

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF MAY 2010, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
 Mary Jones, Vice Chair, Berkeley District
 Bruce C. Goodson, Roberts District
 James O. Icenhour, Jr., Powhatan District
 John J. McGlennon, Jamestown District

M. Douglas Powell, Assistant County Administrator
 Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

Mr. Kennedy noted the recent passing of former Planning Commissioner George Billups.

D. PLEDGE OF ALLEGIANCE – Mia Nesselrodt, a tenth-grade student at Warhill High School, led the Board and citizens in the Pledge of Allegiance.

Mr. Kennedy recognized Planning Commissioners Jack Fraley and Chris Henderson in attendance.

Mr. Kennedy notified the public that the applicant had requested an indefinite deferral for Case No. Z-0003-2008/MP-0003-2008, the Candle Factory. The case would not be heard at this meeting.

E. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on discomfort with the bond rating agencies; numerous foreclosures; and unkempt property at 101 Indian Circle.

2. Mr. Jack Fowler, 109 Wilderness Lane, commented on blight and unkempt properties in the County; road shoulder degradation on Rochembeau Road near Croaker Road; and lack of funding for road repairs.

F. CONSENT CALENDAR

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

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

1. Minutes –
 - a. May 5, 2010, Budget Work Session
 - b. May 11, 2010, Regular Meeting
2. Appointment – 2010 County Fair Committee

RESOLUTION

APPOINTMENT – 2010 COUNTY FAIR COMMITTEE

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

WHEREAS, the 2010 County Fair will be held Thursday, June 24 through Saturday, June 26.

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 2010 James City County Fair Committee for the term of June 24, 2010, through June 26, 2010.

3. Request to Change the Name of the Colonial Services Board to Colonial Behavioral Health

RESOLUTION

REQUEST TO CHANGE THE NAME OF THE COLONIAL SERVICES BOARD (CSB) TO

COLONIAL BEHAVIORAL HEALTH

WHEREAS, pursuant to Chapter 10 of Title 37.1 of the Code of Virginia of 1950, as amended, subsequently repealed and replaced by Chapter 6 of Title 37.2 of the Code of Virginia of 1950, as amended, James City County, York County, and the Cities of Poquoson and Williamsburg jointly formed a community services board to provide mental health, mental retardation and substance abuse services within the aforesaid Cities and Counties, which community services board, pursuant to the resolutions of the founding localities establishing the community services board and the subsequent resolutions of such localities reaffirming its existence, is variously known as both “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James City County and Poquoson;” and

WHEREAS, the community services board thus established has determined that there is confusion concerning its name and further, that neither name used in the establishing or reaffirming resolutions of the localities adequately describes to the public the services the community services board currently provides and accordingly, has requested that the name of the community services board be changed from “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James

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City County and Poquoson” to a single name, “Colonial Behavioral Health,” effective July 1, 2010, in order to provide a single legal name and more accurately describe to the public the services the community services board provides.

NOW, THEREFORE, BE IT RESOLVED that upon passing of a resolution of the Councils of the Cities of Poquoson and Williamsburg and the Boards of Supervisors of the Counties of James City and York approving such name change, the name of such community services board shall be changed from “Colonial Services Board” and “The Colonial Mental Health and Mental Retardation Services Board For Williamsburg, York County, James City County and Poquoson” to “Colonial Behavioral Health.”

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County hereby approves the change of the name of the community services board to Colonial Behavioral Health as of July 1, 2010.

4. County/Golf Course Agreement for Inspection and Maintenance of a County Controlled Grade Separation Structure for The Tradition Golf Club at Stonehouse

RESOLUTION

COUNTY/GOLF COURSE AGREEMENT FOR INSPECTION AND MAINTENANCE

OF A COUNTY CONTROLLED GRADE SEPARATION STRUCTURE

FOR THE TRADITION GOLF CLUB AT STONEHOUSE

WHEREAS, an agreement is required to address the legal requirements of the Virginia Department of Transportation (VDOT) to accept the maintenance responsibility for a County-controlled grade separation structure, specifically a golf cart path tunnel under a secondary road in the Stonehouse subdivision; and

WHEREAS, in order to induce the County to enter into an inspection and maintenance agreement with VDOT, The Tradition Golf Club at Stonehouse, LLC (“Club”), the owner of the property served by the controlled grade separation structure, is willing to enter into an agreement with the County to assume any maintenance liability the County may have for the controlled grade separation structure; and

WHEREAS, the agreement with the Club protects the interest of the County concerning liability for the controlled grade separation structure.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute an agreement on behalf of the County with the Club for the inspection and maintenance of a controlled grade separation structure, specifically a golf cart path tunnel in the Stonehouse subdivision.

BE IF FURTHER RESOLVED that the County Administrator is hereby authorized and directed to enter into an agreement on behalf of the County with VDOT for the inspection and maintenance of a controlled grade separation structure, a golf cart path tunnel in the Stonehouse subdivision.

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G. BOARD CONSIDERATION

1. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Kennedy noted that the applicant has requested indefinite deferral for this item.

H. PUBLIC HEARINGS

3. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communications Facility

Mr. Kennedy noted that a deferral was requested by the applicant and asked if anyone would like to speak to this matter as the Public Hearing was still open.

As no one wished to speak to this matter, Mr. Kennedy continued the Public Hearing.

1. Case No. SUP-0002-2010. CVS and Food Lion at Soap and Candle Factory Site

Ms. Sarah Propst, Planner, stated that the application remained unchanged since the last meeting.

Mr. Icenhour asked Mr. Trant, Kaufman and Canoles, attorney for the applicant, about the Candle Factory site and the operation of the property.

Mr. Trant stated that his client was involved with the property that was subject to the Special Use Permit (SUP), so he had no formal relationship with the other parts of the property.

Mr. Icenhour stated he felt this site was a major mixed-use site at an arterial intersection and stated his concern for future projections of use for the site.

Mr. Trant stated he understood the residual Candle Factory property was in active use for various warehousing activities. He noted that he had continued to negotiate with the residual property owner for investment of infrastructure to maintain consistency with his client's development. He stated that he and his client had become comfortable with the potential future of the property.

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

Mr. Goodson made a motion to adopt the resolution. Mr. Goodson stated that though the other part of the property was not able to be considered, he felt that since the application was in compliance with the Comprehensive Plan, the Board should move forward on this item.

Mr. Icenhour asked staff if the CVS and Food Lion were both covered under one SUP.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the requirement for an SUP was because of the CVS drive-through and square footage.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the requirement for an SUP for the Food Lion was due to the square footage and traffic generation.

Ms. Propst stated that was correct.

Mr. Icenhour commented on mixed-use standards for major thoroughfares, designed to maximize the economic development potential for these areas, in relation to the Business Climate Task Force study, which prescribed levels of services provided by businesses. He commented that he was unsure if the businesses in the development would maximize the economic development potential with higher-level jobs and industries. He noted that two grocery stores would be located across the street from each other and expressed his concern about the percentage of impervious cover on the property and inability to internally demonstrate the level of impervious cover. He stated his opposition to this case. He noted his concern about piecemeal development of this property.

Mr. Goodson noted that the idea of higher-level jobs and industries included heavy manufacturing, which he did not believe would be appropriate for this highly visible site. He stated this property allowed for a great deal of frontage and visibility for commercial operations.

Mr. Icenhour stated that he would not suggest heavy manufacturing in this area, but rather other types of businesses that meet similar traits. He stated there was specific reference to mixed-use areas near highway interchanges.

Mr. Kennedy stated that he did not believe a change in usage would reduce the level of impervious cover. He stated concern for the piecemeal development of the property and that he would have preferred to see a master plan for the entire property. He stated he sees this as a revitalization and redevelopment of a piece of property. He stated his concern about whether or not this development was a necessity. He stated he believed there would be more activity on the parcel and highlighted the environmental benefits of the project and his support for the case.

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

RESOLUTION

CASE NO. SUP-0002-2010. CVS AND FOOD LION AT

SOAP AND CANDLE FACTORY SITE

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. David Todd has applied on behalf of The Rebkee Company for an SUP to allow for the construction of a drive-through pharmacy/retail store on an approximately 1.8-acre parcel and a grocery store on an approximately 4.54-acre parcel of land zoned M-1, Limited Business/Industrial, District; and

WHEREAS, the proposed development is shown on a plan prepared by Kimley-Horn and Associates, Inc. dated March 16, 2010, (the "Master Plan") and entitled "CVS and Food Lion Master Plan"; and

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WHEREAS, the property is located at 7521 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2321100001C (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on April 7, 2010, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0002-2010, as described herein with the following conditions:

1. **Master Plan:** This SUP shall be valid for the construction of an approximately 13,600-square-foot, one-story-high, drive-through pharmacy/retail store building (the "CVS" store) and an approximately 34,928-square-foot grocery store building (the "Food Lion" store). The grocery store building may have a possible future expansion of approximately 7,000 square feet for the grocery store, or additional shop space. The property is located at 7521 Richmond Road and further identified as James City County Tax Map Parcel No. 2321100001C (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "CVS and Food Lion Master Plan," prepared by Kimley-Horn and Associates, date-stamped March 16,, 2010, (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. **Architectural Review:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the final building elevations and architectural design for the CVS and the Food Lion. Such buildings shall be reasonably consistent, as determined by the Planning Director, or his designee, with the CVS architectural elevations titled "CVS No. 75584 James City County, VA" and dated January 13, 2010, and the Food Lion architectural elevations titled "Food Market-Intersection of Rt. 60 and Croaker Road" dated February 2, 2010, submitted with this SUP application, and prepared by The Rebkee Company.
3. **Free-Standing Sign:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve the design and location of the ground-mounted signs for the Property for consistency with the Norge Community Character Area, as described in the James City County Comprehensive Plan. The sign base shall be made of brick and the colors and materials shall be similar to the CVS and Food Lion buildings.
4. **Dumpsters/HVAC Units:** All heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing. Dumpsters shall be screened from view by a brick enclosure (exclusive of doors). All screening devices must be approved by the Planning Director, or his designee, prior to final site plan approval.
5. **Water Conservation:** The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation

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and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

6. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the "Impoundments"), or water taken from an underground cistern, may be used for irrigating common areas on the Property (the "Irrigation"). In no circumstances shall the JCSA public water supply be used for Irrigation, except as otherwise provided by this condition. If the owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.
7. **Subdivision:** Prior to approval of the Food Lion parcel subdivision plat, evidence must be provided to the County that JCSA has the ability to connect waterlines from the fire hydrant on the southeast corner of the parcel located at 7521 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 2321100001C to the parcel directly to the south, located at 7551 Richmond Road and further identified as James City County Real Estate Tax Map No. 2321100001D, in perpetuity.
8. **BMP Discharge:** Overflows from any proposed Best Management Practices (BMPs) shall discharge to an adequate channel in accordance with State Minimum Standard No. 19 and shall not be conveyed through any of the adjacent parcels without an off-site drainage easement. All associated easements shall be of an appropriate width to permit access for maintenance of the channel and any associated appurtenances such as outlet protection, flow control devices, channel linings, etc. Said easement shall be in place prior to the issuance of a Land Disturbing Permit.
9. **Landscape Plan:** Prior to final site plan approval, the Planning Director, or his designee, shall review and approve a landscape plan for this development. The landscape plan shall meet all applicable zoning ordinance requirements and shall include at a minimum: (i) enhanced landscaping within the northern 50-foot landscape buffer along Richmond Road, (ii) enhanced landscaping within the western 30-foot landscape buffer along Croaker Road, (iii) enhanced landscaping along the southern property line. Enhanced landscaping is hereby defined as 125 percent of the size requirements of the James City County Landscape Ordinance.
10. **Impervious Coverage:** Prior to final site plan approval, the applicant must demonstrate compliance with the provisions of Section 23-9(b)(1)(b) of the County's Chesapeake Bay Preservation Ordinance. Demonstration of equivalent water quality will be through compliance with guidelines established by the Environmental Director.
11. **Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director, or his designee, which indicates no glare outside the property lines. All light poles

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shall not exceed 20 feet in height unless otherwise approved by the Planning Director, or his designee, prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.

12. **Internal Traffic Signage Plan:** The applicant shall include along with the materials submitted as part of the site plan review process for this development, an internal signage plan indicating the location of internal traffic signs and the orientation of vehicular flow within the Property. The internal signage plan shall be reviewed and approved by the Planning Director, or his designee, concurrently with the site plan submission for this project.
13. **Roadway Improvements:** Prior to issuance of a Certificate of Occupancy (CO) for the Food Lion, the road improvements listed below shall be constructed or bonded in a manner acceptable to the County Attorney:
 - a. At the intersection of Richmond Road (U.S. Route 60) and Croaker Road (State Route 607):
 - (i) The northbound approach shall include one exclusive left-turn lane with 200 feet of storage and a 100-foot taper;
 - (ii) An eastbound right-turn lane with a 200-foot taper must be provided;
 - (iii) The eastbound left-turn lane shall be lengthened to 200 feet of storage and a 200-foot taper;
 - (iv) The westbound left-turn lane shall be lengthened to 300 feet of storage and a 200-foot taper.

Prior to issuance of a CO for the CVS, the road improvements listed below shall be completed at the following intersections:

- b. At the right-in and right-out entrance to the development from Richmond Road (U.S. Route 60):
 - (i) The existing entrance into the Candle Factory complex from Richmond Road will be relocated to 430 feet east of the Richmond Road Croaker Road intersection; and
 - (ii) A right-turn lane shall be provided, with 100-feet of storage and a 200-foot taper on eastbound Richmond Road shall be provided at this entrance.

The applicant shall construct westbound dual left-turn lanes on Richmond Road and all associated Virginia Department of Transportation (VDOT) requirements (which includes a receiving lane) at the intersection with Croaker Road upon the request of the County or VDOT but no later than April 7, 2017. The applicant shall submit a traffic impact study to the County and VDOT within three years of the date of approval of this SUP to determine the construction timing of the dual left-turn lanes, unless a study is required by VDOT prior to that date. The submission of the traffic impact study may be delayed upon request and approval of the Director of Planning and VDOT. This request must demonstrate that the dual left-turn lanes are not warranted due to development timing.

14. **Shared Access Easement:** Prior to issuance of a CO for either the CVS or the Food Lion, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easements have been obtained and recorded, as applicable, allowing vehicular access to the

Property. This includes the entrance being relocated 430 feet east of the intersection of Croaker Road (Route 607) and Richmond Road (U.S. Route 60), off Richmond Road, and the existing entrance located across from Croaker Road.

15. **Church Entrance Realignment:** Prior to the issuance of a CO for the Food Lion the entrance to the Crosswalk Community Church must be realigned with the proposed entrance to the Food Lion as shown on the Master Plan. The realignment must not prevent access to the church and should not pose any safety risk to visitors of the church.
16. **Bike Lane:** Prior to issuance of a CO for the CVS, a VDOT standard shoulder bike lane along the front of the Property adjacent to Richmond Road (U.S. Route 60) shall be provided. This bike lane shall be depicted in the site plan for the Property.
17. **Sidewalk:** Should the construction of the proposed CVS or Food Lion building start on the Property prior to construction of any building at adjacent parcels located at 7551 and 7567 Richmond Road, The Rebkee Company shall provide and construct along the length of the northwestern property line a portion of the eight-foot-wide concrete or asphalt shared use path referenced by the Master Plan titled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC." Construction shall be hereby defined as obtaining permits for building construction and installation of footings and foundations.
18. **Shared Parking Agreement:** Prior to the issuance of a CO for the Food Lion, a shared parking agreement shall demonstrate to the satisfaction of the County Attorney that both the CVS and the Food Lion will have access to adequate parking. Proffer No. 6, from Case No. Z-0003-1997, requiring shared parking for Parcel No. 2321100001B on the Property must also be satisfied.
19. **Parking Analysis:** Prior to application for a site plan to expand the Food Lion building (the "Expansion"), a parking analysis shall be prepared and submitted to the Planning Director for review and approval. If after review of the parking analysis, the Planning Director determines that the expansion requires additional parking spaces beyond that which is already provided, the site plan for the Expansion must accommodate such additional parking spaces.
20. **LEED Certification:** The property owner shall achieve LEED (Leadership in Energy and Environmental Design) certification for the Food Lion, as set forth in the U.S. Green Building Councils (USGBC) Rating System for the LEED certification program. Alternatively, the property owner shall use "green building" techniques consistent with the USGBC or a similar organization's guidelines, as approved by the Director of Planning. Green building techniques may include recycling waste material from the demolition of the existing strip development, using Certified Wood from renewable sources for all new construction, recycling groundwater for irrigation of landscaping, and requiring the use of environmentally preferable cleaning products. Documentation of such practices shall be provided to the Director of Planning prior to receipt of final Certificate of Occupancy upon his request.
21. **Commencement of Use:** Use of the Property as described in this SUP shall commence within 36 months from the date of approval of this SUP or this permit shall be void. Use shall be defined as obtaining business license(s) for permitted uses, opening for business

with regular business hours, and/or obtaining permits for building construction and installation of footings and foundations.

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

2. Case No. Z-0003-2009/SUP-0017-2009. Freedom Market

Ms. Sarah Propst, Planner, stated that Mr. Philip Richardson has applied for a rezoning and an SUP to allow for the operation of a convenience store with fuel sales at 5534 Centerville Road. The current zoning of Limited Business precludes fuel sales as a by-right or specially permitted use. The proposed zoning of B-1, General Business, permits convenience stores with fuel sales with an SUP. The applicant has offered a proffer to restrict other permitted uses on the property to those found in the Limited Business district. Mr. Richardson proposes a 2,400-square-foot convenience store and three fueling islands (six pumps). The applicant has informed staff that a stand-alone convenience store without fuel sales would not be economically viable.

Staff found the proposed convenience store with fueling stations is consistent with the Comprehensive Plan and compatible with the surrounding zoning and development.

At its meeting on April 7, 2010, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the application.

1. Mr. Vernon Geddy, on behalf of the applicant, Whitfield Bacon LLC, gave a brief overview of the site where the convenience store would be located, the specifications of the project, and a site layout of the property. He reviewed the conditions to mitigate the impacts on the community, including buffer landscaping and the design of the architecture. He noted surrounding properties and buildings and illustrated how the convenience center would blend with existing development. He reviewed the traffic study and the traffic improvements to be completed as part of the plan. He noted compliance with the Community Character Corridor (CCC) buffer requirements and environmental concessions. He noted that the applicant has reached out to the community by meeting with various community groups in the area. He requested approval of the application.

Mr. Icenhour commented that the level of service remained unchanged at the intersection.

Mr. Geddy stated that was correct.

Mr. Icenhour commented that there were lower service levels for customers trying to leave the site.

Mr. Geddy stated that was correct.

Mr. Icenhour asked if the pedestal sign would have fuel prices listed.

Mr. Geddy stated he understood the sign would just display the name of the store.

Mr. Icenhour stated his appreciation for the landscaping, but expressed concern that the evergreen trees would provide more immediate screening capacity.

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Mr. Geddy stated that plants may take a few years to mature, but he believed it would provide the best effect.

Mr. Icenhour asked about the Virginia Department of Health waiver for monitoring and different types of spills that were of concern.

Mr. Geddy stated he believed that fuel spills would be the only concern.

Mr. Mark Bennett, AES Consulting Engineers, stated that there were provisions in the site plan and other documents to contain any potential fuel spills on the site. He stated that any spill would be collected before it is discharged without being mixed with rainwater. He stated there were monitors on the site already, installed by Exxon several years ago.

2. Mr. Lee Fehrenkamp, 3709 Mulberry Lane, on behalf of Mulberry Place Homeowners Association, stated that he received comments from members of his community about this case and found that over 69 percent were opposed to this case. He commented on the impacts of a convenience center on Freedom Park, the CCC buffers, traffic impacts, and potential traffic accidents. He commented on the rezoning from Limited Business to General Business to allow the project to fit on the site by reducing buffers and the location of a bio-retention pond in the buffer zone on the site. He commented on fuel leaks at gas stations.

3. Mr. Steve Stillwell, 3719 Mulberry Lane, stated that he did not believe this was the best place for this type of project since there were several other fuel stations in the area. He commented that the right-only entrances and exits would negatively affect traffic regardless of other improvements. He stated that Mulberry Place was not contacted by the applicant for input and that the notification sign placed on the property was not very visible. He stated his opposition to the application.

4. Mr. Quintin Brown, 109 Theodore Allen Road, on behalf of Centerville Neighborhood Association, stated his neighborhood met and discussed the project. He stated that his entire neighborhood has expressed its support for the application. He requested approval of the project.

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

Mr. Icenhour asked about the change in the SUP rules that took away the ability for an applicant to request an SUP for Limited Business.

Ms. Propst stated it has been several years.

Mr. Icenhour stated that the reason the parcel had to be rezoned was to allow for fuel pumps on the site.

Ms. Propst stated that was correct.

Mr. Icenhour asked if the convenience store would be allowed by-right.

Ms. Propst stated that was correct.

Mr. Icenhour noted for the benefit of the public that the only reason the case was coming before the Board was to allow for the SUP and rezoning for the fuel pumps.

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Mr. Icenhour asked about the changes in buffers.

Ms. Propst stated that there was a provision in the ordinance to allow for reduced buffers for developments on a smaller-scale piece of property.

Mr. Icenhour asked if there was a requirement for enhanced landscaping under this provision.

Ms. Propst stated there was an increase in the requirement.

Mr. Icenhour stated this piece of property was set aside in the Comprehensive Plan for business which could be developed by-right. He stated fuel stations were located in other CCCs.

Mr. McGlennon asked how Mulberry Place was not required to be notified.

Ms. Propst stated that adjacent property owners were notified, a sign was placed on the property, and a notification was placed in the newspaper.

Mr. Geddy stated that he was unaware of the concerns of the citizens of Mulberry Place until this meeting.

Mr. McGlennon stated he was unaware of the objection to this application and asked if the applicant wished to respond to the objections that were raised.

Mr. Geddy stated he believed that this project would not create a negative impact on Freedom Park. He stated that the Virginia Department of Transportation (VDOT) had reviewed the traffic report and that he felt the restrictions put into place had satisfied the traffic requirements.

Mr. Bennett commented on the stormwater management issues on the site. He stated the adjacent property was developed to handle some of the runoff for this site. He stated the bio-retention area which would be stocked with plant material to provide screening as well. He noted that it was not a pond.

Mr. McGlennon asked if it was constructed for the complex nearby.

Mr. Bennett stated that there was a feature constructed at the complex and there was an independent, landscaped feature that was going to be constructed as part of this site. He reviewed the traffic access limitations granted by VDOT to allow access to the site. He also addressed the need to make U-turns due to restricted access and stated that VDOT recognized that those activities would occur at the next public road interchanges at Longhill Road or Centerville Road.

Mr. Kennedy asked if the requirements of the SUP notifications were met.

Mr. Geddy stated that the applicant did.

Ms. Propst stated the requirement was to notify adjacent property owners.

Mr. Kennedy noted that it was advertised for the public.

Mr. McGlennon stated that he felt the applicant has addressed some major concerns, but he believed that the applicant should meet with the residents of Mulberry Place to address some of their questions.

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Mr. Goodson made a motion to adopt the resolution. He stated the parcel was zoned for business use and the extra scrutiny for the fuel pumps was to allow for consideration of the landscaping and planning of the parcel. He stated that he felt the applicant has done well in the design and landscape of the property. He stated that he believed that having a small retailer would be a benefit outside Freedom Park because this would be the closest commercial vendor for visitors to the park.

Ms. Jones stated her support for the application. She stated this business would provide convenience for neighbors who could walk to the store and for those visiting Freedom Park. She noted that this was an attractive future business, stated concern for undeveloped parcels in the County and suggested that staff could meet with citizens with questions and encouraged citizens to review the Comprehensive Plan to see what the future plans were for a parcel of property.

Mr. McGlennon stated that he felt the application was of high quality, but he noted that the public needed to be reached in a proactive way to educate citizens about public input opportunities and land uses in the area. He stated citizens should also be active to educate themselves to make an impact on cases such as this.

Mr. Icenhour stated his concern to hear about major issues at such a late time. He asked that in the future, notification could be considered in a broader way to notify citizens in adjacent areas rather than just adjacent property owners. He stated that he would have preferred to learn of the concerns of the neighbors in Mulberry Place prior to the meeting so he could meet with them. He stated that he felt it was a good project and it was supported by the Comprehensive Plan. He stated his support for the project.

Mr. Goodson noted that he would like to make a motion for both resolutions for this application.

Mr. Kennedy stated that he believed the County has been transparent about the application process and that citizens should be proactive and submit comments. He stated that he had only received positive comments until this point. He advised that citizens check the website and review cases that may affect different neighborhoods. He stated his support of this project despite the unfortunate situation. He stated that staff should monitor the SUP signs to ensure they are visible and ensure that nearby neighbors are aware of projects.

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

RESOLUTION

CASE NO. Z-0003-2009. FREEDOM MARKET

WHEREAS, Mr. Philip Richardson has applied to rezone a 1.15-acre parcel of property located at 5534 Centerville Road, further identified as James City County Real Estate Tax Map No. 3130100011 from LB, Limited Business, to B-1, General Business, with proffers; and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised and adjoining property owners were notified; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 7, 2010, recommended approval of the application by a vote of 7 to 0.

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NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0003-2009 and accept the voluntary proffers.

RESOLUTION

CASE NO. SUP-0017-2009. FREEDOM MARKET

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 (the "SUP") process; and

WHEREAS, Mr. Philip Richardson has applied for an SUP to allow the operation of a convenience store with fuel sales on the property located at 5534 Centerville Road, further identified as James City County Real Estate Tax Map No. 3130100011 (the "Property"); and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised and adjoining property owners were notified; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 7, 2010, recommended approval of the application by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0017-2009 as described herein with the following conditions:

1. **Master Plan and Use:** This SUP shall be valid for a convenience store with fuel sales at 5534 Centerville Road (the "Property") and developed as shown on drawings 1, 2, and 3 of the plan titled "Conceptual Plan For Freedom Market" prepared by AES Consulting Engineers, dated June 29, 2009, and revised March 4, 2010 (the "Master Plan"), with minor changes thereto as determined by the Planning Director. The Property shall not contain any vehicle-wash facilities.
2. **Hours of Operation:** The daily hours of operation for both the convenience store and gas pumps shall be limited to the hours of 5 a.m. to 11 p.m. The daily hours for deliveries and solid waste pickup shall be limited to the hours between 7 a.m. and 8 p.m.
3. **Intercoms:** Any intercom systems designed to allow communication between employees and customers shall operate in such a manner that they will not be audible by adjacent property owners.
4. **Architectural Review:** The architecture of the convenience store and the fuel island canopy shall be substantially in accordance with the submitted rendering prepared by Paul White referenced on page 2 of the Community Impact Statement. No stucco or *Exterior Insulation & Finish System* (EIFS) material shall be used on the building or canopy. The canopy roof shall have a roof constructed of materials identical to the store's roof. The canopy shall contain architectural features and materials that complement the store. The rear and sides of the convenience store shall have windows and other treatments consistent with the front of the structure. The architectural design and materials for both the building and canopy shall be approved by the Planning Director prior to final site plan approval.

5. **Fueling Stations:** There shall be no more than three fueling islands (six vehicle fueling positions) permitted on the Property. The pumps shall be arranged in a manner generally consistent with the Master Plan. No high pressure diesel pumps for tractor trailer fueling are permitted. The maximum height of the pump island canopy shall not exceed 20 feet from current grade.
6. **Lighting:** Any exterior site or building lighting, including canopy lighting, shall have 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 in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the Property lines.
7. **Signage:** The freestanding sign shall be ground-mounted and shall not exceed a height of six feet. The sign's supporting structure shall be constructed to match the building and its design shall be approved by the Planning Director prior to the issuance of a sign permit. The building face sign(s) shall not exceed a cumulative size of 16 square feet and the location, design, materials, and lighting of such sign(s) shall be approved by the Planning Director. No signs shall be allowed on the canopy.
8. **Landscaping:** An enhanced landscaping plan shall be provided in the buffers along Centerville Road and Longhill Road. Enhanced landscaping shall be defined as 125 percent of the minimum ordinance size requirements of planting materials. The 35-foot transitional buffer between the Property and Longhill Grove shall substantially screen the Property using evergreen vegetation and fencing. The transitional buffer shall be designed such that when mature, the vegetation shall substantially obscure the view of the convenience store and gas pumps from all stories of the Longhill Grove apartments. The proposed effect must be demonstrated to the Planning Director prior to final site plan approval.
9. **Dumpster screening:** The dumpster shall be completely screened on three sides with brick or an alternative material approved by the Planning Director. The front gate shall be a dark color and shall screen the view of the dumpster.
10. **Trash Removal:** Rubbish bins shall be available for use by customers during all operating hours and shall be emptied on a daily basis.
11. **Outside Merchandise:** No outside display, sale, or storage of merchandise shall be permitted except for the outside storage of propane. Merchandise shall include, but not be limited to, ice, soda, candy, newspaper, or snack machine(s). Outside propane storage shall be screened from view. Public telephones, Automated Teller Machines (ATMs) for cash, and public restrooms shall be located inside the store.
12. **Water Conservation:** 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 final site plan approval. 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, warm-season grasses, and the use of water-conserving

fixtures and appliances to promote water conservation and minimize the use of public water resources.

13. **Stormwater Pollution Prevention Plan**: Prior to issuance of any Certificate of Occupancy ("CO"), a stormwater pollution prevention plan shall be submitted to the Environmental Director for review and approval.
14. **Spill Prevention and Control Plan**: Prior to issuance of any CO, a spill containment plan that addresses the chemical handling and storage areas shall be submitted to the Environmental Director and to the Fire Chief for their review and approval.
15. **Commencement of Construction**: If construction has not commenced on this project within 36 months from the issuance of this SUP, this SUP shall become void. Construction shall be defined as obtaining an approved site plan, permits for building construction, and footings and/or foundation has passed required inspections.
16. **Severance Clause**: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Ordinance to Extend the Cox Cable Franchise to December 31, 2010

Mr. Leo Rogers, County Attorney, stated the ordinance for the Board's consideration would extend the Cox Cable Franchise agreement and certificate to December 31, 2010, in order to synchronize the date of all the agreements with Cox Cable in the ordinance. He stated that a renewal would come before the Board at a later date.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, commented on the Code interpretation on nonpayment of rights-of-way use fee with Cox under the Cable Franchise Agreement. He stated that he understood that if the County had a franchise agreement, the citizens should not pay the fee.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

4. Authorization to Execute a Lease for Operation and Management of Little Creek Park

2. Mr. John Carnifax, Parks and Recreation Director, stated that he met previously with the Board at a work session to discuss contracting out facilities at Little Creek Park. He stated that as a result of that discussion, a Request for Proposals (RFP) was issued and the selected firm was Headhunters Headquarters. He stated that would save the County approximately \$46,000 in FY 11. He recommended approval of the resolution.

Mr. McGlennon asked what the primary business was of Headhunters Headquarters.

Mr. Carnifax stated it was a sporting goods business with a focus on archery equipment, particularly through the internet.

Mr. McGlennon stated the retail business would come to the property.

Mr. Carnifax stated that was correct but there would not be any guns or ammunition at the property.

Mr. Kennedy opened the Public Hearing.

1. Mr. Jack Fowler, 109 Wilderness Lane, commented about structural problems at Little Creek Park and drought. He stated that Little Creek Park should be repaired before spending money on other projects.

Mr. Kennedy commented that if the park was not repaired, it would not be financially beneficial. He stated his support for the resolution.

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

Mr. McGlennon asked for a report on the issues of disrepair at the park raised by Mr. Fowler. He asked about the degree of ability to determine hours of operations.

Mr. Carnifax stated the lease requires a minimum number of hours, so the operator could extend the hours. He stated that the County has a right to set the fees and handle the maintenance of the park. He stated that the operator is required to do some minor repairs and inspections of the facilities, cleaning restrooms and routine cleaning and maintenance, but no major improvements. He stated that one of the challenges to addressing the ramp would require placing a barrier and pumping water out to extend the boat ramp. He stated the plan was to wait until the next low water level to make those improvements.

Mr. McGlennon asked if there were any alternative means in the interim.

Mr. Carnifax stated that it would be difficult. He stated it was a steep ramp and certain vehicles may be unable to pull the vehicle out of the water. He stated the long-term plan was to install another ramp when funds were available.

Mr. McGlennon asked if the \$46,000 in savings was primarily staff time.

Mr. Carnifax stated that was correct.

Mr. Icenhour made a motion to adopt the resolution.

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

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RESOLUTION

AUTHORIZATION TO EXECUTE A LEASE FOR OPERATION AND

MANAGEMENT OF LITTLE CREEK PARK

WHEREAS, a Request for Proposals (RFP) for the operation and management of Little Creek Park was advertised; one interested firm submitted a proposal; and

WHEREAS, staff reviewed the proposal, determined Headhunters Headquarters was qualified and suited the County's needs as defined in the RFP, and negotiated a lease for the operation and management of Little Creek Park; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should lease the operation and management of Little Creek Park to Headhunters Headquarters under the terms and conditions of the lease agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a lease with Headhunters Headquarters for the operation and management of Little Creek Park.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Powell stated that representatives from Senator Mark Warner's staff would be visiting James City County on June 8, 2010, from 10 a.m. to 12 p.m. to address concerns of citizens in dealing with public offices.

He noted that the County received an award from the National Association of County Information Officers (NACIO) for the County's recent Progress Report and thanked staff of the Communications and Information Technology divisions for their efforts.

He stated that a closed session was listed for this evening, but the Board may consider those appointments in open session. He stated that at the conclusion of the Board's business, it should recess to 7:30 a.m. on June 3, 2010, and hold a meeting of the James City Service Authority Board of Directors. He also noted that County offices would be closed on Monday, May 31, 2010, for the Memorial Day holiday.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked if there was a motion to appoint Ms. Heather Cordasco, Mr. Scott Van Voorhees, Ms. Linda Wallace-Cody, and Mr. Mark Wenger to four-year terms on the Parks and Recreation Advisory Commission, terms to expire on April 30, 2014, and to appoint Mr. Arthur Grant to an unexpired term on the Historical Commission, term to expire on August 31, 2011.

Mr. McGlennon made a motion to appoint Ms. Heather Cordasco, Mr. Scott Van Voorhees, Ms. Linda Wallace-Cody, and Mr. Mark Wenger to four-year terms on the Parks and Recreation Advisory Commission,

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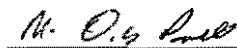
terms to expire on April 30, 2014, and to appoint Mr. Arthur Grant to an unexpired term on the Historical Commission, term to expire on August 31, 2011.

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

Mr. McGlennon noted the recent passing of Ms. Ann Yankovich, a leader in the public schools as a health coordinator and played a crucial role in the establishment of Olde Towne Medical Center. He recognized Ms. Yankovich for her numerous contributions to the community.

L. RECESS to 7 p.m. on June 8, 2010, at Legacy Hall.

At 8:37 p.m. Mr. Kennedy recessed the Board.



M. Douglas Powell
Deputy Clerk to the Board

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PROFFERS

THESE PROFFERS are made this 30th day of March, 2010 by
WHITFIELD BACON, LLC, a Virginia limited liability company (together with its successors
and assigns, the "Owner").

RECITALS

A. Owner is the owner of that certain tract or parcel of land located in James City
County, Virginia, with an address of 5534 Centerville Road, Williamsburg, Virginia and being
Tax Parcel 3130100011, being more particularly described on Exhibit A attached hereto (the
"Property"). The Property is now zoned L-B, Limited Business.

B. Owner has applied to rezone the Property from L-B to B-1, with proffers, and for a
Special Use Permit to permit a convenience store with sale of fuel.

C. Owner desires to offer to the County certain conditions on the development of the
Property not generally applicable to land zoned B-1, General Business.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning,
and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended, and the County
Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following
conditions in developing the Property. If the requested rezoning is not granted by the County,
these Proffers shall be null and void.

CONDITION

1. **Permitted Uses.** A convenience store with fuel sale shall be permitted on the
Property. Additional uses permitted on the Property shall be limited to those uses listed on
Exhibit B attached hereto. No other uses shall be permitted on the Property.

Prepared by:
Vernon M. Geddy, III
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185-0379

Return to: Geo Boy
Adam R. Kihlman, Esq.
Deputy County Attorney
101-C Mounts Bay Road
Williamsburg, VA 23185
(757) 253-6832

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2. **Archaeology.** Prior to any land disturbing activity taking place on the Property the Owner shall have prepared a Data Recovery Plan (Phase III) for the Property. The Data Recovery Plan shall be submitted to the Virginia Department of Historic Resources (“VDHR”) for review and approval. Once approved, the archaeological excavation and recovery work on the Property recommended by the Data Recovery Plan shall be implemented. No other clearing, grading or construction activities on the Property beyond those recommended by the Data Recovery Plan shall be undertaken. Once all work recommended by the Data Recovery Plan has been completed, VDHR shall be requested to verify that no additional excavation or data recovery work on the Property is required. Once such verification is received from VDHR, Owner may proceed with clearing, grading and construction on the Property provided all other required permits have been received. The Data Recovery Plan shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards.

3. **Safe Drinking Water.** The Owner shall notify the Manager of the James City County Service Authority (“JCSA”) if any of the contaminants included in the Safe Drinking Water Act Amendments Phase II, IIB, or V will be used or stored on the Property. If the storage or use of any of these contaminants on the Property causes Virginia Department of Health (VDH) to rescind or deny the waiver from monitoring for any of these contaminants at any JCSA well facilities, the Owner shall reimburse the JCSA for all expenses associated with the required

monitoring. If leakage or spill involving any of these contaminants on the Property causes the JCSA to remove any well facility from service the Owner shall be responsible for the cost of replacing the well(s) to restore capacity to the JCSA water system.

WITNESS the following signature.

WHITFIELD BACON, LLC

By: *P. Richardson*
Title: *Member*

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

The foregoing instrument was acknowledged this *30th* day of *March*, 2010, by *P. Whitfield*, as *Member of Whitfield Bacon LLC* of WHITFIELD BACON, LLC.

Susan L. Walter
NOTARY PUBLIC

My commission expires: *06/30/2011*
Registration No.: *28450*

Exhibit A
Property Description

Parcel One:

All that certain lot, piece or parcel of land situate, lying and being in James City County, Virginia as shown, designated and set forth as: ANNA LIGURIA, DEED BOOK 382, PG 512, Tax Map (31-3)(1-11), AREA=38,974.832 S.F., 0.895 ACRES ZONED "LB (LIMITED BUSINESS)", on a certain survey entitled "PLAT OF BOUNDARY LINE ADJUSTMENT AND LOT LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY: ANNA LIGURIA AND UCP LIMITED PARTNERSHIP, A VIRGINIA LIMITED PARTNERSHIP, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated September 30, 1998 made by G. T. Wilson, Jr., Certified Land Surveyor, a copy of which is recorded in the Clerk's Office of the Circuit Court of James City County in Plat Book 72, page 26, reference to which is made for a more complete description of the property herein conveyed.

And

Parcel Two:

All that certain lot or parcel of land situate in James City County, Virginia containing 0.253 acres, more or less, which is shown and designated as "AREA 11056.829 S. F. +/-" on a certain plat entitled "PLAT OF BOUNDARY LINE ADJUSTMENT AND LOT LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY: ANNA LIGURIA AND UCP LIMITED PARTNERSHIP, A VIRGINIA LIMITED PARTNERSHIP, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated September 30, 1998 made by AES Consulting Engineers of Williamsburg, Virginia, which plat is recorded in the Clerk's Office of the Circuit Court of James City County in Plat Book 72, at page 26, reference to which is made for a more complete description of the property herein conveyed.

**Exhibit B
Permitted Uses**

See attached lists

Adult day care centers.

An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial use of the property.

Bakeries and fish markets.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Child day care centers.

Contractor's offices without the storage of construction equipment or building materials.

Drug stores.

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, fitness centers.

Houses of worship.

Libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

Medical clinics or offices.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by this section 24-53.

Office supply stores, secretarial and duplicating services.

Photography studios and sales, artist and sculptor studios, art and crafts and handicraft shops, antique shops, reproduction and gift shops.

Post offices.

Public meeting halls.

Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.

Schools.

Timbering in accordance with section 24-43.

Veterinary hospitals (with all activities limited to a fully enclosed building).

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 11 June 2010
at 9:16 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

ADOPTED

MAY 25 2010

ORDINANCE NO. 141A-13

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

AN ORDINANCE TO CLARIFY, CONFIRM, AND EXTEND THE TERM OF COX

COMMUNICATIONS FOR HAMPTON ROADS, LLC'S FRANCHISE CERTIFICATE TO

DECEMBER 31, 2010

WHEREAS, by Resolution dated January 26, 1996, the Board of Supervisors consented to the transfer and assignment of the Franchise Certificate issued to Continental Cablevision of Virginia, Inc. ("Initial Grantee") to Cox Communications of Hampton Roads, LLC ("Cox"); and

WHEREAS, by Ordinance No. 141A-7, adopted on December 4, 1995, the Board of Supervisors extended the Franchise Certificate to the Initial Grantee for 15 years from the date of the Ordinance; and

WHEREAS, the Second Amendment to Franchise Certificate, dated December 4, 1995, extended the Franchise Certificate to the Initial Grantee for a term of 29 years from the effective date of the original Franchise Certificate, June 8, 1981; and

WHEREAS, the County and Cox are parties to an agreement to provide an institutional network until December 31, 2010; and


WHEREAS, the County and Cox desire to clarify, confirm and extend the expiration date of the Franchise Certificate to December 31, 2010.

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

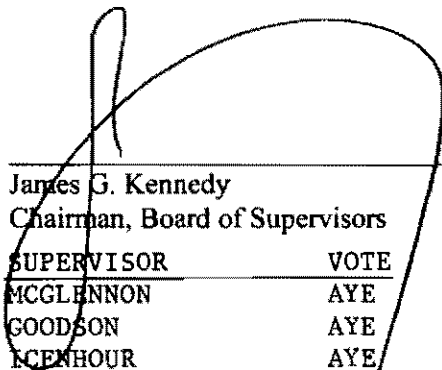
1. The term of the County's Franchise Certificate, as amended, with Cox Communications of Hampton Roads, LLC shall run through December 31, 2010.
2. The County Administrator is hereby authorized and directed to execute the Third Amendment to Franchise Certificate with Cox Communications of Hampton Roads, LLC.

This Ordinance shall be in full force and effect from the date of its adoption.

ATTEST:



Doug Powell
Deputy Clerk to the Board



James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCLENNON	AYE
GODSON	AYE
MCENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 2010.

ExtndCoxCbl_res