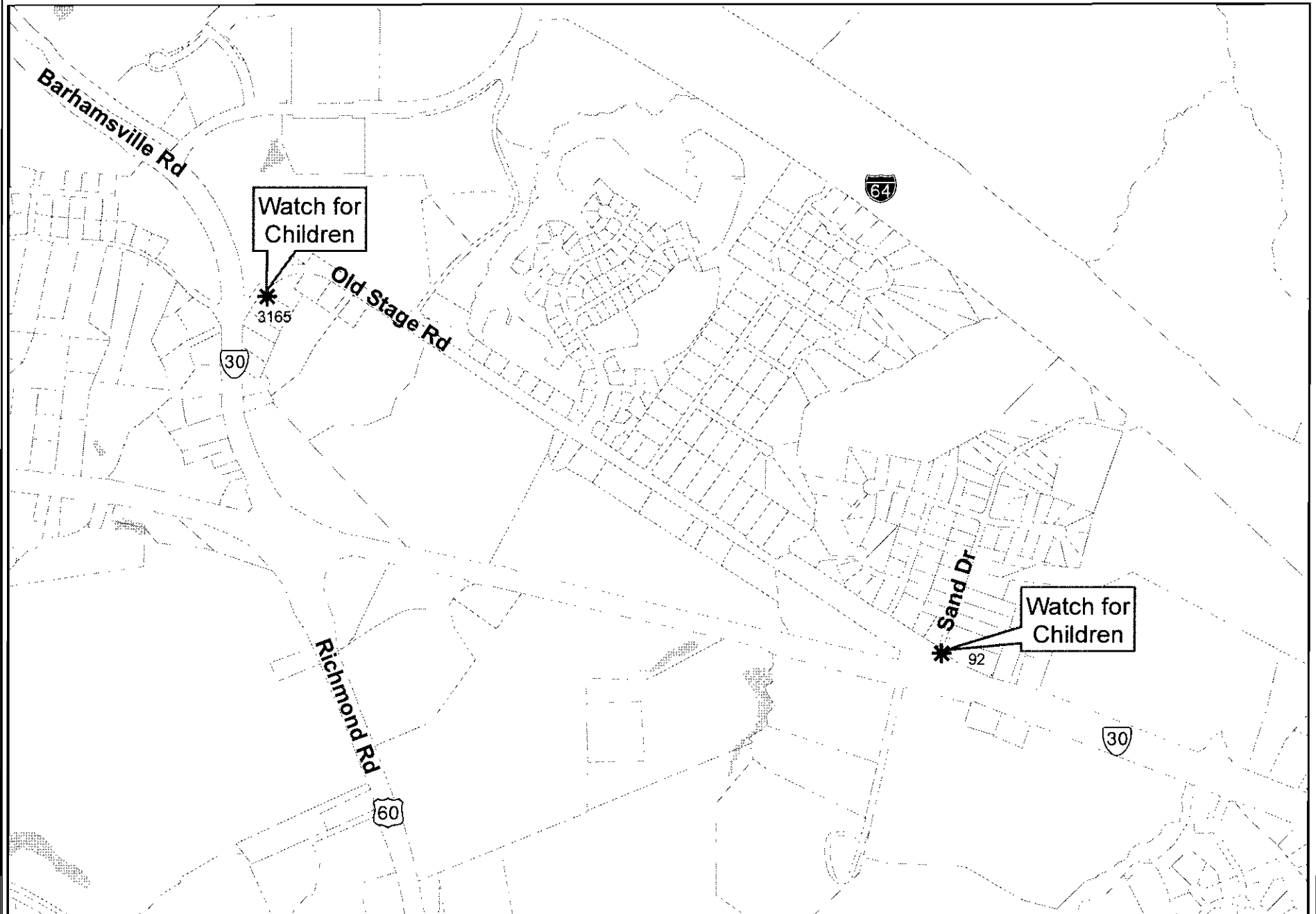
At 8:38 p.m., Mr. Harrison adjourned the Board until 7 p.m. on July 12, 2005.

  
Sanford B. Wanner  
Clerk to the Board

062805bs.min



# OLD STAGE AREA - "WATCH FOR CHILDREN" SIGNS

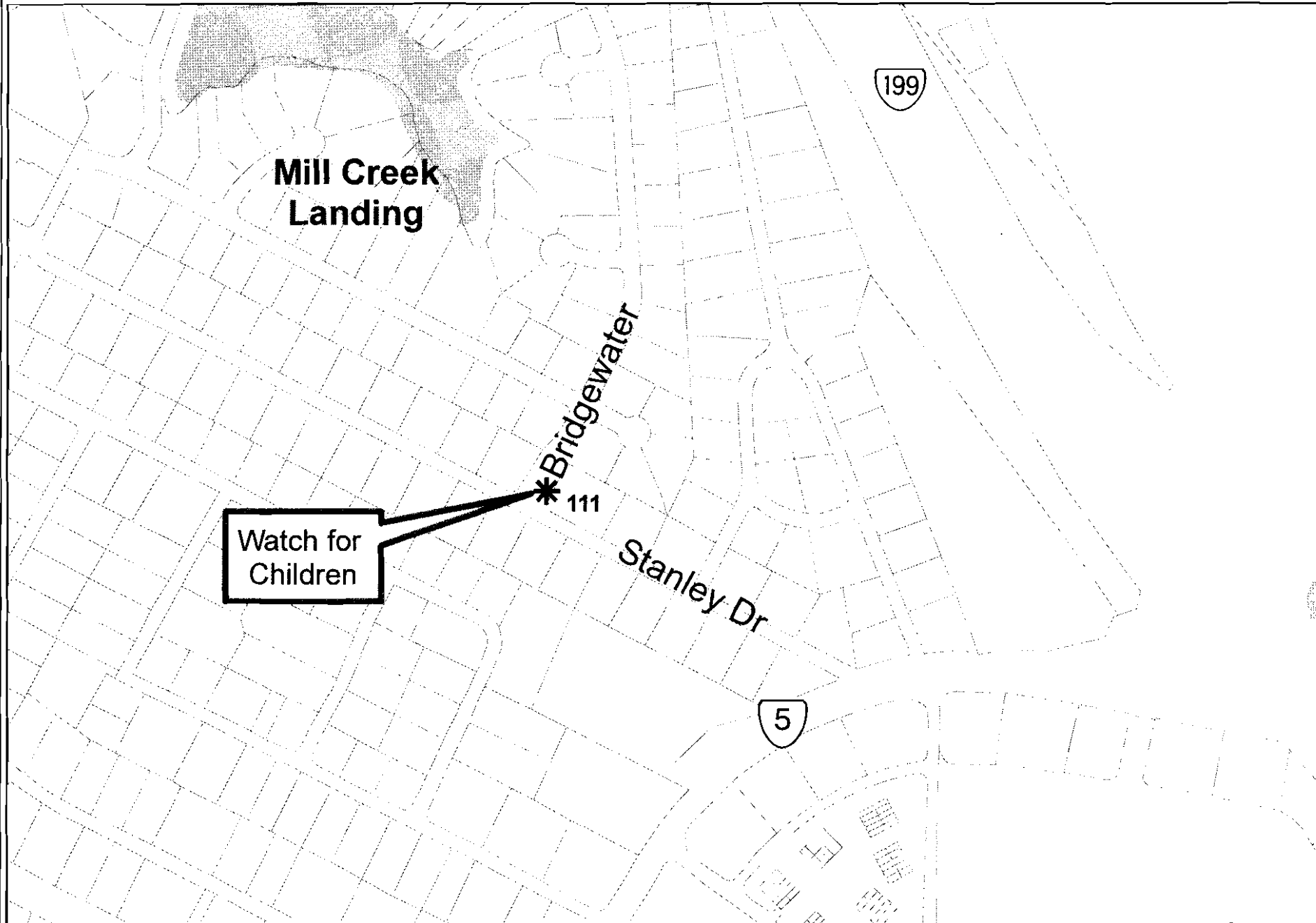


This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section

1 inch equals 1,000 feet  
0 0.125 0.25 Miles



# MILL CREEK LANDING - "WATCH FOR CHILDREN" SIGNS



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

1 inch equals 378 feet  
0 0.05 0.1 Miles



# LOCATION PUBLIC HEARING

## ROUTE 60

### James City County/City of Newport News

POCAHONTAS TRAIL/JAMES CITY COUNTY  
STATE PROJECT NUMBER: 0060-047-V11, PE-101,612  
FEDERAL PROJECT NUMBER: STP-084-1 (109)

WARWICK BOULEVARD/CITY OF NEWPORT NEWS  
STATE PROJECT NUMBER: 0060-121-V14, PE-101,612  
FEDERAL PROJECT NUMBER: STP-5403 (490)

Wednesday, May 11, 2005  
James River Elementary School  
8901 Pocahontas Trail  
4:30 PM—7:30 PM

#### *WELCOME*

The purpose of this Location Public Hearing is to provide a public opportunity for any person, acting on his or her own behalf or representing a group or governing body, the opportunity to offer comments or submit written material or other displays concerning the proposed Route 60 study in James City County and the City of Newport News.

It is the responsibility of the Virginia Department of Transportation (VDOT) to ensure that all members of the community are afforded the opportunity to participate in public decisions on transportation systems and projects affecting them. The VDOT ensures non-discrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964. For further information, contact the VDOT's Hampton Roads Civil Rights Division Office, located at 1700 North Main Street, Suffolk, VA 23434 or telephone (888) 723-8427 or TDD 711.

In compliance with the National Historic Preservation Act, Section 106 and 36 CFR Part 800, information concerning the potential effects of the proposed improvements on properties listed in or eligible for listing in the National Register of Historic Places will be available at the hearing.

All comments received both oral and written, will be included in a transcript for review by VDOT personnel, citizens and all other interested parties. Questions and concerns raised as a result of this meeting will be addressed prior to consideration of the project by the Commonwealth Transportation Board.

#### *PURPOSE OF THE STUDY*

The purpose of this study is to develop alternative corridors to alleviate traffic congestion on existing Route 60 in James City County and the City of Newport News. The study begins in the vicinity of Green Mount Industrial Park in James City County, and extends to Route 105 (Fort Eustis Boulevard) in the City of Newport News.

This project is included in The Virginia Transportation Development Plan for Fiscal Year 2004-2010, and in the Hampton Roads 2026 Regional Transportation Plan.





## ***BACKGROUND***

Considered a major arterial highway between Williamsburg and the City of **Newport** News, Route 60 has existing and planned industrial and commercial developments, as well as historic attractions along its corridor. These are the major factors of the growth and increase in traffic demands for this area.

The Peninsula Area Transportation Study of 1967 indicated the need for expanding Route 60 to a four-lane facility, and in the early 1970's, the study began for this improvement.

A Location Public Hearing was held on January 20, 1971 on comdors developed at that time. On March 18, 1971, the Commonwealth Transportation Board selected one of these comdors for the construction of a new four-lane, divided highway along the existing Route 60 comdor. The construction of the selected comdor never became a reality because of other higher priority roadway projects.

Due to development **occurring** within the selected comdor because of the delay of construction of the project, another study began in the late 1970's for an alternative to the previous comdor selected by the Commonwealth Transportation Board. An evaluation was made of the traffic analysis, access impacts, along with the environmental factors. The results of project analyses performed created additional options not previously studied. A Citizen Information Meeting was held on April 20, 1999 to provide the public review and comments of the three comdors developed at that time.

However, early in 2004, the project limits were reduced in the Hampton Roads Metropolitan Organization's Long Range Plan to include only that portion of the project from Route 60 near Green Mount Industrial Park to Route 105 (Ft. Eustis Blvd.). One of the three previously studied corridors has now been refined within the new constraints of the project, and is now being displayed at this Location Public Hearing.

## ***WHAT'S BEING CONSIDERED***

### ***"BUILD ALTERNATIVE***

The following described alternative can be viewed on the enclosed map on page 3 of this brochure, as well as on the aerial mosaics on display at this Location Public Hearing.

#### **CORRIDOR A**

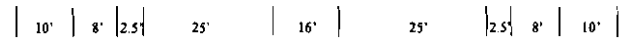
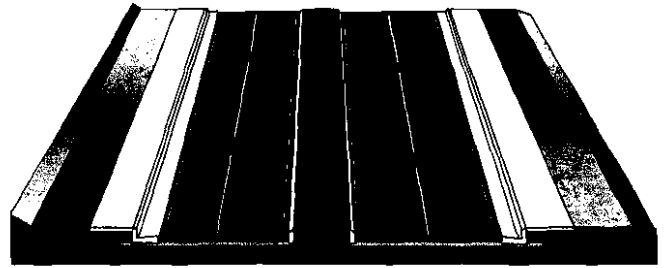
Comdor A begins at existing Route 60 near Blow Flats Road, in James City County, approximately 0.9 mile west of the West Corporate Limits of **Newport** News. Turning in a southeasterly direction and entirely on new location, the comdor traverses through Green Mount Industrial Park between the Wal-Mart Distribution Center and Skiffes Creek. Comdor A then turns in a more southerly direction to approximately midway between Wal-Mart and Skiffes Creek, where it then turns southeasterly and crosses Skiffes Creek into the City of **Newport** News. The comdor then traverses through Oakland Industrial Park before **terminating** at the Route 60/ Route 105 (Ft. Eustis Boulevard) interchange.

#### **"NO-BUILD**

If no selection of an alternative is made, no other action will be taken other than maintenance on the existing street systems. This alternative will do nothing to relieve congestion faced today, or the increase of **traffic** expected in the future years.

## PROPOSED TYPICAL SECTION

The proposed typical section for Corridor A provides for two (2) lanes of travel in each direction, separated by a raised median, with curb and gutter, and sidewalk on both sides.



107' PROPOSED R/W

## ESTIMATED PROJECT COST (2005 cost in million dollars)

### JAMES CITY COUNTY

Length (miles) 2.3

Construction	\$32.7
P.E.	\$ 7.2
Right-of-way /Utilities	<b>\$5.1</b>
Total	\$45.0

### CITY OF NEWPORT NEWS

Length (miles) 1.0

Construction	\$16.4
P.E.	\$ 2.2
Right-of-way /Utilities	<b>\$2.5</b>
Total	\$21.1

### TOTAL PROJECT COST

Length (miles) 3.3	
Construction	\$49.1
P.E.	\$ 9.4
Right-of-Way/Utilities	<b>\$7.6</b>
Total	\$66.1

This project is currently funded for Preliminary Engineering only in the Six-Year Improvement Program for Fiscal Years 2005-2010.

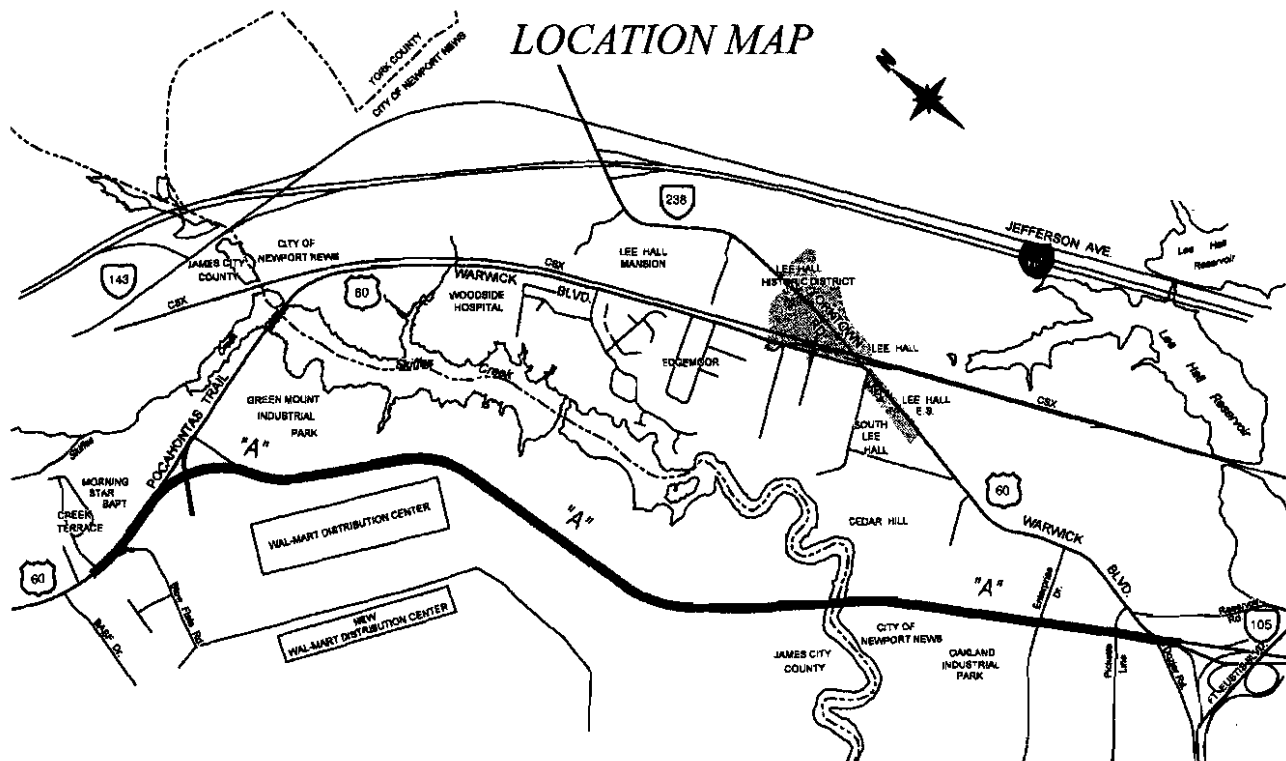
## TRAFFIC

Build Alternative- The anticipated Average Daily Traffic (ADT) for the Year 2026 is 16,000 to 32,000

No-Build- The anticipated Average Daily Traffic (ADT) on existing two-lane Route 60 for the Year 2026 is 16,000 to 20,000

## RIGHT OF WAY

There are no relocations associated with Corridor A.



## ***ENVIRONMENT***

The Draft Environmental Assessment has been prepared, and was approved and signed by the Federal Highway Administration on February 10, 2005. The Assessment documents the purpose and need for the project, and addresses any environmental concerns that have been identified during the study's development. It also addresses such issues as threatened and endangered species, wetlands, air quality, noise, historic and cultural resources, and impacts to residences, businesses, and other organizations. The cost associated with the project and reported in the assessment has been updated since the document was signed. The correct cost is reported on page 3 of this handout.

The Assessment is available for public review at this Location Public Hearing. Maps, and the assessment are also available for review at:

- Hampton Roads District Office, 1700 North Main Street, Suffolk, VA 23434
- Williamsburg Residency, 4451 Ironbound Road, Williamsburg, VA 23188
- The Department of Engineering, in the Newport News City Hall, 2400 Washington Avenue, Newport News, VA 23607

Should the Commonwealth Transportation Board select the Build Alternative to go forward, any concerns relating to it would be addressed and resubmitted to the FHWA for review. If the FHWA is satisfied with the responses to these **concerns**, and it has been determined there are no significant impacts associated with the project, it will then issue a Finding Of No Significant Impact (FONSI). The project would then proceed to the Design Stage when funding becomes available.

## ***REMAINING ACTIONS***

Review and evaluate the information received at this Location Public Hearing;  
Presentation of the **Corridor** to the Newport News City Council for its consideration and recommendation;  
Presentation of the Corridor to James City County for its consideration and recommendation;  
Presentation to the Commonwealth Transportation Board for its consideration and recommendation;  
FHWA review and issuance of a Finding Of No Significant Impact (**FONSI**)/**Federal Register Notice**;  
Proceed to the Design Phase of Project Development when funds are available. Currently, only funding for Preliminary Engineering has been authorized.

Written comments concerning this project should be mailed within 10 **calendar days** (May 21, 2005) of this meeting to:

***Mr. Dennis W. Heuer, P.E.***  
***Hampton Roads District Administrator***  
***Virginia Department of Transportation***  
***1700 North Main Street***  
***Suffolk, VA 23434***

All comments, written and oral, will be included in the official Public Hearing transcript, and will be available at the above address for public review.

Comments or questions regarding Right of Way or Relocation Assistance should be submitted to:

***Mr. O. Warren Williams***  
***Hampton Roads District***  
***Right of Way and Utilities Manager***  
***Virginia Department of Transportation***  
***1700 North Main Street***  
***Suffolk, VA 23434***

## 2005 James City County Fair Committee Volunteers

Beamon, Dwight  
Bradshaw, Andy  
Bradshaw, Nancy  
Bradshaw, Richard  
Bradsher, Jim  
Danuser, Norman  
Davis, Ann  
Dubois Leanne  
Garrett, Loretta  
Hazelwood, Sylvia  
Heath, Doris  
Jacovelli, Ken  
Johnson, Greg  
Jones, Katie  
Magnant, David  
McMichael, William  
Miller, Lynn  
Mansfield, Sue

Overton, Ed  
Perkins, Diana  
Porter, Bill  
Powell, Ellen  
Ramirez, Tara  
Rinehimer, Brad  
Rupe, Charlie  
Rupe, Mary  
Sims, Angie  
Steward, Edith  
Townsend, J.D.  
Webster, Shirley

**PROFFERS**

**VILLAS AT FIVE FORKS**

**May, 2005**



# PROFFERS

## VILLAS AT FIVE FORKS

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## VILLAS AT FIVE FORKS PROFFERS

THESE PROFFERS are made as of this 18th day of April, 2005, by VILLA DEVELOPMENT. LLC, a Virginia limited liability company, SPENCER BROTHERS BUILDERS. INC., a Virginia corporation, GEORGE W. PATTERSON, and RICKY A. PATTERSON (collectively, together with their successors and assigns, "Owner") (index each as a "grantor"), and the COUNTY OF JAMES CITY. VIRGINIA, a political subdivision of the Commonwealth of Virginia (the "County") (index as the "grantee").

### RECITALS

R-1. Owner is the owner of certain real property (the "Property") located in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof.

R-2. Owner has filed a rezoning application, a master plan application, and a special use permit application (collectively, the "Application") requesting a change of zoning for the Property. The Application has been designated by the County as Case Numbers 2-15-04, MP-11-04, and SUP-34-04.

R-3. In the Application, Owner has requested that the zoning of the Property be changed from **R8-Rural** Residential to **R2-General** Residential with Cluster Overlay with proffers as described by Section 24-251 *et seq.* and Section 24-538 *et seq.* of the County's Zoning Ordinance in effect on the date hereof (the "Zoning Ordinance"), Section 24-1 *et seq.* of the County Code, in order to **permit** the construction of clustered "Residential Units" (hereinafter defined) at a density of three (3) "Residential Units" per "Gross Acre" (hereinafter defined). The term gross acre or gross acreage ("Gross Acre" or Gross Acreage") shall mean the total land area of a parcel, including but not limited to stream beds, areas subject to flooding, marsh and areas

with slopes exceeding twenty-five percent (25%) gradient, within the outermost boundary lines of the parcel as established by existing property lines or future subdivisions.

**R-4.** A conceptual plan of development ("Master Plan") entitled "Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC James City County, Virginia", dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Master Plan is on file in the office of the County Planning Director.

**R-5.** A community impact statement ("Community Impact Statement") entitled "Community Impact Study for the Master Plan Prepared for Villas at Five Forks", dated December 17, 2004, last revised April 18, 2005, prepared by AES Consulting Engineers, has been submitted to the County Planning Director for review by the County in connection with the Application. The Community Impact Statement is on file in the office of the County Planning Director.

**R-6.** A traffic impact study ("Traffic Impact Study") entitled "The Villas at Jamestown Traffic Impact Study James City County, Virginia" dated November 10, 2004, prepared by URS Corporation, has been submitted to the County Planning Director and the Virginia Department of Transportation ("VDOT") for review in connection with the Application. The Traffic Study is on file in the office of the County Planning Director.

**R-7.** An Environmental Inventory ("Environmental Inventory") was conducted on the Property as detailed in that certain report entitled "Report of Findings Small Whorled Pogonia (*Isotria Medeoloides* (Pursh.) Raf.) James City County, Virginia", dated July 22, 2004, prepared by Alan J. Neumann, Ph.D. The Environmental Inventory identified no small whorled pogonias on the Property and did not identify any potential habitat for the same within the developable areas of the Property. The Environmental Inventory has been submitted to, reviewed and

approved by the County Planning Director, and is on file in the **office** of the County Planning Director.

R-8. Photographs and graphic examples of architectural elevations proposed for construction on the Property ("Architecture Sheet") entitled "Villas at Five Forks Sample Architecture Sheet" dated March 22, 2005, prepared by Villa Development, LLC has been submitted to the County Planning Director for review in connection with the Application. The Architecture Sheet is on file in the office of the County Planning Director.

R-9. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296, *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

R-10. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the County of the Application, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code and Section 24-16 of the Zoning Ordinance, Owner agrees that it shall meet and comply with the following conditions and proffers as indicated in developing the Property.

PROFFERS:

1. Plan of Development. The Property shall be developed generally in accordance with the Master Plan with only minor changes thereto that the County Development Review Committee determines do not change the basic concept or character of the development. The Master Plan is a conceptual plan for proposed development on the Property and provides only for

the general location of buildings, proposed streets, parking, drainage facilities, areas of open space, buffer areas and recreation facilities. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

2. Condominium Owners Association. A condominium owners' association ("Owners Association") shall be established in accordance with the Virginia Property Owners' Association Act, § 55-508 *et seq.* of the Virginia Code, in which all owners of Residential Units within the portions of the Property currently lying inside the development area shall be members by virtue of their property ownership. The articles of incorporation or organization and bylaws of the Owners Association and declaration of restrictive covenants enforceable by the Owners Association (collectively, the "Governing Documents") shall be submitted to and reviewed by the County Attorney for consistency with this proffer. The Governing Documents shall require or provide for, *inter alia*, the following:

(a) The Owners Association shall adopt an annual maintenance budget and assess all of its members for the maintenance of the properties owned or maintained by the Owners Association.

(b) The Owners Association shall be granted the right to adopt and enforce rules and regulations with respect to the use of common areas and with respect to other areas of responsibility of the Owners Association.

(c) The Owners Association shall have the power to assess its members in order to provide for the budget described above, and shall further have the power to levy special assessments, and to have a lien upon property owned by its members for collection and enforcement of such assessments, and for the cost of remedying violations of the rules and regulations established by the Owners Association.

(d) The Owners Association shall implement and enforce the water **conservation** standards proffered herein.

(e) Prior to the issuance of a Certificate of Occupancy for the ninety-second (92<sup>nd</sup>) Residential Unit constructed on the Property, the Owners Association shall develop and implement a nutrient management plan ("Nutrient Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into **Powhatan** Creek and its tributaries. The Nutrient Management plan shall include measures necessary to manage yearly nutrient application rates to turf such that the application of nitrogen does not exceed **75** pounds per year per acre. The Nutrient Management Plan shall be prepared by a landscape architect licensed to practice in Virginia or submitted for review to the County Environmental Division for conformity with this proffer. The Nutrient Management Plan shall include terms permitting enforcement by either the Owners Association or the County.

3. Parks and Recreation. In accordance with the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof, the following recreation facilities ("Recreation Facilities") shall be **constructed/installed** on the Property:

(a) A minimum of **.546** acres of community space as shown generally on the Master Plan;

(b) A minimum of ten thousand (10,000) square feet of recreation area comprised of a pool, real or artificial turf putting green, picnic area, gazebo, horseshoe pit, and clubhouse with exercise equipment at locations to be shown on a site plan for development of the Property; and

(c) Eight (8) foot wide, pervious surface **pedestrian/jogging trail(s)** a minimum of **.34** miles in length at locations to be shown on a site plan for development of the Property.

The design and location of the Recreation Facilities shall be subject to the review of the County Planning Director for consistency with these Proffers. The Recreation Facilities shall be open to all residents of the development, and maintained and regulated by the Owners Association. The Recreation Facilities shall be completed or guaranteed ("Guaranteed") in accordance with Section 15.2-2299 of the Virginia Code (or any successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a "Guarantee" or "Guarantees") prior to final site plan or subdivision plan approval for residential construction on the Property exceeding fifty (50) Residential Units.

4. Transvortation Improvements.

(a) Owner shall **construct/install** the following entrance and road improvements ("Transportation Improvements") to Virginia Department of Transportation ("VDOT") standards and specifications for **Ingram** Road (as designated in the Traffic Study):

(1) A right turn taper for the southbound Ironbound Road approach to **Ingram** Road; and

(2) Improvement of **Ingram** Road from Ironbound Road to the entrance to the Property to provide (i) a twenty-four (24) to twenty-eight (28) feet wide roadway, curb and gutter as measured from the face of curb, (ii) sidewalk four (4) foot wide along one side of **Ingram** Road; and (iii) street trees along both sides of **Ingram** Road in accordance with the County's Streetscape Guidelines Policy, a copy of which is attached hereto as EXHIBIT B, except that no street trees shall be required on the side of **Ingram** Road adjacent to the property located at 220 **Ingram** Road (County Tax Parcel I.D. # 47010100018) and 224 **Ingram** Road (County Tax Parcel I.D. # 47010100020).

(b) The Transportation Improvements shall be completed or Guaranteed prior to issuance of a building permit for the twenty-fifth (25' ) Residential Unit on the Property.

(c) Prior to final site plan or subdivision plan approval for development of the Property:

(1) Owner shall make a contribution to the County in the amount of One Thousand Eight Hundred Thirty-Five Dollars (**\$1,835.00**), determined by the Owner utilizing the formula developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the "Primary Principles for the Five Forks Area of James City County" adopted by the County Board of Supervisors on September 28, 2004 (the "Primary Principles").

(2) Owner shall make a contribution to the County in the amount of One Thousand Five Hundred Dollars (**\$1,500.00**), determined by the Owner utilizing the cost estimates developed by Kimley-Horn and Associates, Inc. as a part of a Five Forks Area study, representing its share of the cost of pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway recommended in the Primary Principles, and in order to mitigate traffic impacts resulting from development of the Property. The County shall use these monies to construct pedestrian improvements to the intersection of Ironbound Road and John Tyler Highway as outlined in the Primary Principles.

(3) Owner shall make a contribution to the County in the amount of Three Thousand Dollars (**\$3,000.00**), determined by the Owner utilizing the cost estimates developed by AES Consulting Engineers, for the County's construction of a bike lane along the right **turn** taper proffered above. The County shall use these monies to construct a bike lane along the right turn taper for the southbound Ironbound Road approach to **Ingram** Road.

(d) All streets, internal to the Property, may be private, but shall conform to VDOT construction standards. The construction of all private streets shall be certified by the



County Engineer for conformance with these Proffers prior to issuance of a final Certificate of Occupancy for the eightieth (80<sup>th</sup>) Residential Unit on the Property.

5. Contribution for Public Facilities.

(a) Water. A contribution shall be made to the James City Service Authority ("JCSA") in the amount of Seven Hundred Ninety-Six Dollars (**\$796.00**), for each individual residential dwelling unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Water Contribution"). JCSA shall make these monies available for development of water supply alternatives, the need for which is deemed by JCSA to be generated, in whole or in part, by the development of the Property.

(b) Recreation. A recreation contribution shall be made to the County in the amount of Seventy-Four Dollars (**\$74.00**), for each Residential Unit developed on the Property (the "Per Unit Recreation Contribution"). The County shall make these monies available for development of recreational facilities, the need for which is deemed by the County to be generated by the development of the Property.

(c) Library Facilities. A contribution shall be made to the County in the amount of Sixty Dollars (**\$60.00**) for each Residential Unit developed on the Property (the "Per Unit Library Contribution"). The County shall make these monies available for the development of library space, the need for which is deemed by the County to be generated by the development of the Property.

(d) Fire/EMS Facilities. A contribution shall be made to the County in the amount of Seventy Dollars (**\$70.00**) for each Residential Unit developed on the Property (the "Per Unit Fire/EMS Contribution"). The County shall make these monies available for the acquisition of fire and rescue facilities and equipment, the need for which is deemed by the County to be generated by the development of the Property.

(e) General Community Impacts. A contribution shall be made to the County in the amount of Three Hundred Fifty Dollars (\$350.00) for each Residential Unit developed on the Property (the "Per Unit Community Contribution"). The County shall make these monies available for mitigation of impacts on the County resulting from the physical development and operation of the Property.

(f) The Per Unit Water Contribution, Per Unit Recreation Contribution, Per Unit Library Contribution, Per Unit Fire/EMS Contribution, and Per Unit Community Contribution (collectively, the "Per Unit Contributions") shall be payable for each of the Residential Units to be developed within the Property at the time of final site plan or subdivision plan approval for the particular Residential Unit or grouping of Residential Units then to be developed or at such other time as may be approved by the County Planning Director.

6. Archaeological Study. A Phase I Archaeological Study for the Property shall be submitted to the County Planning Director for his review and approval prior to issuance of a land disturbing permit for any soil disturbing activity on the Property. A treatment plan shall be submitted to, and approved by, the County Planning Director 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 County Planning Director and a treatment plan for said sites shall be submitted to, and approved by, the County Planning Director 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 County Planning Director 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 Standards 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 the clearing, grading or construction activities thereon.

7. Age Restriction. Occupancy of Residential Units developed upon the Property shall be age restricted to persons fifty-five (55) years of age or older in accordance with the following parameters:

(a) It is the intent of Owner that Residential Units shall be occupied by persons fifty-five (55) years of age or older and that no Residential Unit 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 Residential 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 (b) below; and

(b) Each Residential Unit within the Property shall have a master bedroom and bath on the main floor of such unit and shall be developed 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. §3601 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. §3601 et seq.; the Virginia Fair Housing Law Va. Code §36-96.1 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 the Governing Documents of the Owners Association.

8. Water Conservation. The Owners Association shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority ("JCSA"). The standards shall address such water conservation measures as limitations on 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. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by JCSA for general consistency with this proffer prior to final approval of the first site plan or subdivision plan for development of the Property or any portion thereof.

9. Streetscapes and Sidewalks. All site plans and/or subdivision plans for development within the Property shall:

(a) Comply with the County's Streetscape Guidelines Policy, a copy of which is attached hereto as EXHIBIT B; and

(b) Provide for a sidewalk at least five (5) feet in width on at least one (1) side of all internal streets.

Sidewalks along internal streets shall be constructed concurrently with the construction of adjacent Residential Units.

10. Limitation on Number of Residential Units. There shall be no more ~~than~~ 92 Residential Units constructed on the Property.

11. Building Setback. The Master Plan identifies an "ESG 100' RPA Buffer" (the "Buffer") on the Property. Except for that building shown on the Master Plan as "16", no building shall be constructed on the Property within fifteen (15) feet of the Buffer.

12. Architecture. The architecture and exterior elevations of the Residential Units constructed on the Property shall be generally consistent with that shown on the Architecture Sheet, and shall be subject to the review of the County Planning Director for consistency with these Proffers.

13. Greenway Trail Easement. Prior to final site plan or subdivision plan approval for development of Residential Units on the Property, Owner shall grant the County an easement for a trail through the Property in the general location shown on the Master Plan as "James City County **Greenway** Trail" subject to any existing easements and related easement rights of third parties. The easement shall provide, *inter alia*, that County shall be entitled to construct a pervious surface trail with a minimum ten (10) foot wide travel path (which will be open to the general public during daylight hours only-), any necessary bridges, and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The easement shall be located inside the resource protection area on the Property.

14. Natural Resource Inventory. Owner shall cause a survey to be conducted of the Property for Virginia least trillium. Such survey shall be submitted to the County Planning Director for review and approval prior to land disturbance activities on the Property. If the survey confirms that Virginia least trillium either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the County Planning Director for the affected area. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the County Planning

Director, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.

15. Consumer Price Index Adjustment. All cash contributions contained in these Proffers (collectively, the "Proffered Amounts"), to include but not be limited to Per Unit Contributions, shall be adjusted annually beginning January 1, 2006 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 Proffered Amounts be adjusted to a sum less than the amount initially established by these Proffers. The adjustment shall be made by multiplying the Proffered Amounts 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 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 Proffered Amounts shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the 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 Proffered Amounts to approximate the rate of annual inflation in the County.

16. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

17. Severability. In the event that any clause, sentence, paragraph, subparagraph, section or subsection of these Proffers shall be judged 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, subparagraph, 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, subparagraph, section or provision hereof.

**18. Headings.** All paragraph and subparagraph headings of the Proffers herein are for convenience only and are not a part of these Proffers.


**19. Conflicts.** In the event that there is any conflict between these proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of supervisors and the Courts as otherwise provided by law.

**20. Void if ~~Application~~ not ~~Approved~~.** In the event that the Application is not approved by the County, these Proffers and the Master Plan shall be null and void.

**21. Incorporation of Recitals.** The Recitals set forth above shall be included and read as a part of these Proffers and **are** incorporated herein by reference.

WITNESS the following signatures, thereunto duly authorized:

VILLA DEVELOPMENT, LLC

By:   
Cowles M. Spencer, Member

COMMONWEALTH OF VIRGINIA

~~CITY~~/COUNTY OF York, to wit:

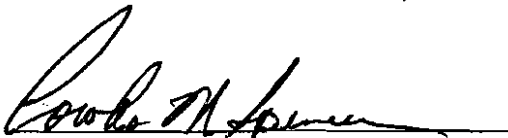
The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of JUNE, 2005 by Cowles M. Spencer as Member of Villa Development, LLC, a Virginia limited liability company, on its behalf.

  
NOTARY PUBLIC

My commission expires: 6-30-05



SPENCER BROTHERS BUILDERS, INC.

By:   
Cowles M. Spencer, President

COMMONWEALTH OF VIRGINIA  
~~CITY~~/COUNTY OF YORK, to wit:

The foregoing instrument was acknowledged before me this 15th day of JUNE, 2005 by Cowles M. Spencer as President of Spencer Brothers Builders, Inc., a Virginia corporation, on its behalf.

  
NOTARY PUBLIC

My commission expires: 6-30-05

  
GEORGE W. PATTERSON

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of JUNE, 2005 by George W. Patterson.

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

My commission expires: 6-30-05

  
\_\_\_\_\_  
RICKY A. PATTERSON

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF York, to wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of JUNE, 2005 by Ricky A. Patterson.

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

My commission expires: 6-30-05

#6061638 v7 - Villa Development/Jamestown Villas/Proffers

## Exhibit A

### Parcel 1

Address: **248 Ingram** Road

Parcel ID: **4620100015**

All that certain tract or parcel of land situate in James City County, Virginia, containing 24.30 acres as shown on that certain plat entitle, "Map showing property containing 24.30 – Acres situated north of Route No. 5 and being the extreme **Eastern** portion of the Green Spring Plantation James City County, VA, standing in the name of the Pine Dell Land Co., Inc." dated May 20, 1942, and made by J. Temple **Waddill**, Certified Civil Engineer, duly recorded in the Clerk's Office of the City of Williamsburg and County of James City, Virginia, in Plat Book 14 at Page 99, to which reference is here made.

Being the same property conveyed to Grantors hereunder by deed of gift dated May 23, 1989, from Gertrude M. Griesenauer (formerly Gertrude M. Thompson) widow, which deed was recorded in the aforesaid Clerk's **Office** in Deed Book 436, page 324.

### Parcel 2

Address: **238 Ingram** Road

Parcel ID: **4620100011**

## I

All that certain piece, parcel or lot of land, situate, lying and being in Jamestown District, James City County, Virginia, more Particularly bounded and described as follows: Beginning at a chopped white oak on the north side of the road leading from Williamsburg to Greenspring, said chopped white oak being on the line dividing the property hereby conveyed from that property now or formerly known as the estate of Charlie **Wynne**; thence running northerly along the dividing line between the property hereby conveyed and the property now or formerly known as the estate of Charlie Wynne 70 yards to a point marked by an iron rod driven in the ground; thence in an easterly direction in a straight line 70 yards to another point marked by an iron rod driven in the ground; thence in a southerly direction in a straight line 70 yards to a point marked by another iron rod driven in the ground on the northern line of the Williamsburg-Greenspring road; thence westerly along the **northern** line of the Williamsburg-Greenspring road 70 yards to the point of the beginning.

## II

All that certain piece or parcel of land situate in Jamestown District, James City County, Virginia, on the north side of the road leading from Five Forks to **Barretts Ferry** and described as follows: Beginning on the North side of said road, where the eastern boundary line of C. V. **Mahone's** property intersects the same, thence along said road in an easterly direction the distance of 10 yards to an iron stake, thence in a northerly direction the distance of 70 yards, more or less, to an iron stake, thence in a westerly direction the distance of 45 yards to an iron stake, the corner of C. V. **Mahone**, thence in a southeasterly direction along the aforesaid boundary line of C. V. **Mahone** the distance of 70 yards to an iron stake, the point of beginning.

## III

All that certain piece or parcel of land containing three acres, more or less, situate in Jamestown District, James City County, Virginia, near Five Forks and bounded and described as follows: Beginning at an iron stake at the northwest corner of a one acre parcel owned by C. V. **Mahone**, on the eastern boundary of the land of Pine Dell Land Corporation, at a point seventy (70) yards north of the old Green Spring Road, a

portion of which road had been abandoned, thence in a northwesterly direction along the Pine Dell boundary line the distance of 108 yards to an iron stake, thence in an easterly direction of the distance of 169 yards to an iron stake, thence in a southerly direction the distance of 108 yards to an iron stake at the corner between the and hereby conveyed and that of Elsie E. **Mahone**; thence in a westerly direction along the **northern** boundary line of the land of Elsie E. **Mahone** and C. V. **Mahone** the distance of 115 yards to an iron stake, being the point of beginning.

Being the same property as that conveyed unto Andrew F. **Rumfelt** and Mary Ethel **Rumfelt**, husband and wife, by deed dated October 16, 1962 from Katie Lou **Mahone**, single, and recorded in the aforesaid Clerk's Office in Deed Book 87, page 493. The said Mary Ethel **Rumfelt** having departed this life on June 8, 1994.

**Parcel 3**

**Address: 230 Ingram Road**

**Parcel ID: 4620100010**

All that lot of land, .936 acres, located in **Berkley** District, James City County, Virginia, being a **portion** of that property conveyed to George R. Patterson and Mildred J. Patterson from Dallas Onley, widower, by Deed dated June 30, 1958, recorded in James City County Clerk's **Office** in Deed Book 65, page 281, and being more specifically described by the survey plat thereof, entitled "Plat of That Part of Property of George R. and Mildred J. Patterson to be conveyed to George W. and Lanora A. Patterson" dated August 1968, made by Stephen Stephens, C.L.S., a copy of which is duly of record in Deed Book 117, at page 613.

Being the same real estate conveyed to Villa Development, LLC, by Deed from George W. Patterson dated May 7, 2004, recorded May 14, 2004 in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 040012780.

**Parcel 4**

**Address: 226 Ingram Road**

**Parcel ID: 4710100019**

All the unsold portion of a tract or parcel of land, with the building and improvements thereon, situate near Five Forks, in **Jamestown** District, James City County, Virginia, on the westerly side of the highway leading from Five Forks to Casey's Comer, estimated to contain two (2) acres, but sold in gross and not by the acre.

Less and except a parcel consisting of .936 acres conveyed to George W. Patterson and Lanora A. Patterson, husband and wife, recorded September 5, 1968 in Deed Book 117, at page 612.

Being a portion of the same real estate conveyed to George R. Patterson and Mildred J. Patterson, as tenants by the entirety with the right of survivorship as at common law, by deed from Dallas Onley, widower, dated June 30, 1958, recorded in the Clerk's Office, Circuit Court, James City County, Virginia in Deed Book 65, page 281. The said Mildred J. Patterson died December 14, 1977, thereby vesting fee simple title in George R. Patterson by operation of law. The said George R. Patterson died testate on April 20, 1988 and by his last will and testament probated April 26, 1988 in Will Book 30, page 270, he devised said real estate to George W. Patterson and **Ricky Allan** Patterson.

Exhibit B

**RESOLUTION**

**STREETSCAPE GUIDELINES POLICY REVISION**

WHEREAS, the Streetscape Guidelines Policy **was** originally created to preserve or establish street trees in new residential areas of James City County during the **special** use permit and **rezoning process**; and

WHEREAS, the 2003 Comprehensive Plan identified the need for a revision of the Streetscape Guidelines Policy to allow flexibility with the choice of plant material and location of street trees due to site constraints such as utilities; and

WHEREAS, the Policy Committee recommended endorsement of the **Streetscape** Guidelines Policy revision to the Planning **Commission** on February **17, 2004**; and

WHEREAS, the James City County Planning Commission endorsed the revisions to the Streetscape **Guidelines** Policy on March 1, 2004.

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

**STREETSCAPE GUIDELINES POLICY**

**Goal**

To preserve **and/or** establish tree **canopies** along residential streets, subdivision entrances, and common areas. Plant new trees appropriate to the climate and soils of James City County, **enhancing** existing healthy, durable, **and mature trees in these areas**.

Tree **preservation/planting** shall be accomplished such **that**, within 20 years growing time, the minimum tree canopy over residential **streets shall** be 20%. The environmental and aesthetic **benefits** from tree planting enhance the quality, **character**, **and** health of the community.

**Guidelines for Street Trees**

In all residential subdivisions, deciduous shade **trees and/or** shrubs shall be planted along **all rights-of-way** within and abutting the subdivision. Street **tree** plans shall be **prepared** by a **Virginia** Landscape Architect and shall be reviewed and approved by the Director of Planning. **The street tree** plans shall adhere to the following guidelines:

- Trees **and/or** shrubs shall be located within a minimum five-foot landscape preservation easement contiguous to such **right-of-way**. Every effort should be made to avoid conflict between the landscape preservation easement and the utilities during the design phase of the subdivision. If a conflict cannot be avoided, the landscape preservation easement shall be placed as close to the right-of-way as **the** design allows.

- The easement shall contain, at a minimum, one tree **per** an average 40 linear feet of street on each side of the street or one shrub per an average 20 linear feet of street on each side **of the** street. The mix of trees and shrubs shall be approved by the Planning Director.
- **Trees and/or** shrubs shall be spaced no **greater** than **75 feet** apart along 60% of the street **frontage**.
- All trees that are planted shall **be native** species or street trees **commonly** planted in the **James City County** area that are adapted to the soils and climate. At the **time** of planting, **trees shall** have a **minimum** caliper of 1 ½". Shrubs are to be a minimum of 22" in height at the time of planting. Please refer to the Table 1 for street **tree** suggestions. Although plant material is not restricted to the list **provided**, any trees or shrubs that **are invasive** or require extensive maintenance for disease or pest control will not be **approved**.

Existing **trees** which are within **20 feet** of the **edge of the** right-of-way, and which **are** protected and preserved in accordance with the **requirements** of the Zoning Ordinance, may **be used** to satisfy this planting **requirement** if approved by the Planning **Director**. **Canopies** that are a mixture of existing and planted **trees** or shrubs shall have similar or **complementary** branch characteristics.

- **Plantings** are to **occur between November 1** and March 31 while the plant material is dormant to reduce the **stress of transplanting**. Prior to final site plan approval, the **plantings** and installation **are** to be bonded.

Upon completion of installation, a **Virginia Landscape Architect** shall **verify**, in writing, that the **specified** trees or shrubs **were** installed in the locations shown on the plans. A signed **letter** from the Landscape Architect shall **be submitted** to the **Planning Division** at the time of verification.

#### Guidelines for Entrances and Common Areas

Entrances shall **be** landscaped with native **and/or** climate and soil appropriate trees, shrubs, grasses, and ground covers except **where** the existing mature trees have been preserved or protected in such areas. Plant material to be used in these areas shall be specified **from Table 2** or, **if not** on the list, **meet** the above **criteria**. **Unless the Director** of Planning or his designee **determines** that such landscape treatment is **unnecessary**, impractical, or in conflict with drainage, utilities, sight distance, or **other** required features **of the** subdivision, the **cleared portions of the entrances** and associated common areas in a residential subdivision shall be landscaped with a minimum of **1** tree and 3 shrubs **per** 400 square feet exclusive of roadways, sidewalks, **recreation** facilities or other **impervious areas**.

In wooded areas, entrance **features** including walls, fences and signs shall be minimized **to reduce** the amount of clearing to accommodate entrance roads. In no case shall clearing for entrance roads and abutting utility easements exceed 60 feet in width.

**Table 1. Suggested Street Trees**

*Acer campestre*, Hedge Maple  
*Acer rubrum*, Red Maple  
*Fraxinus pennsylvanica*, Green Ash (seedless cultivars)  
*Ginkgo biloba*, Maidenhair Tree (male cultivars)  
*Nyssa sylvatica*, Black Tupelo  
*Ostrya virginiana*, American Hophornbeam  
*Quercus phellos*, Willow Oak  
*Quercus shumardii*, Shumard Oak  
*Ulmus parvifolia*, Lacebark Elm  
*Zelkova serrata*, Japanese Zelkova

This list is suggested. Trees used are not required to be from this list.

**Table 2. Suggested Plant Material for Entrances and Common Areas**

**Trees**

*Betula nigra*, River Birch  
*Carya ovata*, Shagbark Hickory  
*Cercis Canadensis*, Eastern Redbud  
*Cornus kousa*, Kousa Dogwood  
*Juniverus virginiana*, Eastern Redcedar  
*Pinus taeda*, Loblolly Pine

**Shrubs**

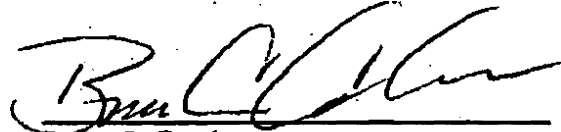
*Hamamelis virginiana*, Witch Hazel  
*Ilex opaca*, Inkberry  
*Ilex vomitoria*, Yaupon Holly  
*Myrica cerifera*, Wax Myrtle  
*Viburnum dentatum*, Arrowwood Viburnum

**Groundcover and other Herbaceous Plants**

*Calamagrostis acutiflora*, Feather Reed Grass  
*Ceratostigma plumbaginoides*, Plumbago  
*Coreopsis verticillata*, Threadleaf Coreopsis  
*Deschampsia caespitosa*, Tufted Hair Grass  
*Festuca cinerea*, Blue Fescue  
*Helictotrichon sempervirens*, Blue Oat Grass  
*Hemerocalis*, Daylily  
*Hypericum mlycinum*, St. Johnswort  
*Liriope muscari*, Blue Lily-turf  
*Miscanthus sinensis*, Japanese Silver Grass  
*Panicum virgatum*, Switch Grass  
*Potentilla fruticosa*, Bush Cinquefoil

This list is suggested. Plants used are not required to be from this list.





**Bruce C. Goodson**  
Chairman, Board of Supervisors

**ATTEST:**



**Sanford B. Warner**  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
<b>BRADSHAW</b>	<b>AYE</b>
<b>HARRISON</b>	<b>AYE</b>
<b>BROWN</b>	<b>AYE</b>
<b>MCGLENNON</b>	<b>AYE</b>
<b>GOODSON</b>	<b>AYE</b>

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of April, 2004.

streetscape.res

JUN 28 2005

ORDINANCE NO. 85A-17

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 8-5, PERMITS, FEES, BONDING, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Section 8-5, Permits, fees, bonding, etc.

#### Chapter 8. Erosion and Sediment Control

##### Sec. 8-5. Permits, fees, bonding, etc.

(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.

(c) Fees. The following administrative fee shall be paid to the county:

- (1) Residential subdivisions shall pay ~~\$50.00~~ \$70.00 per lot at the time of submission of the erosion and sediment control plan;
- (2) ~~Nonresidential Site~~ plans and other land-disturbing activities shall pay \$600.00 per acre of disturbance for the first 15 acres plus \$400.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;
- (3) ~~Residential site plans shall pay \$840.00 per acre of disturbance for the first 15 acres plus \$560.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;~~
- (34) A ~~\$75.00~~ \$100.00 fee shall be required for each single-family residential structure at the time of submission of the building permit application.

This ordinance shall become effective July 1, 2005.

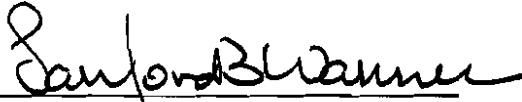


Michael J. Brown

Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	NAY
GOODSON	NAY
MCLENNON	AYE
BRADSHAW	AYE
BROWN	AYE

ATTEST:



Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June, 2005.

**ADOPTED**

**JUN 23 2005**

**BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA**

ORDINANCE NO. 66A-52

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by **amending** Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

**Article I.** In General

**Sec. 13-7. Adoption of state law.**

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, **as** amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2004~~**2005**, except those provisions and requirements the violation of which constitutes a felony and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, ~~mutatis~~ mutandis, and made a part of this

chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without **formal** amendment of this article by the board of supervisors.

State law reference -Authority to adopt state law on the subject, Code of Va., § 46.2-1313 and § 1-13.39.2.

Article II. Driving Automobiles, Etc., While Intoxicated  
or Under the Influence of any **Drug\***

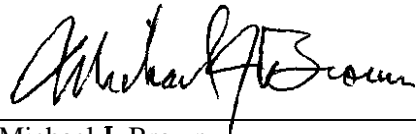
**Sec.** 13-28. Adoption of state law, generally.

Article 9 (section 16.1-278 et seq.) of Chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2004~~**2005**, are hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for

any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

\*State law **reference** -Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2005.



Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
GOODSON	AYE
MCGLENNON	AYE
BRADSHAW	AYE
BROWN	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June, 2005.

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