

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JUNE 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

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

Adopted

September 12, 2006

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE - Drake Kuhn, a rising tenth-grader at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Administrator, Virginia Department of Transportation (VDOT), stated improvements to Monticello Avenue and Ironbound Road were approximately 15 percent complete and on schedule; Greensprings Trail was approximately 12 percent complete; Capitol-to-Capitol Trail was approximately 25 percent complete; and there would be a Public Hearing on the evening of June 28, 2006, for the Ironbound Road project.

Mr. Harrison requested Mr. Brewer state the location of the Public Hearing.

Mr. Brewer stated the Public Hearing would take place at Berkeley Middle School.

Mr. Harrison said there were trees hanging over Route 5 between Hickory Sign Post Road and Westray Downs and asked that VDOT look at the trees to see if they could be cut down.

Mr. Icenhour asked Mr. Brewer if a study was being done on Airport Road and Route 60 in reference to stacking in the intersection.

Mr. Brewer responded this was an ongoing study.

Mr. Goodson reminded the public that Board meetings are being streamed on the Internet.

E. PUBLIC COMMENT

1. Mr. John Laben, 200 Nina Lane, spoke about the need for the Ironbound/Monticello Road intersection to be bicycle friendly.

2. Ms. Kathryn Preston, 139 Fintail Trace, Active Williamsburg Alliance, spoke on active living in James City County and presented the Board with designs for safe pedestrian and bicycle traffic on the Ironbound Road/Monticello corridor. Ms. Preston requested the Board work with VDOT to allow for safer bicycle and pedestrian crossings at the Ironbound and Monticello intersection.

3. Mr. Ed Oyer, 139 Indian Circle, commented on Route 60 traffic; the off-street parking ordinance; the need for a loitering ordinance; Route 60 improvements; the conditions of the yard of a house on Plantation Road; and shrubbery on Plantation Road.

F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the Consent Calendar.

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

1. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Season's Trace Development, Inc.

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -
SEASON'S TRACE DEVELOPMENT, INC.

WHEREAS, Season's Trace Development, Inc. is the owner of a certain parcel of land, commonly known as 2939 Leatherleaf Drive, Toano, VA, designated as Parcel No. (5-1) on James City County Real Estate Tax Map No. (2-14), herein referred to as the ("Property"); and

WHEREAS, on or about May 11, 2006, Season's Trace Development, Inc. caused approximately 2,200 square feet of the Resource Protection Area on the Property to be graded and filled; and

WHEREAS, Season's Trace Development, Inc. agreed to a Restoration Plan to replant six trees, 12 understory trees, and 18 shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance. Season's Trace Development, Inc. has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Season's Trace Development, Inc. has agreed to pay \$1,550 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 restoration of impacted area and 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 \$1,550 civil charge from Season's Trace Development, Inc., as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

2. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Deborah L. Smith

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

DEBORAH L. SMITH

WHEREAS, Deborah L. Smith is the owner of a certain parcel of land, commonly know as 194 Racefield Drive, Toano, VA, designated as Parcel No. (1-5) on James City County Real Estate Tax Map No. (3-2), herein referred to as the ("Property"); and

WHEREAS, on or about May 5, 2006, Deborah L. Smith caused to be removed approximately five trees, ten understory trees, and 15 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith agreed to a Restoration Plan to replant 10 canopy trees, 20 understory trees, and 30 shrubs on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance. Deborah L. Smith has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Deborah L. Smith has agreed to pay \$1,000 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 restoration of impacted area an 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 \$1,000 civil charge from Deborah L. Smith, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

3. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - N. Ray Lee

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

N. RAY LEE

WHEREAS, N. Ray Lee is the owner of a certain parcel of land, commonly known as 103 Acacia Court, Williamsburg, VA, designated as Parcel No. (24-29) on James City County Real Estate Tax Map No. (49-1), hereinafter referred to as the ("Property"); and

WHEREAS, on or about March 15, 2006, N. Ray Lee caused to be removed approximately five trees, seven understory trees, and 16 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee agreed to a Restoration Plan to replant 10 trees, 14 understory trees, and 32 shrubs, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and N. Ray Lee has posted sufficient surety to guarantee the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, N. Ray Lee, has agreed to pay \$1,000 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 restoration of the impacted area and 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 \$1,000 civil charge from N. Ray Lee as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

4. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Mary P. McCoy

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

MARY P. MCCOY

WHEREAS, Mary P. McCoy is the owner of a certain parcel of land, commonly know as 2508 Robert Fenton Road, Williamsburg, VA, designated as Parcel No. (24-40) on James City County Real Estate Tax Map No. (48-3), herein referred to as the ("Property"); and

WHEREAS, on or about March 15, 2006, Mary P. McCoy caused to be removed approximately five understory trees and shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy agreed to a Restoration Plan to replant 10 understory trees, on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and Mary P. McCoy has posted sufficient surety to guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Mary P. McCoy has agreed to pay \$250 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 restoration of impacted area and 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 \$250 civil charge from Mary P. McCoy, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

5. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Scott A. and Tamara W. Albertson

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE -

SCOTT A. AND TAMARA W. ALBERTSON

WHEREAS, Scott A. and Tamara W. Albertson are the owners of a certain parcel of land commonly known as 720 Arlington Island Road, Lanexa, VA, designated as Parcel No. (11-2) on James City County Real Estate Tax Map No. (9-3), herein referred to as the ("Property"); and

WHEREAS, on or about March 7, 2006, Scott A. and Tamara W. Albertson caused to be removed approximately five trees and 30 shrubs from within the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson agreed to a Restoration Plan to replant 10 understory trees, and 40 shrubs on the Property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance. Scott A. and Tamara W. Albertson have posted sufficient surety guaranteeing the installation of the aforementioned improvements and the restoration of the Resource Protection Area on the Property; and

WHEREAS, Scott A. and Tamara W. Albertson have agreed to pay \$2,250 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 restoration of impacted area and 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 County.

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 \$2,250 civil charge from Scott A. and Tamara W. Albertson, as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

6. Wellington Subdivision - Amendment to Declaration of Covenants, Conditions and Restrictions

RESOLUTION

WELLINGTON SUBDIVISION - AMENDMENT TO DECLARATION OF COVENANTS,

CONDITIONS, AND RESTRICTIONS

WHEREAS, the Wellington subdivision has in its Declaration of Covenants, Conditions, and Restrictions a condition that prohibits the installation of automatic irrigation systems; and

WHEREAS, the developer of the Wellington subdivision has requested approval of an amendment to the Covenants that allows the installation of automatic irrigation systems for turf and landscaped beds; and

WHEREAS, staff supports this request because irrigation systems will assist property owners establish turf to stabilize soils in the neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses an amendment to Section F (ii) of the Wellington subdivision, allowing the automatic irrigation systems to serve no more the 30 percent of the net area of the lot.

7. Revised Administrative Plan for the Section 8 Housing Choice Voucher Program

RESOLUTION

REVISED ADMINISTRATIVE PLAN FOR

THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

WHEREAS, the James City County Office of Housing and Community Development is the designated Public Housing Agency (PHA) authorized to operate the Section 8 Housing Choice Voucher Program within James City County; and

WHEREAS, a PHA which operates the Section 8 Housing Choice Voucher Program must adopt an Administrative Plan which states local policies on matters for which the PHA has discretion; and

WHEREAS, there have been several changes in Federal policies and regulations related to operation and funding of the Housing Choice Voucher Program since the Administrative Plan was last adopted by the Board of Supervisors on May 24, 2005; and

WHEREAS, the Office of Housing and Community Development has prepared a revised Administrative Plan which incorporates and responds to changes in Federal policies and regulations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves the revised Administrative Plan for the Section 8 Housing Choice Voucher Program effective July 1, 2006.

8. Grant Appropriation - \$188,926 - Clerk of the Circuit Court

RESOLUTION

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court technology grants totaling \$188,926; and

WHEREAS, there is no local match required.

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

Revenue:

State Compensation Board Technology Grant	<u>\$188,926</u>
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Expenditure:

Clerk Technology Upgrades	<u>\$188,926</u>
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G. PUBLIC HEARINGS

I. Case No. SUP-04-06/MP-01-06. Prime Outlets Master Plan Amendment

Ms. Kate Sipes, Planner, stated Attorney Greg Davis has applied on behalf of Prime Retail, L.P. to amend the existing approved Master Plan and Special Use Permit (SUP) for the Prime Outlets to allow an expansion of approximately 81,000 square feet on existing and adjacent sites (Phases 7 and 8). Currently, Phases 1-6 of Prime Outlets exist or are already approved, comprised of 359,330 square feet of net retail area. Currently, 1,439 parking spaces exist for a parking ratio of 1:200. If Phases 7 and 8 are approved, the net retail area would equal approximately 403,366 square feet. Based on this net figure, 2,017 parking spaces are required per the parking ordinance, including 237 additional spaces proposed over existing Best Management Practice (BMPs); 2,306 total parking spaces are proposed for a parking ratio of 1:175.

In 2004, prior to Prime Outlets acquiring the Ewell Station property, a site plan was approved for the Ewell Station parcel. This approved plan, Site Plan (SP) 110-02, provided for a Phase II expansion of an additional 69,000 square feet. This would bring the Ewell Station site to a total of 137,000 square feet of retail. Prime Outlets Phase 7 expansion proposes to construct 74,000 square feet on the Ewell Station property, transferring the already approved 69,000 square feet to this project.

Staff found, with the conditions addressed, the proposal substantially mitigated concerns that were previously expressed.

At its meeting on June 5, 2006, the Planning Commission voted 5-1 to approve the amendment.

Staff recommended approval of the resolution.

Mr. Goodson opened the public hearing for Case Nos. SUP-04-06/MP-01-06.

1. Mr. Greg Davis, Kaufman & Canoles, representing Prime Outlets, presented the proposed expansion to the current development of Prime Outlets, traffic solutions, conceptual elevations, landscaping, and economic impacts. Mr. Davis asked the Board to consider the structured parking not be included on the site plan as requested by staff in order to expedite the process.

Mr. Icenhour asked the applicant how the projection of local sales tax increase was projected to be between \$1.6 and \$1.8 million if there was only a 40 percent increase in square footage.

Mr. Davis stated he did not bring a fiscal impact summary to verify these numbers, but as Prime Retail operates nationally, these numbers are expected to be produced in good faith, and there was no attempt to mislead the Board with these numbers.

Mr. McGlennon asked if the figure to which the applicant and Mr. Icenhour were referring was the State sales tax and not the local sales tax.

Mr. Davis clarified that the number referred to State sales tax and not local sales tax.

Mr. McGlennon inquired about the conditions involving stormwater improvement off-site. Mr. McGlennon asked about the estimate of cost the applicant was committing to pay.

Mr. Davis stated that whatever degree the development contributed to, estimated \$60,000, the impact would not be a large figure.

Mr. McGlennon asked for confirmation that the applicant was committing to a percentage of \$60,000; Mr. Davis stated this was correct.

Mr. McGlennon asked what the problem would be with including the parking in the site plan.

Mr. Davis stated this would delay the process and there was not enough time between the inception and the construction to engineer the structured parking.

Mr. Harrison inquired about adequate parking at the current development.

Mr. Davis stated the structured parking would come on-line, but there would be adequate parking only the larger 53,000-square-foot building.

Mr. Icenhour stated the ordinance specifies square footage of retail space, which specifies five spaces per with 1,000 square feet for outlet malls.

Mr. Rogers stated the square footage is identified, but not identified as net or gross square footage. This is a provision subject to a zoning administrator's interpretation on a case-by-case basis, and the zoning administrator had to decide if the square footage should be gross or net square footage.

Mr. Icenhour stated the zoning ordinance needed to be revisited to address retail square footage.

Mr. Goodson asked the applicant if this would be identified as an outlet mall or an outlet center.

Mr. Davis stated the applicant relied on the discretion of the Zoning Administrator as prescribed by the ordinance.

Mr. Bradshaw asked what incentive or risk the client has asked for accommodations for building without parking.

Mr. Davis stated the Ewell Center was bought without a contingency, and that Prime Outlets could refrain from building the smaller buildings and get the square footage agreed upon on sale without building additional parking. Mr. Davis stated that the incentive to build the parking structure was to draw customers.

2. Mr. Ray Basley, 4060 South Riverside Drive, commented on insufficient parking at Prime Outlets. Mr. Basley asked the Board to complete construction on parking structures and identification of "No Parking" areas prior to construction of buildings. Mr. Basley also recommended the County update the current zoning ordinance in relation to parking. Mr. Basley asked that the Board deny this application.

3. Mr. Jay Everson, 103 Branscome Boulevard, commented on signage on the turn lane as a frontage road, asking the Board to strike this condition, Items Nos. 13, 14, 15, and parking. Mr. Everson asked that the Board deny this application.

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

Mr. Icenhour asked staff in the event the current application is denied and Prime Outlets proceeds with by-right development, what level of approval would be required if they changed the current site plan.

Ms. Sipes stated that the changes suggested would be allowed under a site plan amendment or a new site plan, based on the Zoning Administrator's recommendation.

Mr. Icenhour asked if the site plan were amended, would this trigger compliance under current environmental regulations, or if they would be grandfathered.

Mr. John Horne stated that if a new site plan is brought forward, current regulations would apply. If an amendment could be dealt with under current stormwater approvals, it would apply.

Mr. Darryl Cook confirmed this.

Mr. McGlennon asked if the stormwater improvements in the original sections would be affected by changes in the site plan.

Mr. Cook stated it would not be affected.

Mr. Bradshaw asked if the sections of asphalt or right-turn lane would be permitted under this language based on Mr. Everson's idea.

Mr. Horne responded that it would be permitted.

Mr. Bradshaw asked if the free trolley suggestion was a specific condition.

Ms. Sipes stated the trolley was above-and-beyond the conditions; although there was a condition for a bus transfer station.

Mr. McGlennon asked if the staff's concern was that the construction would occur by the time the first building opens.

Ms. Sipes stated they wanted the parking engineering as soon as possible and the parking completion and building opening to be concurrent.

Mr. McGlennon asked if there was an alternate deadline that would work for the County and the applicant.

Ms. Sipes said she did not have an alternative deadline.

Mr. Goodson asked if the Certificate of Occupancy would be withheld until the parking was completed.

Staff confirmed there was a condition that the Certificate of Occupancy would be issued when the buildings and parking facility were completed.

Mr. McGlennon asked if there would be another point in the plan that could be used as a deadline to get the parking facility.

Mr. Goodson stated there could be a motion to approve and then a motion to amend the approval at the next meeting.

Mr. Rogers stated staff would be looking for Board guidance; and in the event of a motion for reconsideration, a member that voted in favor of approval could recommend reconsideration of the approved resolution.

Mr. Bradshaw asked the applicant how this would affect the applicant's plans and time frame.

Mr. Davis stated the applicant's concern was that the approval could be reconsidered.

Mr. Rogers stated the motion to reconsider would be very specific, that a portion may be allowed to be built and then require the structured parking in place prior to further construction.

Mr. Bradshaw stated the structured parking has only recently come up and asked what kind of guidance staff would want to reconsider flexibility of development before structured parking was completed.

Mr. Horne stated the conditions lie between the buildings, but it was his opinion there was not a workable arrangement where the applicant could build all the buildings and not occupy them. Mr. Horne stated that if the Board was comfortable enough with the parking, it should allow construction and permit the buildings to be fully occupied before additional parking.

Mr. Bradshaw made a motion to approve the resolution.

Mr. Bradshaw stated the community commercial properties with more than 2,000 square feet of development does not encourage an increase in square footage. Mr. Bradshaw stated the proposal would be superior to the existing development, or what could be developed by-right, which is an instance where he may vote for something contrary to the Comprehensive Plan.

Mr. Harrison asked staff to speak on Item No. 15 on "Conditions Specific to Phases 7 and 8."

Ms. Sipes stated when the validity of the approved site plan was reversed and the legal decision was that the site plan is valid and the applicant could go forward with an alternate site plan, they could both be valid until either of them is implemented.

Mr. Goodson asked if this was included for clarification.

Ms. Sipes confirmed this.

Mr. Icenhour asked about the 200,000-square-foot limit of the Comprehensive Plan that went into effect in 1991; at that point Ewell Station was 69,000 square feet and Prime Outlets was 170,000 square feet. Mr. Icenhour stated the development was over 200,000 square feet at the time it went into effect and subsequent increases resulted in about two and a half times this limit. Mr. Icenhour asked if this concern was raised in former SUP hearings.

Staff stated this has not come forward historically.

Mr. Icenhour expressed his continued concern about the parking at the development, with an addition of 50,000+ square feet without requiring more parking. He expressed his concerns about traffic in the area, especially with approved and undeveloped homes in the area. Mr. Icenhour stated this development was not in compliance with the Comprehensive Plan. Mr. Icenhour stated he could not support this application.

Mr. McGlennon stated the loss of community services in the area would be unfortunate but inevitable and that Prime Outlets has benefited the County, but the main reasons for his support were improvements, including those to the existing facility. Mr. McGlennon stated he would prefer less impervious space and fewer parking spaces, but it is often difficult to find parking. He will not address problems on the busiest

shopping days, valet parking, shuttle from off-site parking; would go a long way to address concerns for not only difficult but dangerous situations. Mr. McGlennon stated he hoped there would be an agreement that supports the application, and would move for reconsideration.

Mr. Goodson stated the pre-existing parking issues mitigate parking of expanded development and current development.

Mr. Harrison questioned how to deal with parking on Olde Towne Road and asked if the Police Department would begin enforcing this.

Mr. Wanner stated that the County will contact VDOT to ensure legal rights for parking enforcement.

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

RESOLUTION

CASE NO. SUP-4-06/MP-1-06. PRIME RETAIL MASTER PLAN AMENDMENT

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 has applied on behalf of Prime Retail, L.P., for an SUP to allow an expansion of approximately 81,000 square feet on existing and adjacent sites; and

WHEREAS, Mr. Greg Davis has also applied to amend the existing conditions of approval of James City County Case Nos. SUP-25-05 and MP-10-05; and

WHEREAS, the conditions listed below replace and supersede the conditions of approval of James City County Case No. SUP-25-05; and

WHEREAS, the proposed expansion is shown on the Master Plan prepared by LandMark Design Group, dated May 26, 2006, and entitled "Master Plan Prime Retail Phases I-VIII" and the "Master Plan" and references to phases below refer to phases shown on the Master Plan;

WHEREAS, the property is located on land zoned B-1, General Business, with proffers that can be further identified as Parcel Nos. (1-28), (1-29), (1-33C), (1-33D), and (1-33E) on James City County Real Estate Tax Map No. (33-3) and on land zoned B-I, General Business, that can be further identified as Parcel No. (1-2) on James City County Real Estate Tax Map. No. (33-3); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of this application by a vote of 5-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 4-06 as described herein with the following conditions:

Conditions Specific to the Phase 5A Expansion

- I. Landscaping planters (the type and size of planters to be specified by the landscaping plan) along the entire store frontage of the Phase 5A Expansion as shown on the Master Plan, shall be approved by the Planning Director or his designee prior to final site plan

approval for any future expansion. The planters shall be installed prior to issuance of any final Certificate of Occupancy for any future expansion.

2. Applicant has installed a 35-foot-wide transitional buffer planted along the northern most property line adjacent the 5A expansion. This area has been planted and shall be maintained at 133 percent of the numerical standards found in Section 24-94 of the James City County landscape ordinance, and with an emphasis on evergreen shade and understory trees as determined by the Planning Director. The fence already installed in this area shall be a maximum of eight feet high and shall be maintained with a vinyl coating and shall be either black or green in color. Furthermore, the fence shall be maintained with a setback from the property line of at least three feet.

Conditions Specific to the Phase 6 Expansion

1. Prior to final site plan approval for the Phase 6 expansion, the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 6 expansion. Such building shall be reasonably consistent, as determined by the Planning Director, with the architectural elevations titled, Prime Outlets Phase 6 expansion, submitted with this SUP application dated, July 6, 2005, and drawn by Gary S. Bowling, Guernsey Tingle Architects.
2. Prior to the issuance of any final Certificate of Occupancy for the Phase 6 expansion, lighting shall be installed for all three entrances from the property onto Richmond Road as shown on the Master Plan. In addition, adequate parking lot lighting shall be installed in the new 43-space parking lot as shown on the Master Plan behind Phase 6 which will be re-stripped from existing parking for buses to parking for cars. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
3. A landscaping plan for the Phase 6 expansion, including foundation landscaping in accordance with James City County Code Section 24, shall be approved by the Planning Director or his designee prior to final site plan approval.
4. Prior to submission of any development plan for the Phase 6 expansion, the applicant shall submit a water and sanitary sewer Master Plan and hydraulic analyses for the expansion space for review and approval by the James City Service Authority (JCSA).

Conditions Specific to the Phases 7 and 8 Expansions

1. Prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a mass transit plan in accordance with Section 25-59(f) of the James City County Code shall be approved by the Planning Director for Prime Retail. The plan, at a minimum, shall include a replacement bus transfer stop for Williamsburg Area Transit, or its successor, currently located in the Ewell Station shopping center. Installation of all bus stops, shelters and other items approved as part of the mass transit plan shall be completed prior to issuance of any temporary or final Certificate of Occupancy for the Phase 7 and 8 expansions.
2. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), the Planning Director shall review and approve the final architectural design of the building(s) prepared as part of the Phase 7 and 8 expansions, including exterior architectural modifications to the existing Ewell Station Shopping Center. Such building shall be reasonably consistent, as determined by the

Planning Director, with the architectural elevations titled, "Prime Outlets Phase 7 and 8 Expansion," submitted with this SUP application dated, February 20, 2006, and drawn by Gary S. Bowling, Guernsey Tingle Architects.

3. Prior to any final site plan approval(s) for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan), a landscape plan including foundation landscaping in accordance with James City County Code Chapter 24, shall be approved by the Planning Director or his designee.
4. Landscape waivers are necessary for the approval of parking and stormwater facilities in the Community Character Corridor landscape area along Richmond Road, as shown on the Master Plan. Such waivers shall be subject to the approval of the Development Review Committee.
5. Landscaping shall be installed or bonded, prior to issuance of any temporary or final Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the entire Richmond Road frontage of the existing and expanded Prime property that exceeds plant material size requirements in Section 24-90 of the James City County Code by 125%. Such landscaping shall be included on the site plan for the final building to be constructed (Building A, B, or C as shown on the Master Plan), and subject to approval by the Planning Director.
6. Landscaping shall be installed or bonded prior to any Certificate of Occupancy for the final building to be constructed (Building A, B, or C as shown on the Master Plan), along the Olde Towne Road frontage that meets current ordinance requirements. Such landscaping shall be included on the site plan for the final building to be constructed, and subject to approval by the Planning Director.
7. Prior to the issuance of any final Certificate of Occupancy for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan) lighting shall be installed for the existing entrances from the property onto Olde Towne Road as shown on the Master Plan. The specific location, adequacy, and design of all lighting fixtures shall be approved by the Planning Director. No lighting fixture shall exceed a height of 30 feet.
8. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to any final site plan approval for the Phase 7 and 8 expansions (Building A, B, or C as shown on the Master Plan). The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote the intent of this condition which is to conserve water and minimize the use of public water resources to the greatest extent possible.
9. Approved site plans for the Phase 7 and 8 expansions shall reflect the following stormwater management facility improvements:
 - a. PC-186 (located along Olde Towne Road): Infiltration capacity shall be added in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;
 - b. PC-124 (located along Olde Towne Road): Shall be retrofitted to improve water quality in accordance with approved James City County Site Plan 110-02, or equivalent measures provided as approved by the Environmental Director;

- c. PC-036 (behind the existing Food Lion): Shall be retrofitted to incorporate water quality treatment as approved by the Environmental Director; and
- d. Pre-treatment measures shall be incorporated into development plans as approved by the Environmental Director.

The sequence of construction shall be approved by the Environmental Director, but under no circumstances shall the aforementioned stormwater facilities be completed later than the first Certificate of Occupancy being issued for the final building to be constructed as part of the Phases 7 and 8 expansions (Building A, B, or C as shown on the Master Plan).

- 10. Stormwater facility PC-055 (along Richmond Road) shall be modified to incorporate water quality and increased water quantity control as approved by the Environmental Director as part of the site plan reflecting improvements to PC-066 and PC-036 as outlined above.
- 11. The existing stormwater management facilities PC-066 and PC-036 serving the property, subject to the limitations hereinafter provided, shall be reconstructed to permit ground level parking of approximately 237 spaces co-located in, atop and around such facility, as generally depicted on the Master Plan. Building A, as shown on the Master Plan, is permitted to be constructed and occupied, provided a parking ratio of at least 1 space per 177 square feet of retail space, consistent with the approved Master Plan, is available to customers on the Ewell Station parcel (not counting construction staging areas) prior to the issuance of any Certificate of Occupancy for Building A, as shown on the Master Plan, and provided the site plan for Building A, as shown on the Master Plan, also reflects all associated parking intended to achieve the aforementioned required parking ratio.

Prior to issuance of any Certificate of Occupancy for Building A, the above referenced stormwater facilities/parking reconstruction shall be completed or surety shall be provided in an amount acceptable to the Environmental Director and County Attorney. Said amount shall include any related engineering costs necessary to produce final approval of plans and to complete construction of said project.

Said stormwater facilities/parking reconstruction shall be completed prior to the issuance of any Certificate of Occupancy for Buildings B or C, as shown on the Master Plan or within twelve months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan, whichever is earlier.

Stormwater facilities/parking reconstruction of PC-066 and PC-036 shall be reflected on a single site plan. Said site plan shall also reflect improvements to PC-055 as described in Condition #10.

Furthermore, the proposed interconnectivity and demolition of a portion of existing Phase I of Prime Retail, and related parking areas, as shown on the Master Plan, shall be complete within six months of any Certificate of Occupancy being issued for Building A, as shown on the Master Plan. The Planning Director may, in writing and in his sole discretion, agree to extend this deadline for no more than six months for good cause shown including, but not limited to, weather delays, unavailability of subcontract labor, or force majeure.

Reconstruction shall be in accordance with all applicable stormwater management ordinances and regulations, and subject to approval by the Environmental Director. Specifically, PC-066 shall be modified to meet the current County requirements for both

water quality and channel protection, and PC-036 shall be modified to incorporate water quality protection. The parking reconstruction shall be implemented unless the Environmental Director determines that it cannot be achieved (a) due to engineering constraints, (b) due to environmental, stormwater management or other regulations, ordinances or laws, or (c) that the reconstruction cannot be achieved using soil-covered RainTank (R) devices and Eco-Stone Pavers or equivalent underground stormwater storage units and pervious cover approved by the Environmental Director.

In the event the parking reconstruction is not implemented as described above, the Applicant shall perform and submit a Parking Study, the methodology and parameters of which are subject to approval of the Planning Director. Said study shall be approved by the Board of Supervisors, upon recommendation of the Planning Commission, prior to any Certificate of Occupancy for the last two buildings to be constructed (Building A, B, or C as shown on the Master Plan). Specific elements of the study shall include: the identification of the existing parking inventory for Prime Outlets at the time of analysis, the occupancy rate of parking inventory for Prime Outlets for identified periods of analysis, an employee parking analysis, and improvement recommendations. Said site plans shall incorporate approved improvement recommendations.

12. The following road improvements were identified in the "Prime Outlets Phases 7 & 8 Traffic Impact Study" prepared by LandMark Design Group and submitted in February 2006 and revised in June 2006. These improvements are submitted to approval by VDOT and the Planning Director, and shall be made prior to the issuance of any Certificate of Occupancy for any of the proposed additional buildings in the Phase 7 & 8 expansions (Building A, B, or C as shown on the Master Plan):
 - a. Install dual exclusive left-turn lanes with 250 feet of storage and 200-foot tapers on westbound Richmond Road at Olde Towne Road.
 - b. Widen southbound section of Olde Towne Road from Richmond Road to first shopping center entrance ("Bowling Alley entrance") to two full-width lanes, creating two receiving lanes for the dual left-turn lanes referenced in condition (a) above. The outside lane will be a right-turn "drop" lane and the inside lane will serve as a through travel lane.
 - c. Install an exclusive left-turn lane with 200 feet of storage and 200-foot-taper on eastbound Richmond Road at Olde Towne Road to accommodate U-turn movement from eastbound Richmond Road to westbound Richmond Road. Install necessary traffic signal equipment to accommodate the U-turn movement with a protected left-turn phase at the intersection, and install appropriate signage, subject to VDOT approval.
 - d. Modify traffic signal timings and necessary traffic signal equipment at the Richmond Road/Olde Towne Road intersection to accommodate proposed lane configurations and identified new traffic movements.
 - e. Modify traffic signal timings along the Richmond Road corridor to optimize the coordinated system from Airport Road to the western signalized entrance to the property.
 - f. Remove sections of asphalt or otherwise modify the existing continuous right-turn lane on eastbound Richmond Road, subject to approval by VDOT and the Planning Director.
13. A Signal Warrant Analysis for the Olde Towne Road/shopping center entrances must be submitted for approval by VDOT and the Planning Director within 18 months of issuance of the demolition permit for the vehicular access through the existing Phase I building, and prior to final site plan approval for the last two buildings to be constructed (Buildings

A, B, or C as shown on the Master Plan). A second Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). In the event a single site plan is submitted and approved for the entire expansion, one Signal Warrant Analysis must be submitted for approval by VDOT and the Planning Director six months after issuance of the final Certificate of Occupancy for the final phase of expansion (Building A, B, or C as shown on the Master Plan). The analyses shall satisfy VDOT Standard Signal Warrant Analysis requirements, subject to approval by VDOT and the Planning Director. Should traffic signal warrants be met, Applicant shall provide traffic signal(s), and necessary traffic signal equipment (including that associated with cross-coordination of traffic signals) at the Olde Towne Road shopping center entrance(s) in a manner acceptable to VDOT and the Planning Director. Furthermore, Applicant shall provide signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) such that the potential traffic signal(s) shall be coordinated with the Richmond Road/Olde Towne Road traffic signal, subject to the approval of VDOT and the Planning Director. Applicant shall also provide traffic signal timing plans (AM, Mid-Day, PM, seasonal peak period, Saturday Mid-Day) for the identified Richmond Road study area traffic signals to best optimize traffic progression, subject to approval of VDOT and the Planning Director. Such signal(s) and coordination improvements shall be guaranteed by surety prior to issuance of the building permit for the final phase of expansion (either Building B or Building C, as shown on the Master Plan).

14. Upon completion of the first building to be constructed (Building A, B, or C as shown on the Master Plan), and the vehicular access through the existing Phase I, and the parking area behind the adjacent hotel, as shown on the Master Plan, Applicant shall provide an evaluation of potential access driveway closures or implementable access management strategies along Richmond Road and Olde Towne Road. Said evaluation shall be subject to the approval of VDOT, the Planning Director, and the Development Review Committee prior to any Certificate of Occupancy for the final phase of expansion (Buildings B and C as shown on the Master Plan). Such improvements shall be guaranteed by surety prior to issuance of a building permit for the final phase, as described above.
15. Approval of this SUP shall not invalidate the Ewell Station shopping center Phase 2 site plan titled "SP-110-02." SP-110-02 shall be invalidated when construction is commenced pursuant to any site plan associated with this SUP. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

Conditions Applicable to all Phases of Prime Retail

1. This SUP shall be valid for the approximately 81,000-square-foot expansion of Prime Retail Phases 7 and 8. The total gross building area shall not exceed 518,264 sq. ft. as shown on Master Plan Titled "Prime Retail Phases I-VIII" dated June 21, 2006, and prepared by LandMark Design Group (The "Master Plan").
2. Development of the site shall be generally in accordance with the above-referenced Master Plan and any questions as to compliance shall be determined by the Development Review Committee (DRC). Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development. This SUP and these conditions shall supersede the existing conditions of approval of James City County Case No. SUP-25-05 and prior SUP conditions affecting the Prime Retail development.

3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines (with the exception of entrance lighting required herein). The use of temporary flood lighting shall be prohibited unless written approval is obtained by the Planning Director for use during a special event.
4. Prior to any final site plan approval for future expansion, all new and existing dumpsters shall be (a) in locations approved by the Planning Director, and (b) screened by landscaping or fencing as approved by the Planning Director.
5. Prior to issuance of any Certificate of Occupancy for any expansion, the applicant shall complete the following: (1) internal driveways shall be designated as "One Way" traffic only, where applicable; (2) fire lane shall be properly marked in accordance with the Virginia Fire Code; and (3) the applicant shall install signage for the rear parking lots and service drives clearly indicating the existence of additional parking spaces for customers and employees. Prior to installation of any new signage, the applicant shall prepare and submit a comprehensive signage plan for review and approval by the Planning Director.
6. If construction has not commenced on this project within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
7. This SUP is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

Mr. McGlennon made a motion to reconsider Condition No. 11 at the July 11, 2006, Board meeting to allow flexibility for Prime Retail to build one or more buildings while the structured parking was being engineered.

Mr. Goodson asked how to go about giving staff direction on this application.

Mr. Rogers stated the reconsideration was to allow for flexibility for one or more buildings to be built while ensuring the structured parking would be completed.

Mr. Harrison asked if the single large building would be built, or the two smaller buildings would be built prior to constructing the structured parking.

Mr. Goodson indicated that would be the guidance the Board would give to staff.

Mr. Rogers stated staff is looking for how much square footage may be built and he believed the developer needed to be consulted.

Mr. McGlennon asked how much square footage would be open on the completion of the larger building.

Mr. Horne stated it would be 53,000 additional square feet.

Mr. McGlennon asked how much parking was associated with the development.

Mr. Steve Romeo, engineer for the applicant, stated it was 5.9 parking spaces per 1,000 square feet.

Mr. Rogers stated there was a 6,000-square-foot reduction that needs to be eliminated to allow interconnectivity and access to the back of the buildings.

Mr. McGlennon stated he would like to make sure there is more parking than required by the ordinance prior to the new facility being constructed.

Mr. Harrison asked if one of the entrances would be closed when the new building opened.

Mr. Bradshaw stated that was part of a later traffic study and would not be required to be closed when the building opened.

Mr. Goodson stated the applicant's request was to move forward with the larger building, and the guidance was that the building would not be occupied until the structured parking was in place.

Mr. McGlennon stated no additional construction could take place before the parking was in place.

Mr. Horne stated the parking that would be provided for the additional buildings would be significantly above the ordinance requirements.

Mr. Greg Davis asked for confirmation, that the reconsideration was limited to condition No. 11 related to the timing of construction of parking.

Mr. Rogers stated that was correct, but there may be a provision to provide bonding to Item No. 11, that may be required in order to provide a Certificate of Occupancy and the crossover may be addressed as well.

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

2. Case No. ZO-07-05. Zoning Ordinance Amendments - Pedestrian-Oriented Signage in MU

Ms. Melissa C. Brown, Zoning Officer, stated that the development community working in the New Town Mixed Use District has requested several changes to the current provisions of Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs. The changes were requested due to the special nature of New Town (and possible future similar developments) and the unique opportunities and challenges that this type of development fosters.

The intention in New Town is to create a pedestrian-oriented development, with "higher densities and a broader spectrum of land uses," as defined in the Comprehensive Plan. The Planning Division recognized the need to amend the current Exterior Sign Ordinance to allow for types of signage that would support this development, and future, similar Mixed Use developments like it. Currently, permitted signs are geared toward helping motorists locate a business rather than pedestrians. In contrast, pedestrians looking for a business in urban areas have different needs due to more limited sight distances and the location of buildings behind street trees. To facilitate the development of a suitable amendment to the current Ordinance, the Planning staff worked with the senior Development Management staff, the planning departments of other localities, the New Town Design Review Board, and the James City County Attorney's Office. Site visits were conducted and documented to provide examples of appropriate signage for pedestrian-oriented Mixed Use development.

Staff found the changes to the Zoning Ordinance contained in the proposed amendment will help facilitate and enhance the types of development being sought in New Town and in similar projects within James City County by allowing for decorative banners to be displayed on light poles, which display the name of the shopping center or location.

At its meeting on June 5, 2006, the Planning Commission voted 4-2 to approve the ordinance amendment.

Staff recommended adoption of the ordinance amendment.

Mr. Harrison asked why the smaller businesses were not given the same amount of equity for visibility.

Ms. Brown stated the definition outlined in the Planning Commission minutes was deemed appropriate and left unchanged through several levels of review. Ms. Brown also indicated the zoning ordinance amendment would affect both shopping centers and mixed-use developments, although New Town was the only mixed-use development that would currently be affected, but there were small businesses that would benefit from the ordinance amendment, and no businesses would be granted special permission for these banners. Ms. Brown explained that the banners would be permitted to display the name of the shopping district, such as "New Town" or "Monticello Marketplace" rather than specific tenants of the District.

Mr. McGlennon asked if small businesses would have the poles on which to mount banners.

Ms. Brown stated Monticello Marketplace is an example of a district wherein small businesses would have the availability of light fixtures for signage.

Mr. McGlennon asked if this would be available for small businesses not associated with a center.

Ms. Brown stated that small businesses that are not part of a shopping center would not be permitted, as the banners should be in accordance with the size of the development.

Mr. Icenhour stated pole-mounted banners should not identify the tenants.

Ms. Brown stated that seasonal or holiday banners were permitted, as long as they do not advertise or state the location and name of the shopping center.

Mr. Icenhour asked if the shopping center logo would be allowed on the signs.

Ms. Brown stated this was correct.

Mr. Goodson opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the ordinance.

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

3. An Ordinance to Amend and Reordain Chapter 2, Administration, Article V. Other Boards and Commissions, Section 2-17, Industrial Development Authority created, of the James City County Code, to reflect the name change of the Industrial Development Authority

Ms. Jennifer C. Lyttle, Assistant County Attorney, stated the ordinance would update the County Code for consistency with a resolution passed by the Board, which renamed the Industrial Development Authority to the Economic Development Authority.

Mr. Goodson opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the ordinance.

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

4. An Ordinance to Amend and Reordain Chapter 7, Enterprise Zone, Section 7-5, Local Enterprise Zone Incentives and Section 7-6, Application, of the James City County Code, to clarify the procedure and timeline for the application of local enterprise zone incentives

Mr. Doug Powell, Community Services Manager, stated the ordinance amendment required businesses that receive Local Enterprise Zone incentives to submit a grant renewal application by March 31 of each year and within two years of the submittal deadline or it would forfeit these incentives.

Mr. McGlennon asked to clarify that this sets a deadline for the application.

Mr. Powell stated this was correct.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, thanked Mr. Icenhour for commenting on long-term impact of Board approvals.

I. PRESENTATION – Dana Dickens, Hampton Roads Partnership - Year of Regional Citizenship

Mr. Dana Dickens gave a brief presentation on behalf of the Hampton Roads Partnership, made up of the mayors and chairs of 17 jurisdictions, and its mission to make Hampton Roads more competitive and more interdependent. Mr. Dickens congratulated the County on its newest business partner, Avid Medical, and recognized that when James City County prospered, the Hampton Roads region prospered. Mr. Dickens announced that the Hampton Roads Partnership declared April 26, 2006, to April 26, 2007, the Year of Regional Citizenship and called on Hampton Roads communities to reflect on its shared history and

interdependence, seek reliance, diversity, and a higher quality of life. Mr. Dickens encouraged projects which brought together local government officials to look for opportunities for alliances. Mr. Dickens highlighted that the significance of April 26 signified that was the day three ships sailed from England landing at Fort Story, the beginning of this country's first region. Mr. Dickens presented the Board with a Proclamation signed by the mayors and chairs of the region, including Mr. Goodson that declared April 26, 2006-April 26, 2007 to be the Year of Regional Citizenship.

Mr. Goodson thanked Mr. Dickens on behalf of the Board for his efforts on behalf of the Hampton Roads Partnership.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner congratulated the Fair Committee for the success of the Fair.

Mr. Wanner read a press release from the Office of Governor Timothy M. Kaine announcing the expansion of Avid Medical in James City County by investing \$7.9 million, doubling its 90,000-square-foot facility at Stonehouse Commerce Park to create approximately 300 new jobs. Mr. Wanner stated the Virginia Economic Development Partnership, the James City County Office of Economic Development, the James City County Economic Development Authority, and the James City Service Authority worked together to steer the project for Virginia, and the Governor approved a \$700,000 grant from the Governor's Opportunity Fund for the project. Mr. Wanner stated that Mr. Goodson was quoted in the announcement. Mr. Wanner stated that this was evidence that James City County was open for business.

Mr. Wanner stated there needed to be a JCSA meeting, Williamsburg Area Transport (WAT) meeting, and upon completion of the Board Requests and Directives, there would be a Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, for the consideration of personnel matters, the appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, for the consideration of a legal matter to consult with legal counsel requiring the provision of legal advice. Mr. Wanner suggested, following the Closed Session, the Board adjourn until July 11, 2006, at 7 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw commented that his potatoes won 2nd place at the County Fair.

Mr. McGlennon asked about a report on burning regulations in the County.

Mr. Wanner stated he would follow up on this matter.

Mr. Icenhour stated he would like to revisit the open burning issue.

Mr. Goodson congratulated the James City County Parks and Recreation Division for winning the 2006 NACo award for the Inclusion Program that looks at all programs available and ensures that many of them are accessible to the disabled. They will be recognized at the National Association of Counties National Conference.

Mr. Goodson recessed the Board for meetings of the JCSA and WAT Boards of Directors.

Mr. Goodson reconvened the Board at 9:15 p.m.

L. CLOSED SESSION

Mr. McGlennon made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, for the consideration of personnel matters, the appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, for the consideration of a legal matter to consult with legal counsel on a specific legal matter requiring the provision of legal advice.

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

At 9:17 p.m., Mr. Goodson convened the Board into Closed Session.

At 10:13 p.m., Mr. Goodson reconvened the Board into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(7), to consider a legal matter to consult with legal counsel on a specific legal matter requiring the provision of legal advice.

No appointment was made to the Economic Development Authority.

Mr. Harrison made a motion to appoint Mr. Michael E.G. Kirby to the Williamsburg Area Arts Commission, term to expire June 30, 2009.

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


The Board and staff briefly discussed a legal matter involving the school contract negotiation.

M. ADJOURNMENT

Mr. McGlennon made a motion to adjourn until 7 p.m. on July 11, 2006.

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

At 10:20 p.m., Mr. Goodson adjourned the Board until 7 p.m. on July 11, 2006.


Sanford B. Wanner
Clerk to the Board

062706bos.min

ADOPTED

JUN 27 2006

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

ORDINANCE NO. 192A-3

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 7, ENTERPRISE ZONE, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 7-5, LOCAL ENTERPRISE ZONE INCENTIVES; AND SECTION 7-6, APPLICATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 7, Enterprise Zone, is hereby amended and reordained, by amending Section 7-5, Local enterprise zone incentives; and Section 7-6, Application.

Chapter 7. Enterprise Zone

Section 7-5. Local enterprise zone incentives.

(a) *Business real estate improvement/rehabilitation grant.* Qualified firms located within the enterprise zone may be eligible to receive from the ~~industrial~~ *economic* development authority a five-year declining grant as an incentive to the firm to invest in the new construction or rehabilitation of commercial and industrial facilities.

(b) *Machinery and tools and/or business personal property investment grant.* Business firms qualifying under the capital investment criteria may apply to the ~~industrial~~ *economic* development authority for a five-year declining grant to compensate the firm for the amount attributable to the increased capital investment.

(c) *Waiver of permit fees.* The county shall waive permit fees for site plans, subdivisions, erosion and sedimentation control, land disturbing activities, and building, electrical, plumbing and HVAC approvals for the following:
Ordinance to Amend and Reordain

(1) Capital investments of business firms which meet the capital investment criteria;
and

(2) Rehabilitation of residential structures where the assess value does not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

(d) *JCSA sewer transmission fees.* Business firms qualifying under the capital investment criteria shall be eligible for a reduced sewer transmission fee as provided in the James City Service Authority Regulations Governing Utility Regulations, as amended.

(e) *Use of well water.* Business firms qualifying under the capital investment criteria shall be allowed to use water from permitted wells within the zone as process water.

(f) *Waiver of administrative fees.* Business firms qualifying under the capital investment criteria shall be eligible to apply to the ~~industrial~~economic development authority for a waiver of administrative fees involved in bond applications with the exception of any legal fees.

(g) *Waiver of consumer utility tax.* Business firms qualifying under the capital investment criteria shall be eligible for a 100 percent waiver of the county's consumer utility tax for five tax years beginning the tax year of application approval.

(h) *Employee-based tax incentive.* Business firms qualifying under the job creation criteria shall be eligible for a grant from the county's ~~industrial~~economic development authority of \$400.00 per employee who is a resident within the zone and \$200.00 per employee who is a resident of the county outside the zone. This incentive shall be payable for two tax years, at the end of each year, beginning the tax year of application approval. After the two-year period, a business firm shall be eligible for additional incentives per employee in the third year only if the business firm expands its employment 25 percent above its base employment established at the end of second year.

(i) *Day care grant.* Business firms qualifying under the job creation criteria shall be eligible for a one-time matching grant from the county's ~~industrial~~economic development authority of up to

\$25,000.00 to be used with funds of an equal or greater amount from the business firm to establish or enhance a day care/preschool facility within the enterprise zone.

(j) *Residential real property rehabilitation tax exemption.* An owner of a residential structure within the zone shall be eligible for a five-year declining tax on the increased assessed real property value resulting from rehabilitation of the residential structure which qualifies under the provisions of Virginia Code section 58.1-3220, as amended. In the tax year after completion of rehabilitation, renovation or replacement, the property owner shall be eligible for a 50 percent exemption from the real property tax increase due to the increased assessed value. The exemption shall be 40 percent, 30 percent, 20 percent and ten percent for each successive tax year. In order to be eligible for this tax exemption, the initial assessed value of the residential structure must not exceed the 1991 base value of \$81,500.00 multiplied by the rate of inflation using the Consumer Price Index, not to exceed five percent in any one year.

Section 7-6. Application.

(a) Any business firm seeking to receive local enterprise zone incentives shall make application to the enterprise zone administrator on forms provided by the enterprise zone administrator. The enterprise zone administrator shall then forward the application with a recommendation to the ~~industrial~~ economic development authority which will then determine whether the applicant will be awarded a grant or grants from the ~~industrial~~ economic development authority. The enterprise zone administrator may require the business firm to provide documentation establishing that said business firm has met the requirements for the receipt of local enterprise zone incentives. Failure to provide requested documentation shall result in a denial of the business firm's application for local incentives. ~~The enterprise zone administrator may require the business firm to provide additional documentation from time to time to assure that said business firm retains the requisite qualifications for the receipt of local enterprise zone incentives.~~ In the event that any business firm shall fail to *make timely application as outlined in paragraph (b) and/or fails to* maintain the requisite qualifications for the receipt of local enterprise zone incentives, the enterprise zone administrator shall inform the business firm in writing that

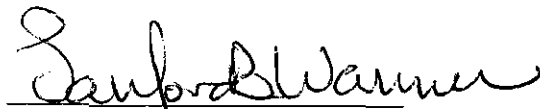
it is no longer qualified for the receipt of local incentives and shall send a copy of said notice to the county administrator and ~~Industrial~~ Economic Development Authority Chairman.

(b) Effective July 1, 2006, applications must be submitted to the enterprise zone administrator within the first two years of said business firm achieving the qualification standards set forth in county code section 7-4. Any business firm which has been operating or located within the enterprise zone for two years or more, as of July 1, 2006 and has achieved the qualification standards set forth in county code section 7-4, but has not applied for the local enterprise zone incentives must make an application to the enterprise zone administrator no later than December 31, 2006, to remain eligible for the local enterprise zone incentives. Once a business firm is awarded a grant or grants from the economic development authority, the business firm shall then provide yearly documentation to the enterprise zone administrator, no later than March 31 of each successive year after the awarded grant or grants, to assure that said business firm has retained the requisite qualifications for the receipt of local enterprise zone incentives.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
ICENHOUR	AYE
MCGLENNON	AYE
BRADSHAW	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, on this 27th day of June, 2006.

JUN 27 2006

ORDINANCE NO. 55A-35

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, OTHER BOARDS AND COMMISSIONS, SECTION 2-17, INDUSTRIAL DEVELOPMENT AUTHORITY CREATED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-17, Industrial Development Authority created.

Chapter 2. Administration

Article V. Other Boards and Commissions

Sec. 2-17. ~~Industrial~~Economic development authority created.

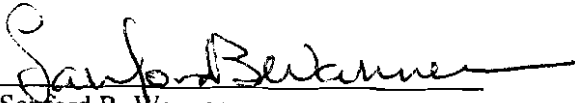
(a) There is hereby created a political subdivision of the Commonwealth of Virginia with such public and corporate powers as are set forth in the Industrial Development and Revenue Bond Act (chapter 49, title 15.2 of the Code of Virginia), including such powers as may hereafter be set forth from time to time in that act.

(b) The name of the political subdivision of the commonwealth created hereby shall be the "~~Industrial~~Economic Development Authority of the County of James City, Virginia." In establishing such an ~~industrial~~economic development authority, it is the express goal of the board of supervisors of James City County to encourage the authority to pursue and comply with the goals and objectives as set forth in the comprehensive plan, County of James City, adopted October 1975, as amended, and particularly the economic development component thereof.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, SECTION 24-66, DEFINITIONS; SECTION 24-70, FREESTANDING SIGNS; SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; AND SECTION 24-75, PROHIBITED SIGNS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs, is hereby amended and reordained by amending Section 24-66, Definitions; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs; and Section 24-75, Prohibited signs.

Chapter 24. Zoning
Article II. Special Regulations
Division 3. Exterior Signs

Section 24-66. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Blade sign. A two-sided flat sign that projects more than 18 inches from, and that is mounted perpendicularly to, a vertical building wall. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.

Shopping center. A group of three or more commercial establishments having a minimum combined total square footage of 25,000 square feet, planned, constructed, and/or managed as a single entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

Section 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(d) Sign lighting.

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. shall be signs ~~composed of~~:

- a. ~~composed of~~ back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
- b. ~~shall be~~ externally illuminated either by ground-mounted horizontal light bars, ~~light strips~~ or ground-mounted spotlights in such a way that bulbs, lenses, or globes shall not be visible from the right of way. ~~The ground-mounted lights shall be concealed by landscaping. spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.~~

Section 24-73. Special regulations for certain signs.

(i) Setback reductions in mixed-used districts. In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate sight distance, and good visibility is maintained for all motorists and pedestrians traveling the intersection, the zoning administrator or his designee may permit setbacks of less than 5 feet on any lot in a mixed-used district.

(j) Blade signs in mixed-use districts. Blade signs are permitted in mixed-use districts, as long as the project is regulated by a Design Review Board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the Board of Supervisors. Blade signs must adhere to the following limitations and requirements:

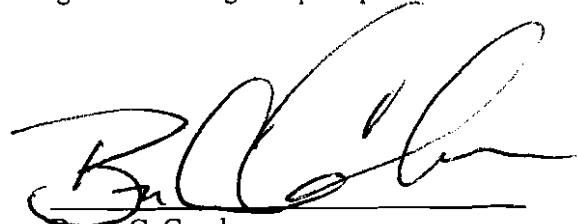
- (1) There shall be no more than one sign per public entrance to any given building.
 - (2) The sign(s) shall be positioned at the public entrance(s) of the building.
 - (3) An individual blade sign shall be no more than 12 square feet in area.
 - (4) The total square footage of all blade signs and all building face signs shall not exceed one square foot of signage per linear foot of store frontage, with a maximum of 60 square feet. Only one side of a double-faced blade sign shall be included in a computation of sign area.
 - (5) The sign shall be mounted such that the bottom edge of the sign is not less than eight feet from the finished grade directly underneath it.
 - (6) Blade signs shall be unlit, or externally illuminated in such a way that bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.
 - (7) Blade signs that extend over a public right-of-way are subject to the prior approval of the controlling public entity. If approved, the developer shall provide positive proof of insurance for each sign mounted over the public right-of-way, or an alternate liability instrument deemed suitable by the controlling public entity.
 - (8) All blade signs shall obtain the prior approval of the design review board for the mixed-use project before they are installed.
- (k) Pedestrian-scale directional signs in mixed-use districts: Small, free-standing signs designed to direct pedestrian traffic to locations of interest within the development may be placed in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the Board of Supervisors. Pedestrian-scale directional signs must adhere to the following limitations and requirements:

- (1) Such individual signs shall be no more than 16 square feet in total area, and may not have more than two faces. Only one side of a double-faced sign shall be included in a computation of sign area;
 - (2) The top edge of a pedestrian-scale directional sign shall be no more than seven feet above finished grade;
 - (3) Any lighting that is used shall be externally mounted and either supported solely from the sign structure, or ground-mounted. The ground-mounted lights shall be concealed by landscaping. Lighting shall be directed only onto the sign's face. Bulbs, lenses, and globes shall not be visible from the right-of-way and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
 - (4) Signs shall generally include elements such as the name and logo of the overall development, maps, and the business names, logos, and directional information for businesses that are located within the development;
 - (5) The number, relative positioning, and placement of each sign in a given mixed-used development shall be subject to the prior approval of the design review board and the planning director, or his designee.
- (l) Pole-mounted banners. Seasonal and/or holiday banners that are affixed to light poles that generally identify a season and/or holiday and advertise or promote the development as a whole (by including only the development name and/or logo), rather than individual enterprises, are permitted, subject to the prior approval of the Zoning Administrator, or his designee. Banners shall be mounted such that the bottom edge of any given banner is not less than eight feet from the finished grade directly beneath it. Banners are permitted only in shopping centers, (as defined in section 24-66), or in mixed-use districts.

Section 24-75. Prohibited signs.

The following signs are specifically prohibited:

(11) Pennants, banners, flags and other displays used for marketing or advertising except as provided in Sections 24-73 (b), ~~and 24-73 (d)~~.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
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Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of June, 2006.

Zoning.ord