

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF JUNE 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

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Alicia Miecznikowski, a rising fourth-grade student at Norge Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PRESENTATION

Mr. McGlennon presented the recognition of Williamsburg Landing 25th Anniversary which has served as a Continuing Care Retirement Community (CCRC). Mr. Steven Montgomery, Executive Director of Williamsburg Landing accepted the recognition.

F. PUBLIC COMMENTS

1. Mr. Aaron Small, 108 Ewell Place, discussed the Stormwater Referendum. Mr. Small is on the Stormwater Program Advisory Committee (SPAC) and supports the Stormwater Referendum. He explained to the Board the ranking of the projects. Mr. Small also discussed the Route 199 Access request, which allowed only 10 trips to the site. He requested approval of the resolution.

2. Mr. Bob Spencer, 9123 Three Bushel Drive, discussed the Virginia Retirement System (VRS) Pension Consideration for County employees. Mr. Spencer asked the Board to adopt the employee's contribution and to support the stormwater referendum as well.

3. Mr. Ed Oyer, 123 Indian Circle, discussed an article in the Daily Press dated June 15, 2010, in reference to high schools listed. Mr. Oyer commented about the IB Program (International Baccalaureate) and that all the schools should have the IB Program. He discussed the Route 60 traffic backup and the limited access on Route 199. He discussed House Bill (HB) 1221, HB 1320, and Senate Bill 276 which offers loans for dams and spillways.

4. Mr. Robert Richardson, 2786 Lake Powell Road, discussed the Code of Ethics in relation to the Courthouse Commons case and the vacant seat on the Planning Commission, which is an At-Large position.

5. Mr. Drew Mulhare, 124 Henry Tyler Drive, Vice President for Realtec, Inc., requested approval of the NTelos Route 199 Limited Access.

G. CONSENT CALENDAR

Mr. Goodson requested to pull items 8 and 9 for separate discussion.

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

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

1. Minutes --
 - a. May 23, 2010, Closed Session Meeting
 - b. May 24, 2010, Closed Session Meeting
 - c. June 8, 2010, Regular Meeting
 - d. June 17, 2010, Closed Session Meeting
2. Contract Awards – Annual Engineering Services

RESOLUTION

CONTRACT AWARDS-ANNUAL ENGINEERING SERVICES

WHEREAS, a Request for Proposals has been advertised and evaluated for annual engineering services; and

WHEREAS, the firms listed in Attachment A with this resolution were determined to be the best qualified to provide the required engineering services in their respective groups.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual engineering services to the firms listed in Attachment A.

3. Resolution of Recognition – Williamsburg Landing’s 25th Anniversary

RESOLUTION OF RECOGNITION

WILLIAMSBURG LANDING’S 25TH ANNIVERSARY

WHEREAS, Williamsburg Landing is located in James City County and has provided an exemplary Continuing Care Retirement Community (CCRC) to its residents during the last 25 years; and

WHEREAS, it was conceived and founded by members of the James City County/Williamsburg community and is operated as a nonprofit corporation by a Board of Directors comprised of local citizens; and

WHEREAS, it has always adhered to the highest industry standards for service, governance, and quality of care, and has received the Commission on Accreditation of Rehabilitation Facilities (CARF)/CCRC accreditation in 2009 as a testament to excellence in-care; and

WHEREAS, the Board members, staff, and many residents contribute their time, energy, and talents to making James City County and the Greater Williamsburg area a quality community; and

WHEREAS Williamsburg Landing will officially celebrate its 25th Anniversary as a CCRC with ceremonies on July 15, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby calls upon all citizens of the County to join them in recognizing the 25th Anniversary of Williamsburg Landing.

4. Grant Award – Virginia Department of Health – Bicycle Safety – \$1,000

RESOLUTION

GRANT AWARD – VIRGINIA DEPARTMENT OF HEALTH – BICYCLE SAFETY - \$1,000

WHEREAS, the James City County Police Department has been awarded a Bicycle Helmet Safety grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$1,000; and

WHEREAS, the funds are to be used for the purchase of youth bicycle helmets for distribution at Bike Rodeos and other Community Service Unit events where bicycle safety education is delivered; and

WHEREAS, there are no matching funds required of this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following budget appropriation amendment to the Special Projects/Grants fund:

Revenue:

VDH FY 11 – Bicycle Helmet Safety	<u>\$1,000</u>
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Expenditure:

VDH FY 11 – Bicycle Helmet Safety	<u>\$1,000</u>
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5. Grant Award – Virginia Department of Health – Boating Safety - \$924

RESOLUTION

GRANT AWARD – VIRGINIA DEPARTMENT OF HEALTH – BOATING SAFETY – \$924

WHEREAS, the James City County Police Department has been awarded a Boating Safety/Life Jacket grant from the Virginia Department of Health (VDH), Division of Injury and Violent Prevention in the amount of \$924; and

WHEREAS, the funds are to be used for the purchase of life jackets for distribution by the Marine Patrol when necessary and for the development of a Boating Safety brochure, which will include life jacket information; and

WHEREAS, there are no matching funds required of this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following budget appropriation amendment to the Special Projects/Grants fund:

Revenue:

VDH FY 11 – Boating Safety	<u>\$924</u>
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Expenditure:

VDH FY 11 – Boating Safety	<u>\$924</u>
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6. Williamsburg-James City County (WJCC) Schools “Safe Routes to School” Grant Execution Authorization – \$126,000

RESOLUTION

WILLIAMSBURG-JAMES CITY COUNTY (WJCC) SCHOOLS “SAFE ROUTES TO SCHOOL”

GRANT EXECUTION AUTHORIZATION - \$126,000

WHEREAS, James City County in partnership with Williamsburg-James City County Schools has been awarded \$126,000 from the Safe Routes to School (SRTS) Program for a pedestrian signal and crossing improvements at James River Elementary School; and

WHEREAS, in accordance with the SRTS Program of the Virginia Department of Transportation (VDOT) allocation procedures, it is necessary that a request by Resolution be made and that VDOT fund SRTS be awarded for a pedestrian signal and crossing improvements at James River Elementary School; and

WHEREAS, the County is not required to provide local matching funds; records of receipts of expenditures of funds granted to the County may be subject to audit by the Department of Transportation, Commonwealth of Virginia, (the “Department”) and by the State Auditor of Public Accounts, and funds granted to the County for defraying the expenses of the County shall be used only for such purposes as authorized in the Code of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee(s), for and on behalf of James City County (the “County”), to enter into an agreement with the Department in the amount of \$126,000 to defray the costs borne by the County for this SRTS project; to accept from the Department reimbursements in such amounts as expenses are submitted, and to furnish the Department such documents and other information as may be required for meeting grant requirements. The Board of Supervisors certifies that the funds shall be used in accordance with the requirements of Section 58.1-638.A of the *Code of Virginia*, 1950, as amended.

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

Revenue:

Safe Routes to School’s Program	<u>\$126,000</u>
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Expenditure:

Safe Routes to School’s Program	<u>\$126,000</u>
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7. Grant Award – Chesapeake Bay Restoration Fund – \$5,900

RESOLUTION

GRANT AWARD – CHESAPEAKE BAY RESTORATION FUND – \$5,900

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

WHEREAS, funds are needed to provide an enriching environmental component to the Division's REC Connect Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$5,900 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenue:

From the Commonwealth	<u>\$5,900</u>
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Expenditure:

Chesapeake Bay Restoration Fund	<u>\$5,900</u>
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10. Revision to Chapter 7 of the Personnel Policies and Procedures Manual

RESOLUTION

REVISION TO CHAPTER 7 OF THE

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the County is committed to treating employees equitably; and

WHEREAS, the revised policy would be more equitable to employees who work nonstandard shifts; and

WHEREAS, the revised policy would better reflect the severity of certain employee conduct.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the attached revisions to Chapter 7, Standards of Conduct, of the James City County Personnel Policies and Procedures Manual.

8. Code Violation Lien – Trash and Grass

9. Code Violation Lien – Trash and Grass

Ms. Melissa Brown, Zoning Administrator, presented to the Board the process for code violation liens. Ms. Brown explained that violations are processed through citizen complaints about properties and that General Services goes out and cleans the property.

Mr. Goodson asked about the amount of time the process takes.

Ms. Brown responded that the process takes 30 days.

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

8. Code Violation Lien – Trash and Grass Lien

RESOLUTION

CODE VIOLATION LIEN – TRASH AND GRASS

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Barbara A. Bullock & Janice Hillman
3232 Reade's Way
Williamsburg, VA 23185-2421

DESCRIPTION: 3232 Reade's Way

TAX MAP/PARCEL NOS.: (46-1)(07-0-0101)
James City County, Virginia

FILING FEE: \$10.00

TOTAL AMOUNT DUE: \$250.00

9. Code Violation Lien – Trash and Grass Lien

RESOLUTION

CODE VIOLATION LIEN – TRASH AND GRASS

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owners and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Darl L. Mann, Jr. & Janet Mann
101 Oxford Road
Williamsburg, VA 23185-3227

DESCRIPTION: 2809 Durfey's Mill Road

TAX MAP/PARCEL NOS.: (47-4)(01-0-0003)
James City County, Virginia

FILING FEE: \$10.00

TOTAL AMOUNT DUE: \$320.00

H. PUBLIC HEARINGS

1. Case No. Z-0001-2009/SUP-0007-2010/MP-0001-2009. Colonial Heritage Deer Lake

The applicant requested a deferral until July 13, 2010.

Mr. Kennedy opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, discussed rezoning and reasons for more density in the County.

As no one else wished to speak to this matter, Mr. Kennedy continued the public hearing until July 13, 2010.

Case No. SUP-0013-2010. Chickahominy Road Manufactured Home

Mr. Luke Vincignerra, Planner, stated that Ms. Sandra Kimrey has applied for a Special Use Permit (SUP) to allow for the placement of a manufactured home at 2818 Chickahominy Road. Manufactured homes not located within the Primary Service Area (PSA) in the R-8, Rural Residential, District require an SUP. The proposal is to demolish the existing residential structure and replace it with a manufactured home. The applicant has informed staff that the current structure is leaking and in poor condition. The proposed manufactured home would be a double-wide, roughly 60-foot by 28-foot 2010 Oxford model manufactured home. The Environmental Division has no comments on the SUP application at this time and finds that the proposal, with the attached conditions, meets the administrative criteria for placement of a manufactured home and is consistent with the Rural Lands Land Use designation.

Staff found the application consistent with the administrative criteria for the placement of a manufactured home and consistent with the Rural Lands Land Use designation.

At its meeting on June 2, 2010, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the resolution.

Mr. Kennedy opened the public hearing.

1. Ms. Sandra Kimrey, on behalf of Oakwood Homes, Newport News, Virginia, discussed the applicant's need for the home. She requested approval of the application.

2. Mr. Ed Oyer, 139 Indian Circle, noted the differences in appearance between a pre-manufactured home and a mobile home.

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.

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

RESOLUTION

CASE NO. SUP-0013-2010. CHICKAHOMINY ROAD MANUFACTURED HOME

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, Ms. Sandra Kimrey has applied for an SUP to allow for the placement of a manufactured home on a parcel of land zoned R-8, Rural Residential, located outside the Primary Service Area (PSA); and

WHEREAS, the property is located at 2818 Chickahominy Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2230100002; 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 site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0013-2010 as described herein with the following conditions:

1. This permit shall be valid for the 2010 Oxford Model double-wide unit ("Double-wide") applied for or newer/similar unit as determined by the Planning Director.
2. A Certificate of Occupancy (CO) must be obtained for the Double-wide within 24 months from the date of approval of this SUP or the permit shall become void.
3. The Double-wide shall be placed on a permanent concrete foundation and meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
4. The Double-wide shall be placed so as to comply with all current setback and yard requirements in the R-8, Rural Residential, Zoning District.
5. The existing residential dwelling shall be demolished before the issuance of a CO for the Double-wide.
6. To ensure adequate screening, no existing trees shall be removed within 20 feet of the property lines unless prior permission is granted from the Planning Director.
7. A single connection is permitted to the adjacent water main on Chickahominy Road with no larger than a ¾-inch water meter. Any lots created by a subdivision of the parent parcel will not be permitted to connect unless the PSA is extended to incorporate the parent parcel.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0026-2010. Constance Avenue Wireless Communications Facility

Mr. Luke Vincigerra, Planner, stated that Ms. Lisa Murphy of LeClair Ryan has applied for an SUP to allow for the construction of a 114-foot (110-foot tower with a four-foot lightning rod) "slick stick" Wireless Communication Facility (WCF) on the subject property. WCFs are specially permitted uses in the R-8, Rural Residential, zoning district. The tower will have a limited visual impact on both the Colonial Parkway and Constance Avenue. The tower will be located within an existing stand of trees, and the applicant has proposed a 100-foot tree preservation buffer on all sides of the facility. This tower will provide service to the Colonial Parkway and surrounding neighborhoods. The proposed tower has limited visibility along Constance Avenue from Neck-O-Land Road to just before Discovery Lane. The tower will not be visible from any other vantage point within the Powhatan Shores subdivision. The tower has limited visibility from several points along Neck-O-Land Road between Captain John Smith Road and 628 Neck-O-Land Road. Though there is limited visibility as described, it does not appear intrusive.

Staff found the application to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on March 3, 2010, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the resolution.

Mr. Icenhour asked if there is an owner currently on the parcel.

Mr. Vincigerra responded that there will be a residence on the property.

Mr. Kennedy opened the public hearing.

1. Ms. Pam Faber, attorney for LeClair Ryan located at Discovery Park Boulevard, thanked staff for the balloon tests. The owner may eventually build a home and has access to the site. After her presentation she asked the Board to support the application.

As no one else wished to speak to this matter, Mr. Kennedy closed the public hearing.

Mr. Goodson asked about a letter of intent from other carriers.

Ms. Faber responded it will be limited to two carriers.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0026-2009. CONSTANCE AVENUE

WIRELESS COMMUNICATIONS FACILITY

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, Ms. Lisa Murphy has applied on behalf of LeClairRyan for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned R-8, Rural Residential; and

WHEREAS, the proposed development is shown on a plan prepared by GPD Associates, with a final revision date of June 10, 2010 (the "Master Plan"), listed as Site No. NF430C; and

WHEREAS, the property is located at 115 Constance Avenue and can be further identified as James City County Real Estate Tax Map Parcel No. 4732500002; and

WHEREAS, the Planning Commission, following its public hearing on March 3, 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 site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0026-2009 as described herein with the following

conditions:

1. **Terms of Validity:** This SUP shall be valid for a total of one wireless communications facility at a total height of 114 feet above existing grade, including all appurtenances, on the property as depicted on the plans entitled, "AT&T, Site Name: Back River Lane, Site No.: NF430C, Site Address: 115 Constance Avenue, Williamsburg, VA 23185," prepared by GPD Associates, and last revised on June 10, 2010
2. **Time Limit:** A final Certificate of Occupancy (CO) shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
3. **Structural and Safety Requirements:** Within 30 days of the issuance of a final CO by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.
4. **Tower Color:** The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning, or his designee, prior to final site plan approval.
5. **Advertisements:** No advertising material or signs shall be placed on the tower.
6. **Additional User Accommodations:** The tower shall be designed and constructed for at least two users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. **Guy Wires:** The tower shall be freestanding and shall not use guy wires for support.
8. **Enclosure:** The fencing used to enclose the area shall be a board-on-board wood fence or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
9. **Tree Buffer:** A minimum buffer of 100 feet in width of existing mature trees shall be maintained on all sides of the tower facility as shown on Sheet C-1. This buffer shall remain undisturbed except for the access drive, required landscaping and necessary utilities for the tower as depicted on Sheet C-1 of the plans entitled, "AT&T, Site Name: Back River Lane, Site No.: NF430C, Site Address: 115 Constance Avenue, Williamsburg, VA 23185," prepared by GPD Associates, and last revised on June 10, 2010.
10. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mr. Kennedy noted that Planning Commissioner Al Woods was in attendance.

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

Mr. Luke Vinciguerra, Planner, stated the applicant has amended the SUP application proposing to move the 124-foot tower from the current location to a location on the north side of the property. The applicant has requested the Board remand the application to the August 4, 2010, Planning Commission meeting for the revisited proposal.

Mr. Kennedy opened the public hearing.

1. Mr. Steven Romine, on behalf of the applicant, commented on finding a better site on the property and asked the Planning Commission to consider a new location on the same parcel.

As no one else wished to speak to this matter, Mr. Kennedy closed the public hearing.

Mr. Goodson made a motion for the Board to accept the request to remand the application back to the Planning Commission.

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

4. FY 2011-2016 Six-Year Secondary Road Program

Mr. Steven Hicks, Manager of Development Management, introduced Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Williamsburg Residency Administrator, who discussed the six-year secondary road plan. He stated that the County receives State and Federal allocations yearly to fund proposed secondary improvements. The FY 2011-2016 Secondary Six-Year Improvement Plan (SSYP) allocations totaled \$1,286,414. For FY 2011, the allocation is \$215,726 compared to FY 2009 allocations of \$1,254,782 and FY 2010 is \$443,762. Based on the significant reductions in secondary allocations, currently no additional projects can be added to the SSYP. He pointed out a brief summary of the current projects on the SSYP Budget Priority List. The County cannot rely on the State for funds for allocation of roads. Mr. Hicks stated that the Centerville Road project needs to be advertized by August and there are no current funds for Racefield Drive. He also requested that the Croaker Road project be removed from the Six-Year Secondary System Road Program.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

FY 2011-2016 VDOT SIX-YEAR SECONDARY SYSTEM ROAD PROGRAM

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, James City County has consulted with the VDOT Residency Administrator to set priorities for road improvements on the County's secondary roads; and

WHEREAS, a public hearing was advertised prior to the regularly scheduled Board of Supervisors' meeting on June 22nd so that citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Budget Priority List.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves of the Budget Priority List for the Secondary System as presented at the public hearing.

5. Case No. SUP-0004-2010. Courthouse Commons

Ms. Ellen Cook, Senior Planner II, stated that Greg Davis, on behalf of New Town Six, LLC, has applied for a special use permit for a development of up to 67,000 square feet of commercial/office development at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive, further identified as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A, consisting of 9.06 total acres. The property is zoned M-1, Limited Business/Industrial District and is designated by the Comprehensive Plan as MU, Mixed Use – New Town.

Ms. Cook commented that since the inception of this project, staff has recommended to the applicant that a rezoning application would allow the applicant maximum flexibility to address the impacts of the proposal. However, the decision was made by the applicant to pursue the proposal as an SUP. She noted that since the Planning Commission meeting, the applicant had made a number of changes to the proposal, including a revised Master Plan that indicates that the maximum square footage on the site will not exceed 67,000 square feet as opposed to the 83,000 square feet previously proposed and to increase the total number of parking spaces shown on Sheet 3 of the Master Plan from 310 to 342 spaces, achieved by changing the layout of the parking lot in Area 1 to eliminate a central east-west drive aisle and its double row of landscape islands. She stated the Master Plan was also revised to show a smaller building footprint for the building in Area 4, which would mean that a setback reduction request would no longer be sought. She stated there was also a revision to eliminate a pedestrian circulation route line that had been located along the west side of the parking lot in Area 1 and had connected the internal drive to the sidewalk along Monticello and to add a pedestrian circulation route line to the Busch Office parcel in Area 3.

In connection with the reduction in maximum square footage on the Master Plan to 67,000 square feet, the applicant has provided updated information about the expected trip generation figures that revise downward the amount of trips expected for this site. This information has been reflected in revised SUP Condition No. 11, which sets an overall development limit on AM and PM peak hour trips, and Condition No. 13, which describes the improvements associated with the West Monticello Plan and the applicant's proposed monetary contribution toward those improvements. The applicant did not submit a revised Traffic Impact Analysis (TIA) based on the new trip generation figures.

Ms. Cook noted that several other changes were made in relation to SUP conditions. She stated that SUP Condition No. 17 has been included which is a list of uses that the applicant would be willing to limit on the property. She noted that manufacturing uses would already be restricted by the Zoning Ordinance use codes shown on the Master Plan. Ms. Cook commented that the Attorney's Office has advised staff that other possible M-1 uses to be limited would need to be agreed to by the applicant, due to the nature of the condition – this type of use limitation is more commonly seen through a proffer mechanism. She stated that SUP Condition No. 13 has also been revised to reflect the revised trip generation figures, and it has also been revised to reflect the applicant's offer to base the contribution on the current Virginia Department of Transportation (VDOT) cost estimate rather than the previous estimate calculated in 2006. She stated that SUP

Condition No. 16 has been revised to add the following statement: "At the request of the Owner, decisions of the Design Review Board (DRB) pursuant to the declaration may be appealed to the Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion." She noted that this DRC appeal process was added at the request of counsel for the applicant and advice of the County Attorney's office.

At its meeting on June 2, 2010, the Planning Commission recommended denial by a vote of 4-2.

Staff recommended denial of the application.

Mr. Goodson noted the traffic impacts on Monticello Avenue and asked about the trip generation for by-right usage.

Ms. Cook responded that the by-right information was prepared by staff since it was discussed at the Planning Commission meeting. She displayed a report developed by Kimley-Horn which showed traffic generation and hypothetical scenarios for various square footage levels of development on the site.

Mr. McGlennon asked if the 5,191 trips represented the maximum trip generation from by-right development.

Ms. Cook responded that the 5,191 trips were an estimate from Courthouse Commons and the applicant's traffic consultant. She stated the other scenarios on the report would apply to the hypothetical by-right uses of the site.

Mr. McGlennon clarified that the range for by-right usage was 300 trips up to 2,400 trips versus 5,191 trips daily.

Ms. Cook stated that was correct.

Ms. Jones asked staff to give the definition of a trip generation. She asked if a trip generation was a count of a car making a trip into and out of a site.

Ms. Cook stated she believed that was correct, but would defer to the traffic consultant for confirmation.

Mr. Goodson commented that some road improvements could be done through the proffer agreement that would not otherwise be done with a by-right development.

Ms. Cook stated that there was a partial cash proffer contribution as part of this project which would not be required if a by-right use was developed which did not require a special use permit.

Mr. Goodson stated he would like to clarify for the public if this development would be considered a strip center.

Ms. Cook stated that the proposal is for five separate buildings to be constructed on the parcel with parking in various locations throughout the site.

Mr. Goodson stated he did not consider that type of layout a strip center. He stated there must be a misconception in the community about the layout of the development.

Mr. Icenhour asked for confirmation that if any by-right development triggered the trip generation or

traffic requirements for a special use permit, the case would need to come back before the Board.

Ms. Cook stated that was correct. She stated that two ways that a case would require a special use permit would be if the property had a specially permitted use in the particular zoning district or if there was a particular impact that triggered a SUP.

Mr. Icenhour stated he felt more comfortable that if a by-right use generated that type of traffic would have to come back before the Board. He commented on traffic improvements at Monticello West and the estimated cost of those improvements.

Ms. Cook stated that staff received a letter from VDOT with an updated estimate of about \$2.4 million.

Mr. Icenhour stated that a percentage of the cost was contributed based on the original estimate.

Ms. Cook stated that was correct.

Mr. Icenhour stated that funding would be short for the six-year plan.

Ms. Cook stated she believed there was additional funding.

Mr. Icenhour commented that the layout of this development did not meet the design criteria of New Town.

Ms. Cook stated the layout is more suburban in terms of the parking placement and building. She stated that it did go to the New Town Design Review Board.

Mr. Icenhour asked if the wireless tower was still in use and how that would impact the development of the site.

Ms. Cook deferred to the applicant about the current use of the tower.

Mr. Kennedy asked about the percentage build-out of New Town.

Ms. Cook stated that a range of development square footage was approved through the rezoning which was between 1.7 and 2.3 million, and through the site plan development approval process about 1.7 million has been approved. She noted that number was not necessarily what has been built and received certificates of occupancy.

Mr. Kennedy commented he had reviewed the original application for New Town from 1997. He commented on several questions, including the projected urban development intensity. He commented that this area was not part of New Town. He asked if this was part of the original square footage.

Ms. Cook responded that it was not. She commented that the portion of the site used by Verizon was never a part of the New Town Master Plan. She commented that the other six parcels were shown as part of Section 10, but when it was originally rezoned, the property owner at that time did not choose to bind themselves through the proffers and master plan. She stated that it was more conceptual master planning that resulted in these parts of Section 10.

Mr. Kennedy asked about the consideration was given to square footage for Section 10 in reference to traffic. He asked if the service levels factored in these traffic impacts.

Mr. John Horne, General Services Manager, stated he did not recall if Section 10 was included in the traffic generations, but he believed it would have been. He stated he did not know for sure, but Mr. Williams did the traffic study and could respond as to whether or not the Section 10 square footage was included.

Mr. Kennedy asked what the reasonable expectations were for Level of Service in the urban area created in New Town.

Mr. Horne stated the original rezoning standards were a reasonable reflection of the standards. He stated that the attempt was to maintain through-movement on the corridor at roughly C-level of service, the standard County-wide level of service, and there was an understanding that some turning movements were likely not going to maintain a C level of service unless the roadway was expanded.

Mr. Kennedy commented that at one time Monticello Avenue was being considered for expansion to six lanes.

Mr. Horne stated that six lanes was a consideration, but it was determined that that was not the standard of design to which the project should adhere. He stated the original design and level of intensity had tension between the idea of a street-type corridor of connectedness and the need to maintain the level of traffic. He stated that the adopted standard was an accurate depiction of what exists.

Mr. Kennedy stated there was an understanding that the service level would be below C at certain times.

Mr. Horne stated that was correct for certain turning movements on the corridor.

Mr. Kennedy stated he did not agree with the design and asked the anticipated levels of service with six lanes at maximum buildout. He also asked if the traffic from Target and other nearby shopping centers were factored into the numbers.

Mr. Horne stated he did not recall the level of service for the six-lane option. He stated there was an assumption for background traffic from other traffic generators from the west.

Ms. Jones asked if the C level of service was based on the expectation that people would be walking around New Town rather than driving.

Mr. Horne stated that it was a design objective and expectation. He stated he did not believe there was much of an allowance in the traffic figures for that assumption.

Ms. Jones asked about the acceptable level of service in the County.

Mr. Horne responded it is historically acceptable to maintain a C level of service in a suburban corridor.

Ms. Jones commented on the expectations of level of service in a rural area versus an urban area.

Mr. Horne stated that translated to the original standard from 1997, which was a reduction in the standard that was expected to be maintained in other areas of the County.

Mr. McGlennon asked Ms. Cook if the development would be classified as a new urbanism type of shopping center.

Ms. Cook stated there were original design guidelines written for New Town, including Section 10. She stated that staff evaluated the build-to lines for the buildings parking fields. She stated the applicant produced tailored guidelines for this site, and a number of those elements are included.

Mr. McGlennon asked if this site would be pedestrian-friendly.

Ms. Cook stated that the master plan shows some footprints for buildings in all five development areas, but four of the areas were conceptual at this time. She stated that two show drive-through aisles for a pharmacy and a bank. She noted the master plan allowed for interior pedestrian walkways to the five development areas.

Mr. McGlennon asked about discussion at the Planning Commission level about the impact on Old Ironbound Road turning left or access from the shopping center from that portion of Ironbound Road.

Ms. Cook replied that the traffic study did include Ironbound Road and Strawberry Plains Road; however she stated it did not include an arterial level of service analysis for Old Ironbound Road. She stated the traffic consultant could follow up on that question.

Mr. McGlennon asked if staff was satisfied with the issue of the protection of the topography of the parcel and ability to shield the development from the line of sight.

Ms. Cook stated there was discussion related to the Community Character Corridor. She stated that the applicant has turned in a tree conservation plan for this site and the land that was not included in the SUP would be protected by the zoning ordinance.

Mr. McGlennon asked if staff did not expect there would be noncompliance.

Ms. Cook stated that the ordinance and conditions would be enforced at the development level.

Mr. Icenhour asked if Fresh Market would require a SUP in its current location.

Mr. Allen Murphy, Jr., Planning Director /Assistant Development Manager, stated that the location of Fresh Market was non-conforming and a SUP did not currently apply.

Mr. Icenhour asked if the Fresh Market would need a SUP if it was currently being built.

Mr. Murphy responded that it would.

Mr. Kennedy opened the public hearing.

1. Mr. Greg Davis, Kaufman and Canoles; gave a brief presentation on the project on behalf of the applicant. Mr. Davis reviewed the construction and noted that the Fresh Market building would be the anchor building with other buildings being built as leasing and development allowed. He also discussed the reduction of square footage which would reduce the traffic impact for this area. He mentioned the comments already received from the DRC about Fresh Market design. He mentioned with the built-out of Courthouse Commons that traffic would not change from today. He showed to the Board various possible businesses that could operate in this area of buildings. He discussed the Fresh Market and its expansion. The Fresh Market with more square footage would generate more sales and tax revenue for the County. He asked the Board not to allow traffic to be a deciding factor for this application.

Ms. Jones asked why Fresh Market did not relocate into Settler's Market.

Mr. Davis stated that Trader Joe's has a restriction which prohibits them from leasing to other grocery stores. The client also approached Wal-Mart about purchasing the property and their request was denied by Wal-Mart.

Ms. Jones asked about the trip generator in relation to the traffic discussion.

Mr. Dexter Williams mentioned the traffic study indicated 370 cars in and 340 cars out. He further explained the trip generations are standard rates used for developments.

Mr. Kennedy asked Mr. Williams about Section 10 Monticello and New Town.

Mr. Williams responded that a 1997 standard mentioned Monticello Avenue projected to six lanes of traffic with the inclusion of turn lanes and noted that Section 10 was not included in that study at that time. Mr. Williams commented that the traffic generators that were used during that time have changed. Mr. Williams commented that there was no change in traffic.

Mr. Kennedy asked if this was typical of traffic.

Mr. Williams responded the road was built for the amount traffic that the development generates.

Mr. Icenhour asked if the west side and east side Section 9 improvements would require the addition of a third lane in order to maintain a Level C Level of Service.

Mr. Williams stated that additional lanes would be constructed if needed, but the third eastbound lane would not be necessary.

Mr. Icenhour commented on Settlers Market, Section 9 being in bankruptcy.

Mr. Williams stated that most of the roadway construction funds for the Monticello Plan were intended for improvements on News Road.

Mr. Kennedy asked Mr. Davis if he had a fiscal impact analysis for this project.

Mr. Davis stated the application did not require a fiscal impact analysis and indicated there was no fiscal impact.

Mr. Kennedy asked Mr. Al Woods, Planning Commissioner, about the recent changes to the case by the applicant.

Mr. Woods commented that the Planning Commission recommended denial of the project due to the lack of specificity on the project as well the traffic impacts. He stated the reduction in square footage was an improvement. Mr. Woods said this was the first time he had heard about the improvements and commented that it was a very complex issue.

2. Mr. Louis Candell, 128 Water Edge Drive, asked if the applicant had demonstrated the community need and benefit for another shopping area.

3. Mr. Bob Spencer, 9123 Three Bushel Drive, commented on the traffic impacts and uncertainty of the project.

4. Mr. Ed Oyer, 123 Indian Circle, commented on the traffic impacts and increased commercial urban sprawl.

As no one else wished to speak to this matter, Mr. Kennedy closed the public hearing.

Mr. McGlennon asked Mr. Murphy why this application came forward as a SUP instead of a rezoning.

Mr. Murphy stated the SUP process allows the Board to impose conditions that address impacts of a given proposal where the proposal is a substantial generator of those impacts. He commented that it was a narrow scope. He stated in this case there was a creative concept which was unprecedented and the Board and County were in a position that agreement must be reached with the developer. He stated there was more flexibility to address impacts, cash proffers, and other impacts in a rezoning process through a set of proffers. He stated there were significant differences in the processes. He stated there was maximum flexibility for proposing and accepting a proffer rather than asking for the consent of the developer for a proffer. He stated that was an unusual position for the County.

Mr. McGlennon asked about the undefined parcels on the property and asked what kind of changes would require the applicant to come back before the Board for approval.

Mr. Murphy stated there would be very few requirements if the proposed development fit generally within the designated build-to lines on the Master Plan, the developer would be allowed to develop by-right as long as the conditions of the SUP were met.

Mr. McGlennon asked if this would apply to drive aisles for stores.

Mr. Murphy stated there was an undefined nature and flexibility for these areas and ultimately the Planning Commission would decide what would be appropriate.

Mr. McGlennon asked if this was the first project of this kind to go through the SUP process.

Mr. Murphy stated it was the first he could recall where there a proffer process would need to be constructed from a separate legal process. He stated that he believed that the County was in a weaker position than if the case went through a rezoning process since the County must ask for the consent from the developers. He stated that the County Attorney has expressed concern about the process as well as the enforceability of the SUP conditions. He stated he believed this concern would be eliminated if this was a rezoning proposal.

Mr. Rogers stated a rezoning would give the applicant and the County greater flexibility to address the impacts in development and noted that SUP conditions were limited to on-site conditions. He stated that this was a creative approach to creating conditions to mitigate the impacts that would be enforceable on future property owners. He stated that he believed that they were enforceable and he would be willing to do so.

Mr. Goodson stated this parcel is zoned M1, commercial use, which is applicable. He commented that it was an unusual situation since the applicant was not having the property rezoned.

Mr. Goodson mentioned that four parcels could be built by-right.

Mr. Murphy indicated that a SUP process must be in accordance with the zoning ordinance.

Mr. McGlennon asked if the proposal would go to the DRC if it was rejected.

Mr. Murphy stated that it could; the applicant could appeal the decision and take their application to the DRC.

At 9:15 p.m. the Board took a break.

At 9:20 p.m., Mr. Kennedy reconvened the Board.

Mr. McGlennon made a motion to deny the application since he believed it should have come forward as a rezoning. He stated that approving this case as a SUP was conceding considerable influence of the nature and pace of this development and he believed it would be better to consider a request to rezone the property.

Mr. Goodson commented on the traffic service levels in relation to the urban setting and noted the economic development potential of the project and the potential loss of Fresh Market as a commercial tax revenue generator. He stated that the zoning ordinance allows this type of development in this zoning district. He stated he would not vote to deny the application.

Mr. Icenhour stated his concern with the traffic issues and stated he could not support the application. He stated he was especially concerned with the conceptual uses because unknown uses created unknown impacts. He stated that he felt it was a bad precedent to rezone through a SUP application. He stated that staff and the Planning Commission recommended denial and he stated he would vote to deny the application.

Ms. Jones stated the zoning ordinance required SUPs as a result of certain impacts and since the Planning Commission meeting, there has been a reduction in square footage and traffic impacts. She stated there was an additional contribution to the West Monticello roadway improvements. She stated a by-right development would make no contributions to the corridor. She stated that there were traffic concerns, but there would not be a change in the overall level of service at buildout because of this particular proposal. She commented that there was a need to retain businesses such as Fresh Market in the County. She stated there were positive fiscal and economic impacts. She also noted that there was a tree preservation condition for environmental impacts. She stated she would support the application.

Mr. Kennedy stated he has not been in favor of New Town from its inception. He stated that a prior Board created the commercial center of the County with intensive uses. He noted the need to retain Fresh Market and its jobs in the County. He commented that a process needed to be developed to address changes made to applications between the Planning Commission meeting and the Board of Supervisors meeting. He noted that some of the Planning Commissioners who were opposed to the project had their concerns addressed in the interim between the meetings. He commented on the traffic impacts and level of service projected over the years. He stated concerns with the outbuildings which have been partially mitigated. He stated that there was a need for the Fresh Market to expand or move in order to accommodate its clientele. He noted that he was concerned with setting a precedent with using a SUP application versus a rezoning. He commented that though he did not like what was proposed, the New Town development was proposed as an urban center.

Mr. Wanner called the roll on a motion to deny the application.

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

The motion failed.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0004-2010. COURTHOUSE COMMONS

- 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. Gregory Davis has applied on behalf of New Town Six, LLC for an SUP to allow for the construction of commercial and/or office uses on approximately 9.1 acres zoned M-1, Limited Business/Industrial, District; and
- WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers dated June 7, 2010, (the "Master Plan") and entitled "Courthouse Commons Shopping Center Special Use Permit;" and
- WHEREAS, the property is located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive and can be further identified as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"); and
- WHEREAS, the Planning Commission, following its public hearing on June 2, 2010, voted 4-2 to recommend denial 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-0004-2010 as described herein with the following conditions:

1. Master Plan: This Special Use Permit ("SUP") shall be valid for the construction of commercial/office uses located at 5223 and 5227 Monticello Avenue, 4023 and 4025 Ironbound Road, and 113 New Quarter Drive, also known as James City County Real Estate Tax Map Parcel Nos. 3840100003G, 3840100003E, 3840100003F, 3840100004, 3840100004B, and 3840100004A (the "Property"). The Property shall be developed generally as shown on the Master Plan drawn by AES Consulting Engineers entitled "Master Plan for Special Use Permit for Courthouse Commons" and date-stamped June 7, 2010 (the "Master Plan"). Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
- Community Character Corridor (CCC) Buffer: A CCC right-of-way landscape area of no less than an average of 40 feet in width shall be provided along the Monticello Avenue frontage. In addition, between 40 and 50 feet from the right-of-way lines, any specimen trees, as defined in the Zoning Ordinance, will be identified on any landscape plans for Areas 1, 2 and 5, and shall be incorporated into the site design of the project and preserved to the maximum degree practicable, as determined by the Planning Director. Street trees to be located along the Monticello Avenue frontage, as described in the Design Guidelines, shall be located outside of the right-of-way landscape area required by Section 24-96 of the

Zoning Ordinance, as approved by VDOT, and shall not be used to meet the plant quantity or size and mixture requirements in the Zoning Ordinance for right-of-way landscape areas.

3. Archaeology: A Phase I Archaeological Study for the entire Property, other than previously developed parcels 3840100004, 3840100004A, and 3840100004B, shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading, or construction activities thereon.
4. Stormwater Pre-Treatment: All stormwater run-off shall be filtered through a Hanson Stormceptor pre-treatment device or other comparable manufactured device, provided that it has been certified by Technology Acceptance and Reciprocity Partnership ("TARP") or New Jersey Corporation for Advanced Technology ("NJCAT") prior to its entering any underground infiltration or attenuation feature.
5. Stormwater Component Phasing: Prior to construction of any impervious areas in Areas 1-5 as shown on Master Plan Sheet 3, all proposed and approved stormwater components designed to treat said area(s) shall be in place and operational.
6. Special Stormwater Criteria: The County's Special Stormwater Criteria Policy adopted by the Board of Supervisors on December 14, 2004, shall apply to all areas of the Property, including areas in which stormwater is directed to the Mill Creek watershed.
7. Lighting: Any new exterior site lighting (excluding building lighting, which shall be similar in type and character to that permitted or in use within the New Town development) shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted, pedestrian-scaled light fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light trespass, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

8. Water Conservation: The owner of the Property ("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 development plan approval. The standards shall 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-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Waterline Loop: The existing dead-end waterline in New Quarter Drive shall be looped to the waterline in Monticello Avenue. Such waterline loop shall be shown on the development plans for and shall be constructed prior to issuance of a Certificate of Occupancy (CO) for buildings in Master Plan Area 1.
10. Traffic: The following transportation improvements shall be constructed/completed to the Virginia Department of Transportation (VDOT) standards:
 - a. Widening of Old Ironbound Road northbound at Monticello Avenue to provide a northbound left-turn lane and a northbound shared left/through/right-turn lane.
 - b. Connection of primary New Town Six driveway at Monticello Avenue/Settler's Market signalized intersection with additions/modifications to traffic signal for vehicular traffic.
 - c. Addition of pedestrian signal on Monticello Avenue east of Settler's Market Boulevard to include crosswalk from curb to curb, modifications to median to provide flush pedestrian crosswalk, median pedestrian pushbutton, and modifications to curbing and/or pavement necessary for design of pedestrian facilities under VDOT design criteria.
 - d. Extension of full-width westbound left-turn lane on Monticello Avenue at New Town Six driveway to 275 feet to provide adequate storage capacity.
 - e. Connection of secondary New Town Six driveway to Old Ironbound Road at Ironbound cul-de-sac to include a 200-foot right-turn taper on Old Ironbound Road northbound at New Town Six secondary driveway.
 - f. Addition of stop bar and stop sign on New Quarter Road approach to Old Ironbound Road.

These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a final CO for any structure on the Property.

11. Trip Generation Cap: Total trip generation from the Property shall not exceed 730 trips in the PM peak hour and 348 trips in the AM peak hour. PM and AM peak hour information shall be submitted for each proposed use on the Property prior to preliminary site plan approval, including a calculation of the total site peak hour trips based on built or other proposed uses. Trip generation may be based on calculations used in the revised Exhibit 10, the original version of which was in the DRW Consultants, LLC Courthouse Commons traffic study dated May 15, 2010, for the specific uses included in the traffic study. For any other types of uses proposed for this Property, trip generation shall be based on the most recent edition of the Institute of Traffic Engineers Trip Generation manuals, unless otherwise approved by the Director of Planning and VDOT.

12. Signal Optimization: The Owner of the Property shall provide to the Director of Planning and VDOT verification from a professional engineer licensed in the Commonwealth of Virginia and specializing in the area of transportation planning and traffic operations that the signal timing and signal coordination for those traffic signals along the Monticello Avenue corridor from Ironbound Road to News Road is optimized in accordance with VDOT policy and regulation. Such verification shall be provided within 12 months of issuance of a final CO for the commercial building in Area 1 of the Master Plan. Such verification shall be at the expense of the Owner of the Property and shall be based on the defined PM peak period (4-6 p.m.) travel time run (left and right through lanes [or left and center through lanes for three through lane sections] on westbound Monticello Avenue between Ironbound Road and News Road on a Tuesday, Wednesday or Thursday) performed/supervised by the Owner's traffic consultant or such other methods as may be requested by the Owner and approved by the Director of Planning and VDOT. If the travel time run or other methods used reflect that the signal timing and coordination is not optimized, then the Owner shall provide the Director of Planning and VDOT with a proposed signal optimization and coordination timing plan prepared in connection with this SUP. To fulfill the defined requirement, the signal timing plans must be approved and accepted by VDOT for field implementation. In addition, no sooner than 12 months after issuance of a final CO for 50,000 square feet on the Property and no later than July 1, 2016, the Owner shall submit a supplemental document that reflects and evaluates corridor conditions at that time and either re-affirms or amends the signal optimization and coordination timing plan, which shall also be at the expense of the Owner of the Property. Should amendments be indicated by the evaluation, they shall be approved by the Director of Planning and VDOT, and shall be implemented along the corridor. The timing of the signal optimization plan and supplement listed above can be modified with prior approval of the Planning Commission.

13. West Monticello Plan Transportation Improvements:

A. The following transportation improvements shall be constructed/completed to VDOT standards:

- Monticello Avenue: Exclusive right-turn lane westbound at WindsorMeade Way; adjust westbound right-turn radius and remove island at Old News Road; re-stripe for three westbound through lanes between Old News and Monticello Marketplace; and pave 10 feet of the existing 12-foot median for a second westbound left-turn lane at News Road.
- Ironbound Connector (News Road south of Monticello): Add an additional northbound through lane and for the southbound segment, realign the median and provide a dual right-turn lane onto Ironbound Road (and any associated improvements that may be necessary in terms of widening along southbound Ironbound Road to accommodate the proposed second right-turn lane).
- News Road (north of Monticello): Add a lane to provide a double southbound left turn.

These improvements shall be shown on the initial plan of development for the Property and installed prior to issuance of a building permit for any structure on the Property.

B. Alternatively, the Owner shall provide a cash contribution toward completion of the improvements listed in Section A above. Such contribution would constitute 3.4 percent of \$2,425,000, or \$82,450. Such contribution shall be provided to the County prior to the issuance of a building permit for any structure on the Property.

14. Natural Resources Policy: A natural resource inventory of the Property, other than previously developed Parcels Nos. 3840100004, 3840100004A, and 3840100004B of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area, shall be submitted to the Director of Planning for review and approval prior to land disturbance. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the Property, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans shall meet the Department of Conservation and Recreation Natural Heritage Program ("DCR-DNH") standards for preparing such plans and shall be conducted under the supervision of a qualified biologist as determined by the DCR-DNH or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the Property.

15. Shared Maintenance of Site Improvements: Prior to final site plan approval for the initial site plan for the Property, Owner shall submit documentation demonstrating that all shared site improvements (including, but not limited to, utilities, stormwater facilities, landscaping, roads and parking lots, and lighting) are subject to appropriate shared maintenance agreements ensuring that the site improvements will be maintained continuously. Such documents shall be subject to review and approval of the County Attorney or his designee.

16. Design Review:

A. The Property shall be developed generally in accordance with the design guidelines (the "Design Guidelines") prepared by AES Consulting Engineers and Hopke and Associates, Inc. entitled "Design Guidelines for Courthouse Commons" date-stamped May 27, 2010, subject to these Guidelines receiving final approval from the Design Review Board (DRB), which shall occur prior to submission of the first site plan for the Property. All architectural elevations, building materials, colors, signage, and other project elements shall be submitted to the Planning Director and the New Town DRB, for the DRB's review and approval for consistency with the Design Guidelines.

B. Prior to final approval of a site plan for any development of the Property, a declaration of restrictive covenants shall be (i) submitted to and approved by the County Attorney for consistency with this condition and (ii) recorded among the records of the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (the "Clerk's Office") relating to design review. The declaration shall provide that all items listed in "A" above proposed for the Property shall be subject to review and approval by the New Town DRB as comprised and described in the New Town Proffers, dated December 9, 1997, and recorded in the Clerk's Office as Instrument No. 980001284. At the request of the Owner, decisions of the DRB pursuant to the declaration may be appealed to the Development Review Committee of the Planning Commission (the "DRC") and modified and/or overturned at its discretion.

17. Limitation of Uses: As requested by the Owner, the following uses shall not be permitted on the Property:

- a) Adult day care centers;
- b) Automobile sales and service;
- c) Funeral homes;
- d) Heavy equipment sales and service;
- e) Kennels;
- f) Manufacturing uses listed in County Code Section 24-411;
- g) Nurseries;
- h) Welding and machine shops; and
- i) Vehicle and trailer sales and service.

18. Declaration of Restrictive Covenants: Prior to final approval of a site plan for any development of the Property, a declaration of restrictive covenants shall be (i) submitted to and approved by the County Attorney for consistency with this condition and (ii) recorded among the records of the office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City (the "Clerk's Office"). The declaration shall incorporate all of the conditions described in this resolution and establish the same as private land use restrictions on the Property enforceable by the County as such, independent of this special use permit.

19. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

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

6. Case No. ZO-01-10. Amendments to Chapter 24, Zoning, Article II, Special Regulations, Division 3, Exterior Signs Way-Finding Signage

Ms. Melissa Brown, Zoning Administrator, stated a request was received from Town Management to consider an amendment to the sign ordinance to address concerns faced by businesses in New Town during the normal operation of business. She said that staff facilitated a meeting on March 12, 2010 to better understand the concerns of the business owners and while the current zoning ordinance could address some of the issues, changes to the zoning ordinance would be needed to address allowance for way-finding signage and larger blade signs, and additional building face signage. She stated the proposed changes would be that blade signs currently permitted in Mixed Use would no longer count toward the total allowable building square footage, and instead each unit is permitted one twelve-square-foot blade sign and additional signage in accordance with current building face signage requirements. She stated another change would allow the pedestrian-scale directional sign area to be increased from 16 square feet to 24 square feet to better accommodate maps and way-finding information on the sign board. She stated sandwich board signs displaying daily specials would be allowed in Mixed Use districts with certain limitations on size and location and they would have to be removed each day at close of business. She noted an exception clause proposed to provide one additional building face sign per unit if it can be proved that a hardship is imposed on the business if it is located in a Mixed-Use district.

Staff found that these changes would act as an enhancement to the current sign ordinance and facilitate and enhance the types of businesses in New Town and other similar areas.

At its meeting on June 2, 2010, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the ordinance amendment.

Mr. Goodson asked how staff determined the size for the sandwich boards.

Ms. Brown responded staff did a survey from other localities to make that determination and made a proposal based on an average of several localities.

Mr. Goodson stated that signs were standardized by the sign company and asked if the allowance for ten feet took the standardization into consideration.

Ms. Brown responded there were some variations on the signs from the survey and depending on the localities reviewed.

Mr. Goodson stated that a ten-foot sign would have odd dimensions.

Ms. Brown stated that the ten-foot and 14-foot signs were generally designed with a smaller display board with a standardized logo.

Mr. Kennedy asked if the ten-foot limitation applied to the face of the sign or the entire structure.

Ms. Brown responded that it applied only to the readable portion of the sign and not the mounting structure.

Mr. McGlennon asked if the size was intended to apply to the flat side and there could be two sides to the sign.

Ms. Brown stated that was correct. She stated the ten-foot limit applied to one flat side, and any sign could have two sides.

Mr. McGlennon asked if the localities varied in the permitted sizes.

Ms. Brown stated that localities with larger downtown areas generally permitted larger signs.

Mr. Goodson stated his discomfort with the dimensions of a ten-square foot sign. He stated he would like to change the size to twelve square feet.

Mr. McGlennon asked if the New Town Associates reviewed the verbiage for the signs.

Ms. Brown stated it was reviewed by the New Town Design Review Board.

Mr. McGlennon asked if it was reviewed by businesses in the area.

Ms. Brown stated the businesses commented at the meeting, but did not specify square footage for sandwich board signs. She stated that a representative was present for the amendment of that portion of the proposal and expressed his approval.

Mr. Kennedy opened the public hearing.

As no one wished to speak to this matter, Mr. Kennedy closed the public hearing.

Mr. Goodson made a motion to adopt the ordinance amendment with a revision to allow twelve square feet for a sandwich board sign.

Mr. McGlennon stated he would like to vote separately on the amendment or defer action since the Board did not know if there was a standard size for signs.

Mr. Goodson withdrew his motion in order to amend the ordinance.

Mr. McGlennon made a motion to adopt the ordinance amendment as presented by staff.

Mr. Goodson made a motion to amend the proposed ordinance to include twelve square feet for sandwich board signs.

Mr. McGlennon stated he was uncomfortable voting on the size change since he was not sure of a standard size.

Mr. Kennedy commented that sandwich board sign sizes vary greatly.

Mr. Wanner asked Ms. Brown to confirm that the Policy Committee felt that twelve square feet was too large.

Ms. Brown stated that the Policy Committee did feel that twelve square feet was too big and asked that the size be reconsidered.

Mr. Goodson asked if there was any rationale to make it smaller.

Mr. Murphy stated that the Policy Committee envisioned a sandwich board sign at each shop in New Town, and given that vision, there was concern about having twelve square foot signs at each store.

Mr. Kennedy stated that New Town would have their own covenants at each store.

Mr. Murphy stated that was correct. He stated they would pass judgment on designs and colors of the signs. He stated they did not have issue with the current proposal.

The motion on the floor was to amend the square footage for the sandwich board signs from ten feet to twelve feet.

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

The motion on the floor was to adopt the ordinance as amended.

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

7. Case Nos. ZO-0002-2010 and SO-0001-2010. Amendments to Chapter 24, Zoning, Article III, Site Plan, Sections 24-142 through 24-160 and Chapter 19, Subdivisions, Article II, Procedures and Documents to be Filed, Section 19-19 through 19-31 – Review Criteria and Procedures for Administrative and Commission Review of Conceptual Plans, Site Plans and Subdivisions

Mr. Christopher Johnson, Principal Planner, gave a presentation to the Board of Supervisors on the proposed changes to the ordinances and he stated that on April 7, 2010, the Planning Commission adopted an initiating resolution directing staff to pursue amendments to Chapter 24, Zoning, Article III, Site Plan, Sections 24-142 through 24-160 and Chapter 19, Subdivisions, Article II, Procedures and Documents to be Filed, Sections 19-19 through 19-31 - Review Criteria and Procedures for Administrative and Commission Review of Conceptual Plans, Site Plans and Subdivisions to help identify how the County could be a more value-added partner to the business and industrial community, identify potential business partners, and assess the needs of those potential partners. The Business Climate Task Force report was presented to the Board of Supervisors in January 2008. The report identified qualities, characteristics, and categories of businesses preferred in James City County, and proposed policies, programs, and ordinance changes that will attract, retain, and expand those businesses. Mr. Johnson reviewed the recommended zoning ordinance amendments.

At its June 2, 2010, meeting the Planning Commission voted 7-0 to recommend approval of the ordinance amendments.

Staff recommended adoption of the ordinance amendments.

Mr. McGlennon asked if any County citizens were represented at the meetings.

Mr. Johnson stated there was not citizen representation, but the meetings were open and citizens attended and participated in the discussion. He stated staff and developers communicated with citizens during the process.

Mr. McGlennon asked if the proceedings were influenced by the participation.

Mr. Johnson stated he could not cite something specific that was influenced, but there was active participation and debate in the meetings.

Mr. McGlennon stated he believed the applicant checklist made sense, and asked if there was a checklist ensuring that all the required elements to be submitted would be part of the process.

Mr. Johnson stated that was being considered and stated that most agencies produce some document that itemizes required materials to be submitted. He stated that the intent is to bring this information together into a development review guide by staff to assist developers and citizens.

Mr. McGlennon stated it would be helpful to ask the applicant to verify they have submitted all required items for review.

Mr. Johnson stated is correct, but there may be some inconsistencies if the applicant is making the determination that all elements have been submitted.

Mr. McGlennon asked if this should be included as a recommendation.

Mr. Johnson stated that there was currently some form of this being done, but the ultimate goal was to compile the information into a development review guide that could be posted online.

Mr. McGlennon commented on the ordinance and stated the recommendation from the Planning Commission was for a single building or multiple buildings exceeding 30,000 square feet, with the language relating to a "multi-family unit of 50 or more units" struck through. He understood the reason for removing that language was because those units had gone through the legislative process. He asked if the language could be added to include multi-family units that had not gone through the legislative review process so there was an opportunity for additional review of these cases.

Mr. Johnson stated that the number of subdivisions with 50 or more units which have not gone through a review process were very few.

Mr. McGlennon stated he felt it was a reasonable amendment to make and he would like to propose that addition.

Mr. Goodson asked if there was a consensus for these recommendations.

Mr. Johnson stated there was a consensus among the group for these recommendations.

Mr. Goodson stated the Planning Commission minutes stated that Mr. Peck was comfortable with a 40,000 square foot trigger, but the motion was for 30,000 square foot trigger. He asked how that change was made

Mr. Johnson stated that Mr. Peck indicated he would feel more comfortable if the threshold was lowered from 50,000 square feet, and he believed that Mr. Poole made the motion for 30,000 square feet and there was no additional discussion of a 40,000 square foot threshold.

Mr. Goodson stated his concern with the square footage being changed without discussion.

Mr. Icenhour commented on Recommendation 6 that did not translate into the ordinance, including adding a Consent Calendar section to the DRC agenda.

Mr. Johnson responded that this process was being done administratively

Mr. Icenhour asked if the DRC was satisfied with that change. He asked if the DRC had the ability to pull items for separate discussion.

Mr. Johnson stated that staff would contact the DRC to see if an item could be included on the Consent portion of the DRC agenda, and if there were concerns, it would be included as a regular discussion item.

Mr. Icenhour asked if there was anything specified in the ordinance about how staff and the DRC would like to proceed in the process of writing proffers.

Mr. Johnson stated that over time, more and more plans were subject to additional review, adding additional cost and time to the projects.

Mr. Icenhour asked if the rest of the recommendations were sufficiently accepted.

Mr. Johnson stated that the rest were recommendations that have been determined to already be in the ordinance elsewhere or needed to be in the ordinance.

Mr. Kennedy opened the public hearing.

1. Mr. Bob Spencer, 9123 Three Bushel Drive, spoke about businesses getting approval and will be reviewing to see how this process works.

As no one else wished to speak to this matter, Mr. Kennedy closed the public hearing.

Ms. Jones made a motion to adopt the zoning ordinance amendments and subdivision ordinance amendments as recommended by the Planning Commission.

Mr. McGlennon made the motion to amend the zoning ordinance to insert "or a multi-family development of 50 or more units which is not part of an approved and binding master plan that has been legislatively approved."

The amendment was accepted by Ms. Jones.

On a roll call vote, the Board voted for the amendment AYE: McGlennon, Icenhour, Jones, Kennedy (4). NAY: Goodson (1)

The ordinances as recommended by the Planning Commission were adopted as amended.

I. BOARD CONSIDERATIONS

1. Contribution to Virginia Retirement System (VRS) Plan 2

Mr. Wanner stated that beginning July 1, 2010, there will be two Virginia Retirement System (VRS) Plans. He stated that current members, retirees, and members with service credit in VRS will remain in the present plan, now called VRS Plan 1, while new members or prior members with no service credit will be enrolled in the newly established VRS Plan 2. He reviewed the County's history of picking up the five-percent employee share.

Mr. Wanner stated that due to recent events, the 2010 Virginia General Assembly passed new plan provisions for employees hired on or after July 1, 2010, with no prior VRS service credit. He stated that VRS Plan 2 has different provisions that make it less lucrative than Plan 1, such as increasing the minimum age for unreduced retirement and averaging the highest five years instead of three years to compute the benefit amount. Mr. Wanner explained that the Code stipulates that under Plan 2, employees will pay their five-percent contribution through pre-tax payroll deduction; however, certain employers, including local governments and school divisions, may elect to pay some or all of the five percent on the employee's behalf.

Mr. Wanner stated that most Boards and Councils had not made a formal decision about whether or not to pick up the employee share, but most surrounding localities other than Virginia have elected to pick up the employee share. He recommended that the Board adopt a resolution opting to pick up the employee share of the VRS contribution to maintain equity among employees, to remain competitive particularly in the public safety sector, and due to the reduction of County positions, controlling benefit costs. He stated that this was a revocable decision that can be revisited in the future.

Mr. Goodson stated that originally there was a way to revisit this change which was later removed by the General Assembly. He stated he voted against this at the Hampton Roads Planning District Commission, along with Portsmouth and Norfolk. He stated he would not support this resolution.

Mr. Icenhour asked what the average County employee's salary was.

Mr. Wanner estimated about \$40,000.

Mr. Icenhour stated his concern that the new retirement plan was a lesser plan, which could negatively impact recruitment, particularly for public safety. Mr. Icenhour stated his support for the proposal.

Ms. Jones stated she did not support contributing the five percent for new employees. She stated that the County could not afford to pick up the costs, and she felt that there would not be a negative impact on recruitment. She stated she did not support the resolution.

Mr. McGlennon stated his support for the resolution. He stated that the intention was to offer this benefit to employees since government employees have experienced stagnant salaries in comparison to the private sector. He commented on an article indicating that public employees were better paid than private employees which did not compare similar jobs. He stated this was an opportunity to reward employees and help improve competition with surrounding localities for public safety positions.

Mr. Kennedy stated his support for the proposal. He stated he was in support of picking up the employee contribution to VRS only for public safety employees and he would ask the Board to support an item in its next Legislative Agenda for the General Assembly to allow public safety employees to be differentiated in this part of the law. He recognized the need to remain competitive with compensation and benefits, particularly in relation to public safety positions.

Mr. McGlennon made a motion to approve the resolution.

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

RESOLUTION

CONTRIBUTION TO VRS (VIRGINIA RETIREMENT SYSTEM) PLAN 2

WHEREAS, the Virginia General Assembly in its 2010 session passed legislation creating a separate retirement plan for employees hired on or after July 1, 2010 (hereafter referred to as "Plan 2 Employees"). The legislation stipulates that Plan 2 Employees will pay their five-percent member contribution and that, absent other action by the employer, such contribution will be paid through salary reduction according to Internal Revenue Code § 414 (h) on a pre-tax basis; and

WHEREAS, the legislation allows certain employers, including James City County, to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary; and

WHEREAS, the election to pick up and pay all or a portion of the member contributions on behalf of its Plan 2 Employees as an additional benefit not paid as salary shall, once made, remain in effect for the applicable fiscal year (July 1 - June 30) and shall continue in effect beyond the end of such fiscal year absent a subsequent resolution changing the way the five-percent member contribution is paid; and

WHEREAS, employee contributions that are picked up as an additional benefit not paid as salary are not considered wages for purposes of VA Code § 51.1-700 et seq. nor shall they be considered salary for purposes of VA Code § 51.1-100 et seq.; and

WHEREAS, the County desires to pick up and pay its Plan 2 Employees' member contributions to VRS as an additional benefit not paid as salary in an amount equal to five percent of creditable compensation; and

WHEREAS, VRS tracks such picked-up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that effective the first day of July 2010, the Board of Supervisors for James City County shall pick up member contributions of its Plan 2 Employees to VRS as an additional benefit not paid as salary in an amount equal to five percent of creditable compensation subject to the terms and conditions described above.

NOW, THEREFORE, BE IT FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by James City County in lieu of member contributions. Nothing herein shall be construed so as to permit or extend an option to VRS members to receive the picked-up contributions made by the County directly instead of having them paid to VRS.

2. Referendum Question – November 2010

Mr. Kennedy mentioned the item was subject to a discussion during the work session and the Board wished to defer this item until the July 13, 2010, Board meeting.

Mr. Goodson asked staff if it was possible to add a comment to disclose to voters that voting for the referendum would probably require an increase in the tax rate by approximately \$0.0225 to handle the debt service.

This item was deferred until July 13, 2010.

3. Request for a Limited-Access Break on Route 199

Mr. Wanner stated that Ms. Gloria Freye, of McGuire Woods, on behalf of NTelos, has placed a request with VDOT for a limited-access break on Route 199 for a wireless communications facility. He noted that VDOT's process for granting a limited-access break requires endorsement from the local governing body and in order to preserve the continuing functionality of Route 199 as a major limited-access bypass and thoroughfare in the County, staff recommended the Board of Supervisors not endorse an entrance break. He stated that allowing a limited-access break for a private development is contrary to the goals of the limited-access corridor and will set a negative precedent for similar requests in the future.

Mr. Wanner recommended denial of the request for endorsement of a limited access break on Route 199.

Mr. Goodson made a motion to adopt the resolution. He stated he did not believe this would create a negative precedent because this was an access specifically designed for wireless facilities. He stated there were a number of similar entrances on Route 199. He stated that the importance of this limited access break was the difficulty of finding sufficient wireless facility sites.

Mr. McGlennon stated he was confused about why Eastern State was unwilling to provide access to the facility.

Ms. Gloria Freye, on behalf of NTelos, replied that Eastern State could not encumber the land in any way due to trust restrictions.

Mr. Icenhour commented that he remembered this portion of about nine acres being cut off with no access. He stated that when this is done in other cases, the piece of property might be given access or purchased by the County. He asked how this property was isolated without access.

Mr. Rogers stated that this property was neither condemned nor purchased by the County. He stated that since Route 199 is a limited-access roadway, VDOT not only paid for the right-of-way, but also paid for the damages to the remainder of the property, but did not need the additional land for a public purpose.

Mr. Icenhour asked if this was an acceptable way to handle this.

Mr. Rogers stated that was correct.

Mr. Icenhour asked if the Board was being asked to endorse the application to VDOT in order for VDOT to entertain the request. He stated VDOT makes the ultimate decision based on its own regulations.

Mr. Hicks responded that the Commonwealth Transportation Board (CTB) has a public hearing before voting on this action.

Mr. McGlennon asked if a public hearing should be held before the Board acts on this motion.

Mr. Hicks recommended that the Board hold a public hearing before taking an action on this item.

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

RESOLUTION

REQUEST FOR A LIMITED-ACCESS BREAK ON ROUTE 199

WHEREAS, NTELOS has obtained an option on Parcel ID No. 3820100005 which is landlocked and would need access from Route 199 for the development and operations of a wireless communications tower; and

WHEREAS, Richmond 20 MHz, LLC, d.b.a. NTELOS, has submitted an application for a Special Use Permit (SUP) for a wireless communications tower (SUP-0024-2009) to be located on the property of Hospice House and Support Care of Williamsburg; and

WHEREAS, said application has been deferred to allow NTELOS to research the feasibility of Parcel ID No. 3820100005 as an alternative site; and

WHEREAS, NTELOS has obtained an option on Parcel ID No. 3820100005 which is landlocked and would need access from Route 199 for the development and operations of a wireless communications tower; and

WHEREAS, the Board of Supervisors wishes to support NTELOS in its efforts to determine if Parcel ID No. 3820100005 would be a viable, alternative site for consideration by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, on this 22nd day of June, 2010, that a change in limited access control be granted that would permit a private entrance, as defined in 24 VAC 30-72-10, in part, as an entrance to civil and communication infrastructure facilities that generate 10 or fewer trips per day such as cell towers, from Route 199 to Parcel ID No. 3820100005 for the sole, exclusive, limited purpose of developing and operating a wireless communications tower, which would permit the Commonwealth Transportation Board to consider such a change of limited access control pursuant to 24 VAC 30-401.

J. PUBLIC COMMENT- None

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the Board consider the reappointments to the Colonial Community Services Board in open session and noted that the County Fair would be held from June 24 to June 26, 2010. Mr. Wanner reminded the Board and citizens that Monday, July 5, 2010, was a Federal, State, and local holiday and offices will be closed in observance of Independence Day. He noted that when the Board completed its business, it should recess to 4:30 p.m. on June 29, 2010 for a special meeting to appoint the new County Administrator. He stated the Board also needed to hold a meeting of the James City Service Authority Board of Directors.

L. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon made a motion to reappoint Dr. William Pugh and Mr. Samuel Lazarus to the Colonial Community Services Board.

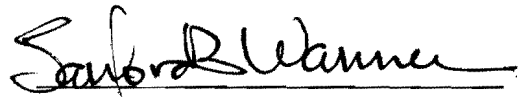
On a roll call vote, the vote was: AYE: McGlennon, Goodson, Icenhour, Jones Kennedy (5). NAY: (0).

Ms. Jones congratulated the recent graduates of the area high schools, including Mr. McGlennon's son.

Mr. Icenhour stated he attended the GED graduation at Warhill High School and recognized it as a quality program.

M. RECESS to 4:30 pm. on June 29, 2010.

At 10:36 p.m., Mr. Kennedy recessed the Board to 4:30 p.m. on June 29, 2010.


Sanford B. Wanner
Clerk to the Board

JUN 22 2010

ORDINANCE NO. 31A-245BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

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 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; AND SECTION 24-77, EXCEPTIONS.

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 24-73, Special regulations for certain signs; and Section 24-77, Exceptions.

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

Sec. 24-73. Special regulations for certain signs.

(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 ~~d~~) 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 ~~7~~) 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~~ 24 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;

(n) *Sandwich board signs.* Sandwich board signs may be permitted in areas designated for commercial use located 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. Alternatively, such signs may be located in other areas where there exists approved design guidelines adopted by the board of supervisors when such signs comply with said guidelines.

Sandwich board signs must adhere to the following requirements:

- (1) *One sandwich board sign displaying menu items or daily specials on the premises shall be permitted at each public entrance of a business location.*
- (2) *Such sign(s) shall not exceed 12 square feet in area and five feet in height,*
- (3) *Sign(s) shall be located on premises or no more than ten feet from the seating area or access door and shall not block the flow of pedestrian traffic. Any such sign shall be removed at close of business each day.*

Sec. 24-77. Exceptions.

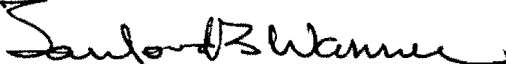
(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

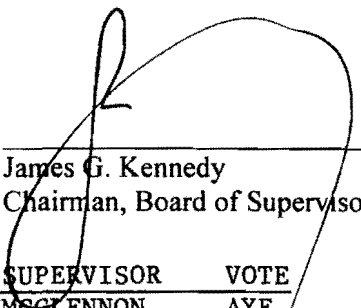
- (6) *One additional building face sign not to exceed the building unit's front façade or 60 square feet, whichever is smaller, when the unit is located in a Mixed-Use district and an area designated for commercial uses on the binding master plan as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved binding master plan of development, all of which shall be approved by the board of supervisors. The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public rights-of-way. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure.*

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, distance between driveways, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or
- (3) In addition to the provisions for granting sign limitation waivers under (b)(1) and (2) of this subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with subsection (a)(4) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property; and
- (4) That in subsections (b)(1), (2), and (3) above such waiver is consistent with traffic safety and all other provisions of this article.

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 2010.

ZO-01-10Signage_ord

JUN 22 2010

ORDINANCE NO. 31A-246

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, SITE PLAN, SECTION 24-147, CRITERIA FOR REVIEW; SECTION 24-148, PROCEDURE FOR COMMISSION REVIEW OF SITE PLANS; SECTION 24-150, PROCEDURES FOR ADMINISTRATIVE REVIEW OF SITE PLANS; AND SECTION 24-153, SUBMITTAL OF REVISED SITE PLAN GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-147, Criteria for review; Section 24-148, Procedure for commission review of site plans; Section 24-150, Procedures for administrative review of site plans; and Section 24-153, Submittal of revised site plan generally.

Article III. Site Plan

Sec. 24-147. Criteria for review.

(a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:

(1) The site plan proposes:

- a. a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet or a multifamily unit development of 50 or more units, ~~whichever is less; or~~ *which is not subject to a binding master plan that has been legislatively approved.*
- b. ~~two entrances on the same road; or~~
- e. ~~b.~~ a fast food restaurant; or
- d. ~~c.~~ a shopping center; or

(2) There are unresolved problems between the applicant, adjacent property owners or any departmental reviewing agency.

(b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the development manager determines, creates or significantly expands a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.

(c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator.

Sec. 24-148. Procedure for commission review of site plans.

(a) The applicant shall submit to the planning director, or his designee, ten copies of the site plan and pay the appropriate application fee. Site plans shall first be reviewed by the DRC who shall forward a recommendation to the commission. In order for site plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such site plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal governments as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review requirements by other agencies. The DRC shall consider the composite report and the site plan and make a recommendation to the commission.

(c) The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the site plan. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(d) The applicant may, at their discretion, submit an enhanced conceptual plan for review by the planning division, other agencies of the county, state and/or federal government as deemed necessary by the planning director and the DRC in advance of preparation of fully engineered plans. The planning division shall prepare a composite report on the proposed plans which shall include review requirements by other agencies and determine consistency with all applicable zoning ordinance requirements, policies and regulations. The enhanced conceptual plan and the planning division's composite report shall be reviewed by the DRC when it meets to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, such notice shall state the specific reasons for disapproval. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the planning division. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legends, north arrows and plan scale labeled;*
- (2) Vicinity and location maps and site address;*
- (3) Site owner and developer information;*
- (4) County tax parcel number, site boundary and parcel size information;*
- (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);*
- (6) Adjacent property information;*
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;*
- (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;*
- (9) Existing and proposed rights-of-way and easements;*

- (10) *Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;*
- (11) *Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;*
- (12) *Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;*
- (13) *Location and size of existing water mains and proposed connection point(s);*
- (14) *Proposed location of water meters, waterlines, and fire hydrants;*
- (15) *Proposed building usage and number of floors;*
- (16) *Preliminary water demands based on proposed use and required fire flow;*
- (17) *Fire flow test performed to determine adequate capacity;*
- (18) *Location of all existing or proposed private wells;*
- (19) *Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);*
- (20) *Proposed sanitary sewer, pump or lift stations, and grinder pump(s);*
- (21) *Verification of sewer flow acceptance;*
- (22) *Location of primary and secondary onsite disposal system;*
- (23) *Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;*
- (24) *Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;*
- (25) *Proposed build out year and phasing information;*
- (26) *Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;*
- (27) *Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;*
- (28) *Proposed design features or elements for which waivers will be sought;*
- (29) *Project site area, disturbed area, impervious cover and percent impervious estimates;*
- (30) *Applicable FEMA FIRM panel information and zone designations;*
- (31) *County watershed, subwatershed and catchment;*
- (32) *Identify if the site is subject to the county's Special Stormwater Criteria (SSC);*

- (33) *Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;*
- (34) *Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;*
- (35) *Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;*
- (36) *Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;*
- (37) *Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;*
- (38) *Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;*
- (39) *Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;*
- (40) *Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;*
- (41) *List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.*

Sec. 24-150. Procedures for administrative review of site plans.


(a) The applicant shall submit to the planning director, or designee, ten copies of the site plan and pay the appropriate application fee. Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal governments as deemed necessary by the planning director. The planning division shall transmit county staff comments to the applicant within ~~30~~ **45** days of ~~the initial~~ submittal of plans meeting all applicable submittal criteria. No plan shall be approved until all staff and other agency comments are satisfied.

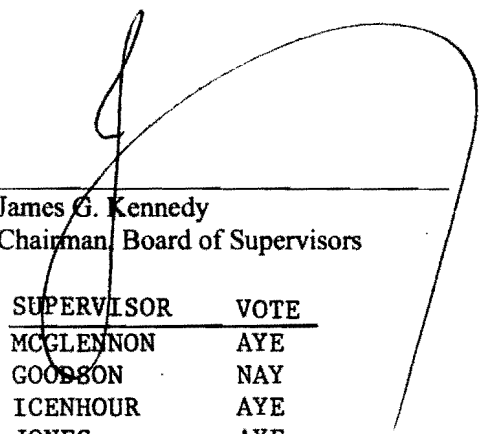
(b) The site plan may be granted preliminary approval by the planning division or deferred. It may also be approved or disapproved by the zoning administrator. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of any action taken on the site plan within ten working days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.

Sec. 24-153. Submittal of revised site plan generally.

Ten copies of a revised site plan shall be submitted to the planning director or his designee who shall within ~~60~~ **30** days review the ~~second submittal of~~ plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. ~~The planning director or his designee shall review each subsequent submittal of revised plans within 21 days.~~ The planning director shall provide a set of all submittals to relevant agencies or departments for their review and written comments. The revised site plan shall be submitted on separate sheets or overlays as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the planning director or his designee. The revised site plan shall at a minimum contain those items set forth in subsection 24-145(a)(1) through (17).

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCGLENNON	AYE
GOODSON	NAY
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

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ADOPTED

JUN 22 2010

ORDINANCE NO. 30A-37

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, PROCEDURES AND DOCUMENTS TO BE FILED, SECTION 19-22 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS, TOWNHOUSE OR CONDOMINIUM SUBDIVISIONS; AND SECTION 19-23, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Section 19-22, Procedure for review of minor subdivisions, townhouse or condominium subdivisions; and Section 19-23, Procedure for preliminary plan review for major subdivisions.

Article II. Procedures and Documents to be Filed

Sec. 19-22. Procedure for review of minor subdivisions, townhouse or condominium subdivisions.

(a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor, townhouse or condominium subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within ~~30~~ 45 days. *Eight copies of a revised plan shall be submitted to the agent who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The agent shall review each subsequent submittal of revised plans within 21 days.* The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall

identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

Sec. 19-23. Procedure for preliminary plan review for major subdivisions.

(a) The subdivider shall submit to the agent twelve copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the development review committee (DRC) when it meets to make its recommendation to the commission. *In order for subdivision plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.*

(c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The enhanced conceptual plan and the

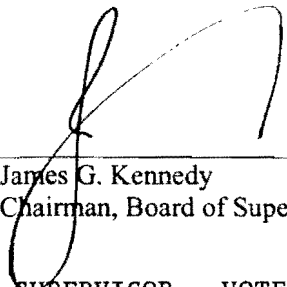
agent's composite report shall be reviewed by the DRC when it meets to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legends, north arrows and plan scale labeled;*
- (2) Vicinity and location maps and site address;*
- (3) Site owner and developer information;*
- (4) County tax parcel number, site boundary and parcel size information;*
- (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);*
- (6) Adjacent property information;*
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;*
- (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;*
- (9) Existing and proposed rights-of-ways and easements;*
- (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;*

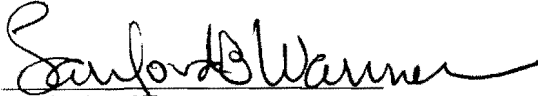
- (11) *Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;*
- (12) *Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;*
- (13) *Location and size of existing water mains and proposed connection point(s);*
- (14) *Proposed location of water meters, waterlines, and fire hydrants;*
- (15) *Proposed building usage and number of floors;*
- (16) *Preliminary water demands based on proposed use and required fire flow;*
- (17) *Fire flow test performed to determine adequate capacity;*
- (18) *Location of all existing or proposed private wells;*
- (19) *Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);*
- (20) *Proposed sanitary sewer, pump or lift stations, and grinder pump(s);*
- (21) *Verification of sewer flow acceptance;*
- (22) *Location of primary and secondary onsite disposal system;*
- (23) *Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;*
- (24) *Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;*
- (25) *Proposed build out year and phasing information;*
- (26) *Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;*
- (27) *Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;*
- (28) *Proposed design features or elements for which waivers will be sought;*
- (29) *Project site area, disturbed area, impervious cover and percent impervious estimates;*
- (30) *Applicable FEMA FIRM panel information and zone designations;*
- (31) *County watershed, subwatershed and catchment;*
- (32) *Identify if the site is subject to the County's Special Stormwater Criteria (SSC);*

- (33) *Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;*
- (34) *Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;*
- (35) *Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;*
- (36) *Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;*
- (37) *Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;*
- (38) *Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;*
- (39) *Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;*
- (40) *Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;*
- (41) *List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.*



James G. Kennedy
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
GOODSON	NAY
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June,
2010.

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