

Development Review Committee  
Government Center Complex  
Conference Room, Building A

May 28, 2014 - 4 p.m.

**1. Roll Call**

**2. Minutes**

April 30, 2014

**3. Old Business**

A. SUP-0014-2013. Lightfoot Marketplace – Appeal of Planning Director’s  
Determination Withdrawn

**4. New Business**

A. Items for DRC Action

1. C-0029-2014. 1584 Harbor Road, Ron & Gail Gilden Conservation Easement  
Encroachment - José Ribeiro

B. Items for Discussion and/or Preliminary Review

1. SUP-0004-2014. WindsorMeade Marketplace Wendy's (New Town Sec. 11) -  
Leanne Pollock

**5. Adjournment**

**AGENDA**

**DEVELOPMENT REVIEW COMMITTEE**

May 28, 2014  
4:00 p.m.

James City County Government Complex  
Building A Conference Room

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1. Roll Call
2. Minutes - April 30, 2014
3. Old Business
  - A. SUP-0014-2013, Lightfoot Marketplace – Appeal of Planning Director’s Determination ..... Withdrawn
4. New Business
  - A. Items for DRC Action
    - 1.C-0029-2014, 1584 Harbor Road, Ron & Gail Gilden Conservation Easement Encroachment .... José Ribeiro
  - B. Items for Discussion and/or Preliminary Review
    - 1.SUP-0004-2014, WindsorMeade Marketplace Wendy's (New Town Sec. 11)..... Leanne Pollock
5. Adjournment

AT A REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN BUILDING A AT 4:00 P.M. ON THE 30<sup>th</sup> DAY OF APRIL TWO THOUSAND FOURTEEN.

ROLL CALL

Mr. Chris Basic  
Mr. George Drummond  
Mr. Rich Krapf  
Mr. Tim O'Connor

NOT PRESENT

Mr. Heath Richardson

STAFF

Mr. Paul Holt  
Ms. Ellen Cook  
Mr. Chris Johnson

MINUTES

Mr. Chris Basic noted that since the DRC did not meet in the month of March, the minutes that were included in the packet were from the February 26 meeting.

Following a motion by Mr. O'Conner, the DRC approved the minutes from the February 26, 2014 meeting by a vote of 4-0.

C-0012-2014, J.S.G. Corporation Expansion

Mr. Johnson provided an overview of the ownership history and use of the five subject properties encompassing ± 106 acres off Centerville Road noting that the existing surface mine has been operating under a Special Use Permit (Case No. SUP-26-91) since 1992 and has maintained a valid Virginia Department of Mines, Minerals and Energy (VDMME) permit. The applicant is presenting the conceptual plan to the DRC to solicit comments, answer questions and receive feedback in advance of the submittal of a formal SUP application. The four proposed uses all require the issuance of a SUP in the A-1, General Agricultural, zoning district: manufacture and sale of wood products, storage and repair of heavy equipment, contractor's office and equipment storage yards and petroleum storage.

Mr. Krapf asked about the hours of operation at the surface mine and whether the expanded uses would propose similar hours.

Mr. Gary Massie, President of J.S.G Corp., stated that the mine operates from 7:00 a.m. to 5:00 p.m. Monday through Friday. If the proposed additional uses are approved by the Board of Supervisors, he envisions similar hours of operation with occasional fluctuations depending on demand following major storm events.

Mr. Krapf asked whether the tub grinder would be located permanently on the site and how often it would be in use.

Mr. Massie stated that the tub grinder would be rented approximately four times per year when the operation had accumulated sufficient material to justify the need for the equipment. He noted

that he had contacted Mr. John Horne, General Manager of General Services, regarding County needs for debris removal following major storm events. Mr. Horne stated that the County has historically used a portion of the Warhill Sports Complex for the processing of storm debris and a facility in the proposed location would provide a viable alternative should it be approved by the Board.

Mr. Basic inquired about the amount of traffic to and from the existing mine operation and how much additional traffic an expanded operation would add to the road network.

Mr. Massie noted that the property has a single entrance which included a 150-foot turn lane and tapers which allows through movements when trucks and heavy equipment are entering or exiting the site. He added that the amount of expected retail traffic from customers inspecting the available mulch inventory would be minimal as most customers would choose to have the mulch delivered to their home.

Mr. O'Conner asked about environmental regulations and spill containment for the proposed petroleum storage given its proximity to sensitive areas within Freedom Park.

Mr. Massie provided a detailed summary of the variety of permits required through the Virginia Department of Environmental Quality and the County Engineering and Resource Protection and Buildings Permits and Safety Divisions. Mr. Johnson noted that staff would likely craft a condition that would require evidence that all required permits be attained prior to a trigger date such as site plan approval or issuance of a certificate of occupancy.

Mr. Krapf inquired as to the number of employees the proposed business expansion would require.

Mr. Massie stated that the existing mine has 18 full time employees and the expanded business lines would add an additional 26 full time employees.

Mr. Basic, noting the proximity of the site to several established neighborhoods as well as Windmill Meadows and two public schools, asked if any negative sentiment had been expressed regarding the proposed expansion or existed with any adjacent property owners.

Mr. Massie responded that he was not aware of any opposition and planned on scheduling a community meeting with residents in the surrounding area prior to the submittal of a formal SUP application, as requested by staff.

Mr. Drummond asked about the difference between a surface mine and other types of mining operations.

Mr. Johnson noted that there are two other resource recovery facilities in existence in the County in Greenmount Industrial Park. Surface mines or borrow pits provide topsoil, fill material and inert incoming fill material from construction sites. Mr. Holt noted that because the surface mine performs its operations above ground, sound can travel across a large cleared area and has the potential to be heard from a greater distance than a heavily wooded and buffered operation,

hence the need to properly evaluate the potential nuisance impacts on adjoining properties to craft conditions which would allow staff to monitor and enforce an expanded operation.

Mr. Basic suggested that the applicant consider providing evergreen plantings adjacent to Freedom Park to buffer the operation as much as possible.

Mr. Massie stated that he would be amenable to the suggestion and locate proposed operations as far away from the Park and adjacent residential properties as possible.

Mr. Krapf complimented the applicant on a well thought out proposal and his sensitivity to his neighbors and stated that it appeared to be a solid proposal.

Mr. Basic echoed Mr. Krapf and stated that he thought it would be wise to move forward toward making formal application. Mr. O'Conner and Mr. Drummond both expressed their support for seeing the proposal move forward as well.

#### SUP-0014-2013, Lightfoot Marketplace

Ms. Cook stated that earlier this month, the applicant for Lightfoot Marketplace contacted staff with a proposed design for Building 2 that showed changes to the tower element of the building including a different roof pitch and use of a different proportion of glass verses other materials. Ms. Cook stated that in making a judgment of architectural consistency, staff considered a number of items: the prior discussion of the site architecture at three DRC meetings prior to Planning Commission and Board action; the tower element's relation to green building concepts by bringing ambient light into the building; the tower element's signature that was carried over and used to modify the standard corporate facades of the grocery store and pharmacy; and most importantly, the language of the adopted design guidelines and the appearance of the adopted elevations. In considering these items, the Planning Director found the proposal to not be consistent, and staff recommended that the DRC uphold this determination.

Mr. Chris Odle, with Armada Hoffler, presented information to the DRC regarding the reason for bringing forward a redesigned tower element for consideration. Mr. Odle noted that the applicant had heard some negative comments about the architecture during the Planning Commission and Board of Supervisors review process. Mr. Odle also noted that the tower element also became a focus when they began reviewing the possible LEED points more closely – while the tower is allows light in, it can also become a heat sink (with heat entering, and loss of cooled air). He summarized that the new design addressed these two aspects – a less modern architectural look, and a better design for energy efficiency.

Mr. Krapf asked the applicant to clarify whether the tower element was proposed to be modified on the other buildings on the site.

Mr. Odle clarified that the tower element was really only a part of buildings 2 and 3. The Walgreens would have its own architecture, no changes are proposed for Harris Teeter, and the other two buildings have architecture that is yet to be designed.

Mr. Basic stated that the site plan shows that the tower element would be on the north and east side of the buildings, which are the sides least exposed to the sun.

Mr. Odle agreed, particularly with the north side, but noted that heat loss was also a concern, since the insulation ability (r-value) of glass is low.

Mr. Mike Molzahn of HBA Architecture, stated that retail tenants didn't like tinted and heavily colored glass because that didn't allow for products to be viewed from the outside. He said they insisted on clear glass, and that this made it very difficult for the energy models to work.

Mr. Krapf asked why there would be a concern by the tenants for having clear glass in the upper part of the tower.

Mr. Molzahn stated that having the glass tinted would negate the "airy" design that was shown in the elevation. In addition, he stated that it became a challenge to lease spaces that were unusual.

Mr. Drummond asked if there were other possibilities that would use more glass, but had the ability to insulate behind it.

Mr. Molzahn stated that you could look at using spandrel glass, but that this would be noticeable as not being open as shown in the elevation.

Mr. O'Connor asked whether the design for the front of the Walgreens could be considered for the tower element. This would be a less heavy design that what is proposed.

Mr. Odle described possibilities for adding more windows or spandrel glass, as suggested.

Mr. Krapf stated that he thought that the proposed design was too heavy, and would prefer something that was lighter, as shown in the approved elevations. Mr. Krapf spoke to the process that had occurred, with the collaboration with the DRC prior to the PC and Board and his concern with proposing a change of this nature at this point.

Mr. Basic noted the care that had to go in to making changes after the Board's approval, to ensure that what was approved was consistent with what the Board had seen.

Mr. Odle reiterated that he had heard some comments at the Board meeting regarding the architecture, and this combined with the energy efficiency concerns, had prompted him to bring this proposal back.

Mr. Basic stated that he liked Mr. O'Connor's suggestion regarding matching the façade of the pharmacy.

The DRC and Mr. Odle discussed the possibility of making some changes to reduce the brickwork and increase the open elements and glass, and the difficulties of having a high space with a glass skin.

Mr. Holt asked the applicant whether there was a way to keep the exterior look of the building while doing something more creative with the interior that would allow for better heating and cooling efficiencies, since it was not the expectation of the DRC that the top of the tower element be open, visible space. He noted that changing the tower element changes the look and feel of the entire building.

Mr. Molzahn noted that the option would be to go to spandrel glass.

Mr. Krapf summarized what he thought he'd heard as common themes from the DRC: trying to give the top of the tower a lighter, airier look, and to re-look at a peaked roof for height. He asked if the applicant would consider looking at a couple of alternatives and bringing these back.

The DRC, applicant and staff discussed the process, with the possibility of circulating some elevations via email for individual feedback from the DRC members. It was also discussed that there was a possibility that the Planning Director could approve the elevation.

Mr. Drummond noted that the approved elevation was more unique and he thought it had more curb appeal. He looked for a compromise that retained the exterior look of the building, while allowing the applicant to do what they needed to do on the interior to make it work from a mechanical standpoint.

The applicant agreed to work on some modifications, and requested deferral of the application to the next DRC meeting.

#### C-0016-2014, McDonalds at Lightfoot Upgrades

Ms. Cook stated that this application was before the DRC for feedback in advance of moving forward with the SUP process. In M-1, fast food restaurants are a specially permitted use. Ms. Cook stated that the existing building would be demolished and a new building of comparable size would be constructed, but with fewer seats. The parking lot and drive-thru lanes would be reconfigured, and a fifty-foot buffer along Richmond Road would be provided.

Mr. Krapf expressed appreciation for the project and its positive elements, particularly the buffer along Richmond Road. He stated that he would like to see some elements of the adjacent Lightfoot Marketplace architecture included in the proposed structure.

Mr. O'Connor concurred, noting that this is an important, central intersection for the County, so it is important to have a positive, unified appearance for development at this location.

Mr. Basic noted that the general citizen would not necessarily know that there was a property line separating this McDonalds from the rest of Lightfoot Marketplace. He would look for the McDonalds to coordinate on building architecture and on site elements with Lightfoot Marketplace as much as possible. For site elements, the applicant could look to the proposed planting and street tree concept and carry that through. He noted that he would be much more supportive if the McDonalds appeared to tie in with the adjacent development for these aspects.

Mr. O'Connor noted the proposed architectural elevations for the McDonalds and wondered whether the non-drive thru side elevation could be made to look more like a front elevation (this is the side that would front Richmond Road). In particular, Mr. O'Connor noted the two service doors and stretch of blank wall.

The DRC discussed the non-drive thru side elevation and the possibility of either modifying the architecture to make it look more like a front elevation or flipping the building to have the front elevating facing Richmond Road (if the site would accommodate this).

Staff and the DRC discussed that the McDonalds applicant was welcome to bring this case back to a future DRC for additional input, if desired by the applicant.

#### ADJOURNMENT

On a motion by Mr. Basic, the meeting was adjourned at approximately 5:20 p.m.

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Mr. Christopher Basic, Chairman

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Mr. Paul Holt, Secretary

**Conceptual Plan C-0029-2014, 1584 Harbor Road Patio  
Staff Report for the May 28, 2014 Development Review Committee Meeting**

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**SUMMARY FACTS**

Applicant: Mr. Donald Newsom of Delightful Gardens  
Land Owner: Mr. and Mrs. Gilden  
Location: 1584 Harbor Road at Governor's Land  
Tax Map/Parcel: 4310200020  
Primary Service Area: Outside  
Parcel Size: ± 0.30 acres  
Zoning: R-4, Residential Planned Community  
Comprehensive Plan: Rural Lands  
Reason for DRC Review: Changes inside the conservation easement line require approval of the Planning Commission.  
Project History:

- Board of Supervisors: On October 2, 1989, the Board of Supervisors approved a request to rezone the property known as Governor's Land from A-1, General Agricultural to R-4, Residential Planned Community with proffers (Z-0007-1989); and
- Board of Supervisors: On November 26, 1996, the Board of Supervisors approved amendments to the existing proffers for Governor's Land (Z-0007-1996).

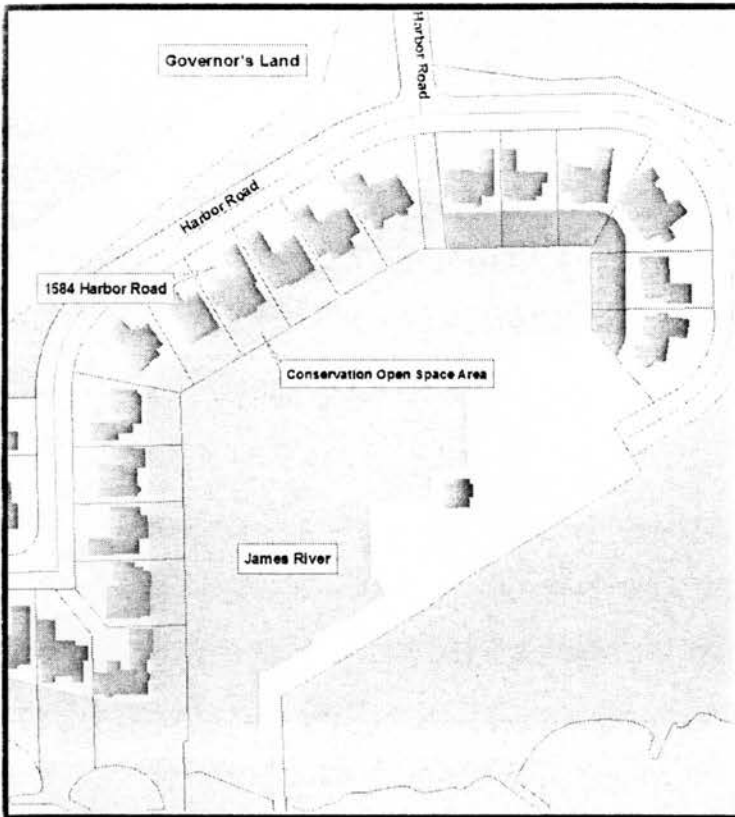
Staff Contact: Jose-Ricardo L. Ribeiro Phone: 253-6690

**STAFF RECOMMENDATION**

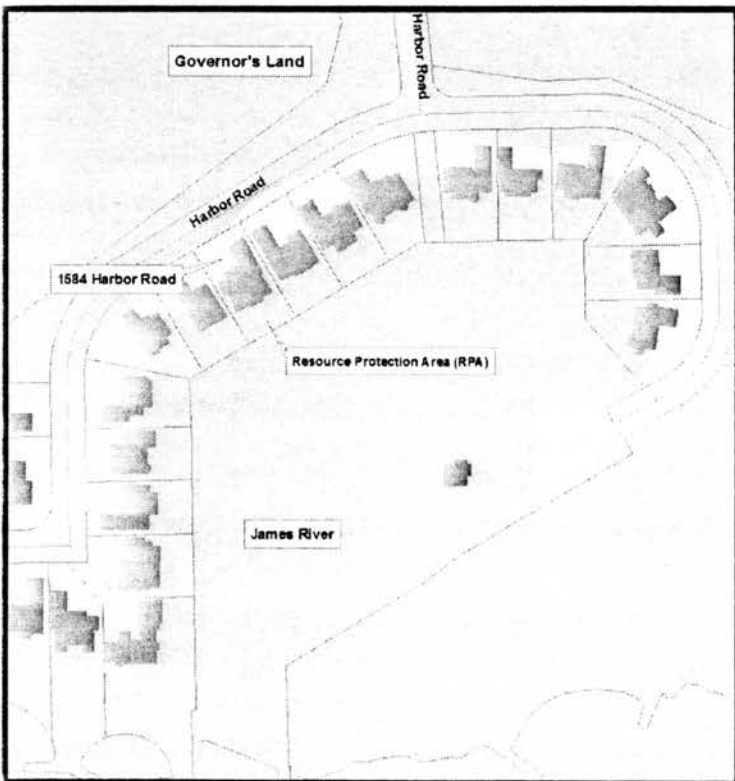
Mr. Donald Newsom of Delightful Gardens has submitted a conceptual plan on behalf of the property owners who are proposing the following changes to their property: (1) construction of a new deck; (2) replacement of existing brick steps with Cambridge pre-cast steps; and (3) partial re-vegetation of existing turf grass (Attachment 1). The area where these changes are proposed is located within the property owner's rear yard and which is designated as a conservation area on a deed of open space easement. The easement was recorded in 1994 between Governor's Land Associates and the County (Attachment 2). The purpose of the conservation easement is to protect the Chesapeake Bay and its tributaries from non-point source pollution from land uses within the Chesapeake Bay drainage area.

Picture No. 1 on the following page shows the location of the Gilden's property and residential dwelling unit in relation to the conservation easement area. Staff notes that the property owner's rear yard is also within a 100-foot Resource Protection Area (Picture 2) which overlaps the conservation easement area.

Picture 1-Conservation Area



Picture 2-Resource Protection Area (RPA)




Article 3 of the deed of easement document states that: "No roads or other structures (excluding utility lines, drainage facilities, paths and trails or signs) shall be built or maintained on the Easement Property other than such road or structure approved in writing by the County Engineer and the Planning Commission."

While there is no longer a "County Engineer" position, the Engineering and Resource Protection (ERP) Division has assumed many of its responsibilities, specifically the Senior Watershed Planner, Mr. Mike Woolson. The ERP division has reviewed this application and has issued comments (Attachment 3) for the proposed improvements related to this project. Staff finds that the proposed changes, particularly the removal of the existing turf grass area from the yard near the shore of the river and the addition of native plants will improve the overall quality of the stormwater runoff from the property. Staff has advised the applicant that part of the property is located within the 100-year floodplain (FIRM-51095C0180C) and that any new gas lines and new electrical fixtures/lines may need to be flood proofed up to an elevation of 9.5 feet.

In addition to Planning Commission approval, this application requires County Engineer (Senior Watershed Planner) approval and a Chesapeake Bay Exception. According to Mr. Woolson, the Chesapeake Bay Board has requested that this project be considered by the Development Review Committee/Planning Commission prior to Chesapeake Bay Board action.

On January 30, 2013 and January 29, 2014, the DRC recommended approval of two similar applications, C-0054-2012 and C-0070-2014, respectively. Staff has attached a location map (Attachment 4) showing the location of these parcels for your reference.

Staff recommends that the DRC recommends approval of this application to the Planning Commission contingent on the applicant addressing all comments issued by the Engineering and Resource Protection Division on a memorandum dated May 16, 2014.



Jose-Ricardo L. Ribeiro

**ATTACHMENTS:**

1. Conceptual Plan
2. Deed of Easement for Open Space/ Major Open Space/RPA Buffer (pages 1, 2, 3, 9, and exhibit B)
3. ERP comments dated May 16, 2014
4. Location Map

# GILDEN RESIDENCE

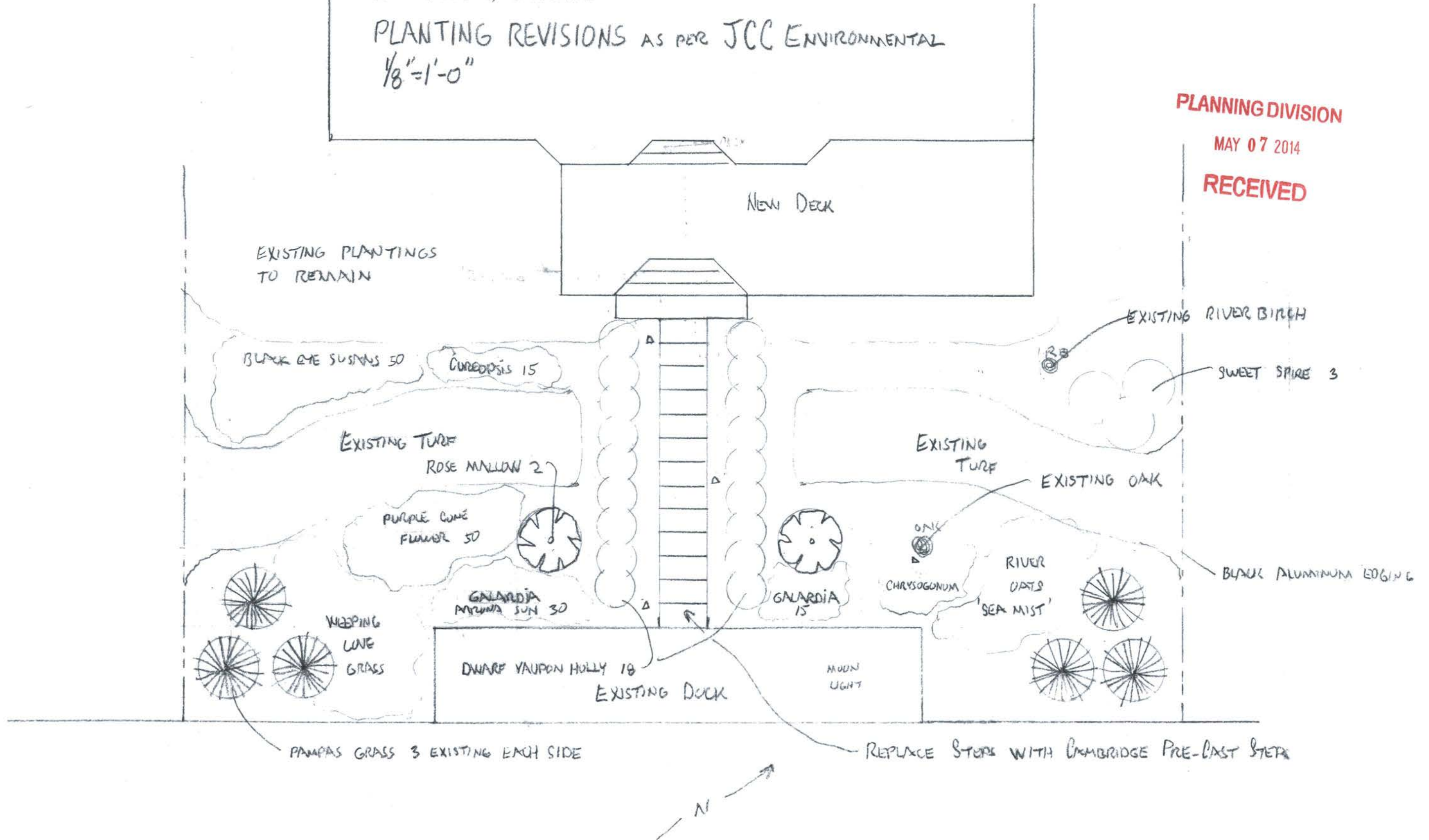
1584 HARBOR RD.  
WILLIAMSBURG, VA. 23185

PLANTING REVISIONS AS PER JCC ENVIRONMENTAL  
1/8" = 1'-0"

PLANNING DIVISION

MAY 07 2014

RECEIVED

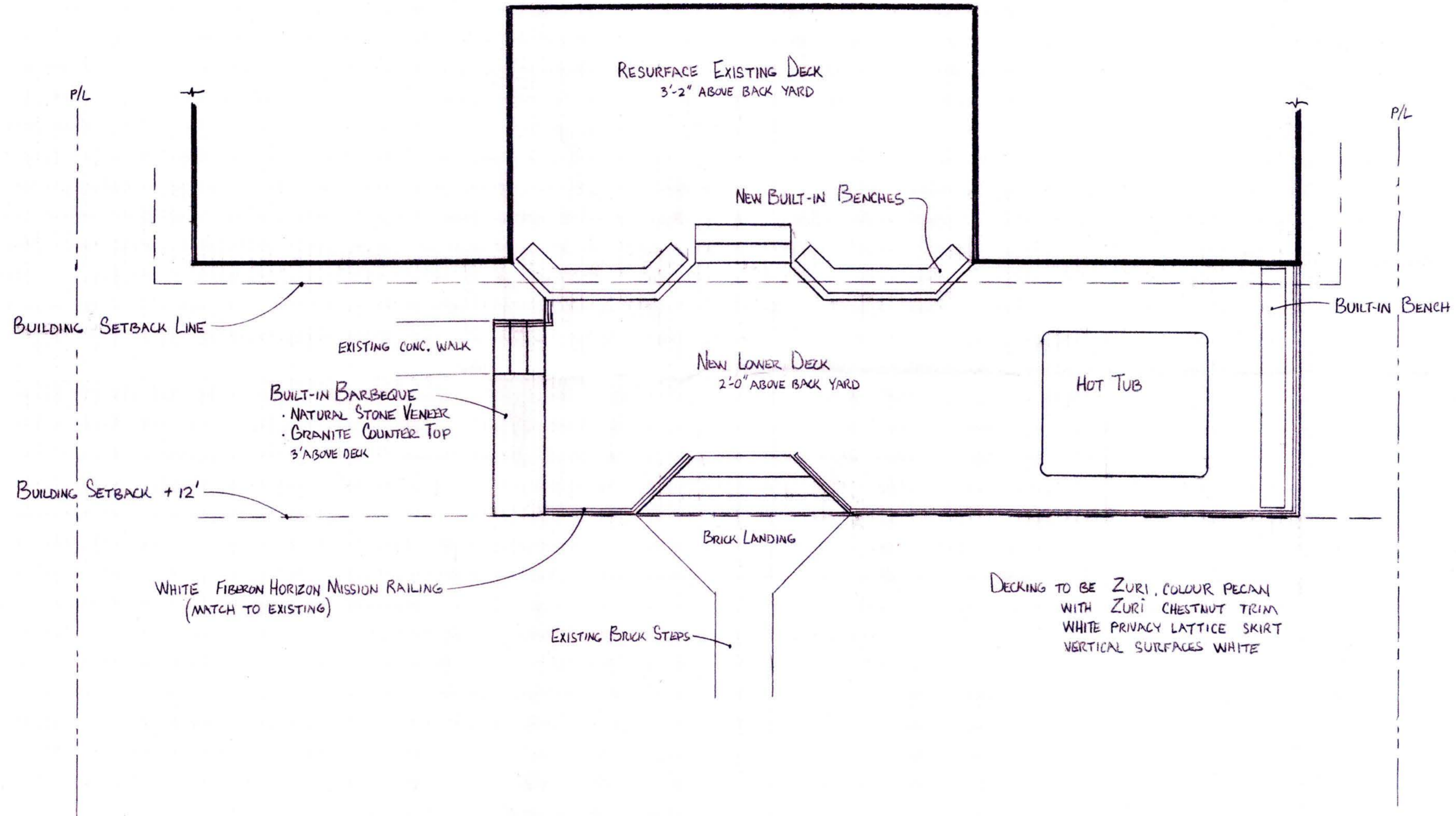


C-0029-2014

PLANNING DIVISION

MAY 07 2014

RECEIVED



GILDEN RESIDENCE  
1584 HARBOR ROAD WILLIAMSBURG, VA. 23185

DECK PLAN  
SCALE: 1/4" = 1'-0"

DELIGHTFUL GARDENS LANDSCAPE CO.  
DATE: APRIL 24, 2014 DRAWN BY: DON NEWSOM

016280

EXEMPT FROM RECORDATION TAX  
UNDER VIRGINIA CODE SECTION 58.1-811(A)(6), AS AMENDED

DEED OF EASEMENT  
FOR OPEN SPACE/MAJOR OPEN SPACE/RPA BUFFER  
THE HARBOR AT TWO RIVERS

THIS DEED OF EASEMENT, made as of September 15, 1994, by and among GOVERNOR'S LAND ASSOCIATES, a Virginia general partnership and its heirs, successors and assigns ("Grantor"); COUNTY OF JAMES CITY, VIRGINIA ("Grantee"); ABN-AMRO BANK, N.V., successor by merger to ALGEMENE BANK NEDERLAND, N.V., CAYMAN ISLANDS BRANCH ("Beneficiary"); and WALTER P. WITT, JR. and PATRICK J. MILMOE, Trustees, either of whom may act ("Trustees").

WHEREAS, the Grantor is the owner of certain property known as The Harbor At Two Rivers, The Governor's Land At Two Rivers, consisting of tracts of land containing 33.999 acres, more or less, in the aggregate ("Property");

WHEREAS, Grantee has adopted The Chesapeake Bay Preservation Ordinance, Chapter 19B of the James City County Code, as required by Chapter 21 of Title 10.1 of the Code of Virginia, to protect the Chesapeake Bay and its tributaries from nonpoint source pollution from land uses or appurtenances within the Chesapeake Bay drainage area;

WHEREAS, Grantor wishes to preserve portions of the Property as natural open space as part of Grantor's efforts to improve the quality of stormwater runoff from the Property;

WHEREAS, the Property is encumbered by the lien of that certain Deed of Trust dated February 18, 1991 and recorded February 20, 1991 in Deed Book 504 at Page 475 in the office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, wherein Grantor conveyed certain property as further described therein to the Trustees to secure the Beneficiary; and

WHEREAS, Beneficiary by its joinder herein consents to this instrument and directs and authorizes the Trustees to join herein.

NOW, THEREFORE, in recognition of the foregoing and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant and convey to Grantee an easement in perpetuity in gross, with the right in perpetuity to restrict the use as described below, of the portion herein described of those certain tracts, lots, pieces or parcels of land with improvements thereon ("Easement Property"), containing 6.417 acres (Major Open Space Parcel # 23), 1.756 acres (Major Open Space Parcel # 24), 1.709 acres (Major Open Space Parcel

# 25), .550 acres (Major Open Space Parcel #26), .113 acres (Open Space Parcel # 1), and the area within the RPA Buffers, being approximately 3.39 acres (such portions of the Easement Property included in such areas designated as RPA Buffer on the hereinafter described Plat are herein collectively referred to as the "Buffers"), more or less, to wit:

Open Space Parcel One (1), Major Open Space Parcel Twenty-Three (23), Major Open Space Parcel Twenty-Four (24), Major Open Space Parcel Twenty-Five (25), Major Open Space Parcel Twenty-Six (26), the areas on Lots 6, 7, 8, 9, 10, 11, 12 and 13 designated as "100' RPA Buffer," being approximately 1.87 acres, and the areas on Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 designated as "50' RPA Buffer," being approximately 1.52 acres, THE HARBOR AT TWO RIVERS, THE GOVERNOR'S LAND AT TWO RIVERS, as the same appear duly dedicated, platted and subdivided on the Plat attached hereto and recorded simultaneously with this Easement in Plat Book 60 at Pages 1 through 6 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and the County of James City, Virginia.

The restrictions hereby imposed on the use of the Easement Property, the acts which the Grantor covenants to do or not to do and the restrictions which the Grantee is hereby entitled to enforce, shall be as follows:

1. The Easement Property shall be kept free and clear of any junk, trash, rubbish and other unsightly or offensive material.
2. No building shall be permitted on or lots platted within the Easement Property, except that the Buffers can be included as part of platted lots.
3. No roads or other structures (excluding utility lines, drainage facilities, paths and trails or signs approved in accordance with Paragraph 4 below) shall be built or maintained on the Easement Property other than such road or structure approved in writing by the County Engineer and the Planning Commission. Any roads shall be generally as shown on the approved Master Plan for The Governor's Land at Two Rivers. Notwithstanding the foregoing, the Grantor may install within the portions of the Buffer on Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29, subterranean portions of the Marina wall and bulkhead and may utilize such Buffers to repair and maintain such Marina wall and bulkhead (including, without limitation, the subterranean portions thereof) provided the Grantor restores, or causes to be restored, the surface of such Buffers to the extent disturbed by such maintenance and repair.
4. No signs (including billboards or outdoor advertising), paths or trails, utility lines, irrigation systems or drainage facilities shall be placed on the Easement Property without the expressed written consent of the County Engineer and the Planning Commission or in accordance with a signage plan, path or trail plan, drainage plan, irrigation plan or utility plan approved in

writing by the County Engineer and the Planning Commission. Notwithstanding the foregoing, paths and trails may be constructed and maintained within the Buffers in accordance with the provisions of Exhibit "A" attached hereto.

5. The Easement Property shall remain in its natural condition with respect to natural leaf litter or other ground covering vegetation, understory vegetation or shrub layer, and tree canopy; provided, however, that the Grantor and its successors and assigns in the ownership of the Buffers may plant and maintain within the Buffers landscape material as described on Exhibit "B" attached hereto or as may otherwise be approved by the County Engineer. The activities of Grantor within the Easement Property shall be limited to those activities which do not remove or damage any significant amount of healthy vegetation or materially disturb any soil except as approved by the County Engineer under this paragraph or in connection with approvals obtained in accordance with Paragraphs 3 and 4 above. Conservation mix grasses within the Easement Property shall not be mowed. Grantor may remove dead, diseased, poisonous or invasive vegetation or the Grantor may use hand tools (such as chain saws, wood chippers and stump grinders) for selective trimming and pruning and the clearing of understory which would not alter the natural character of the Easement Property only in a location and manner approved by the County Engineer.

6. Grantee and its representatives may enter upon the Easement Property from time to time for inspection, to enforce the terms of this Easement and, as to all of the Easement Property other than the Buffers, to post a sign or marker identifying Grantee's interest in the Easement Property (other than the Buffers) as natural open space and/or major open space. In the event of a violation of the terms of this Easement, the Grantee shall have the right to seek all appropriate legal and equitable relief, including, but not limited to, the right to restore the Easement Property to its natural condition and assert the cost of such restoration as a lien against the Easement Property, provided that Grantee shall notify Grantor at least thirty days in advance of any proposed action with respect to the Easement Property, describing the condition Grantee considers a violation. Grantor shall have a reasonable opportunity to cure prior to Grantee's exercise of its rights hereunder.

7. Grantee and Grantor may amend the provisions hereof or terminate this easement by a written instrument signed by both parties.

8. Although this easement in gross will benefit the public in the ways recited above, nothing herein shall be construed to convey a right to the public of access to or use of the Easement Property and the Grantor shall retain exclusive right to such access and use, subject only to the provisions herein recited.

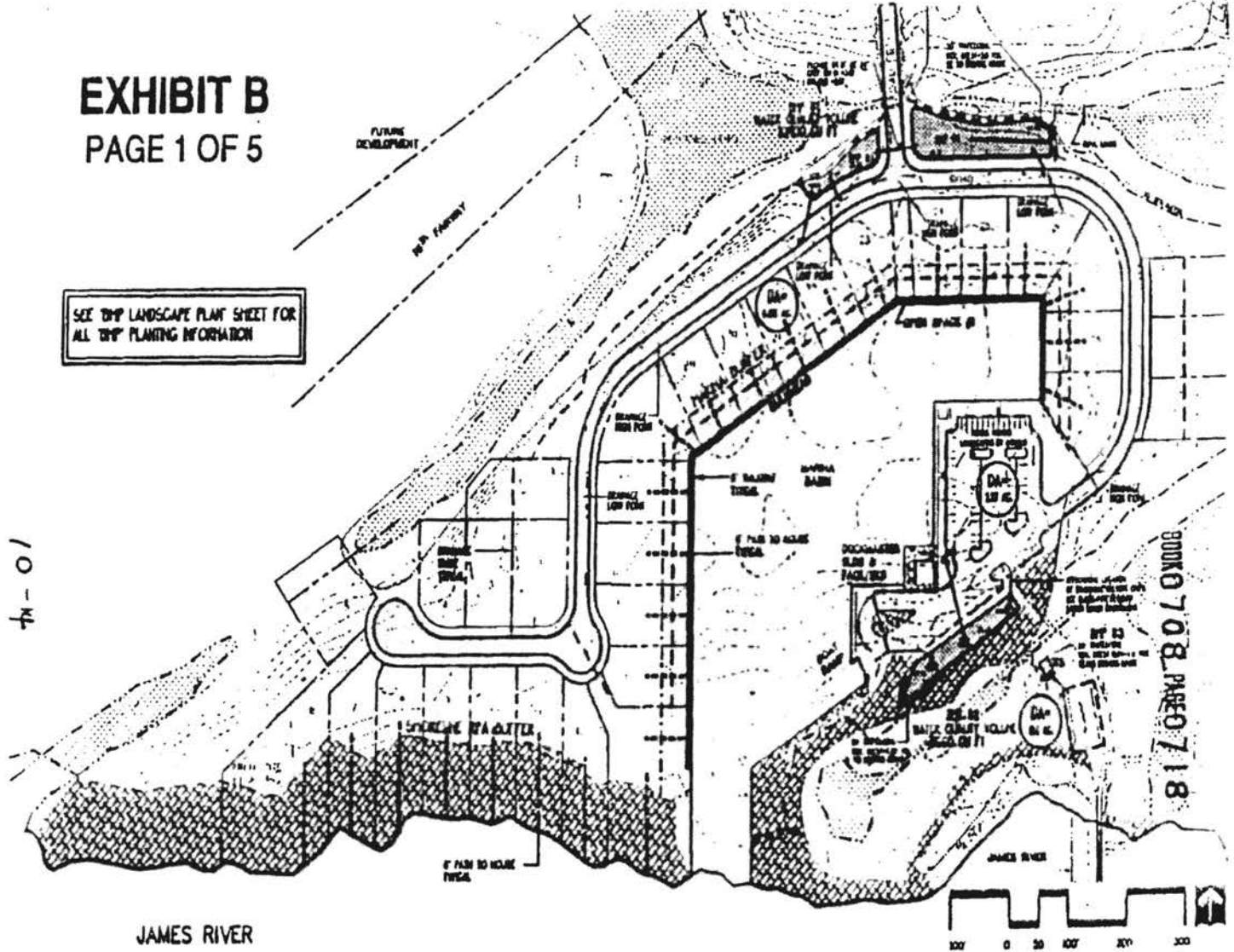
THIS DEED FURTHER WITNESSETH, that in recognition of the foregoing and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustees, at the direction and with the consent of the Beneficiary, as evidenced by its signature hereon, hereby subordinate the lien of the Deed of Trust to this Deed of Easement with respect to the Easement Property.

EXHIBIT "A"

Paths and trails within the Buffers may be constructed of mulch, crushed stone and/or oyster shells, timbers or other materials approved by the County Engineer for James City County, Virginia.

**EXHIBIT B**  
**PAGE 1 OF 5**

SEE TWP LANDSCAPE PLAN SHEET FOR ALL TWP PLANNING INFORMATION



10-01

BOOK 708, PAGE 718

JAMES RIVER

8 1 8	SHEET: 1 8	
	DATE: 10/1/01	

**MARINA BUFFER LANDSCAPE PLAN**  
**GOVERNOR'S LAND MARINA - EXHIBIT "B"**  
**JAMES CITY COUNTY, VIRGINIA**

**W**  
**E**  
**G**  
 WILLIAMSBURG ENVIRONMENTAL GROUP, INC.  
 Environmental Consultants  
 100-0 SOUTH HIGHWAY STREET  
 WILLIAMSBURG, VIRGINIA, 23140  
 (804) 238-6000 FAX (804) 238-4407

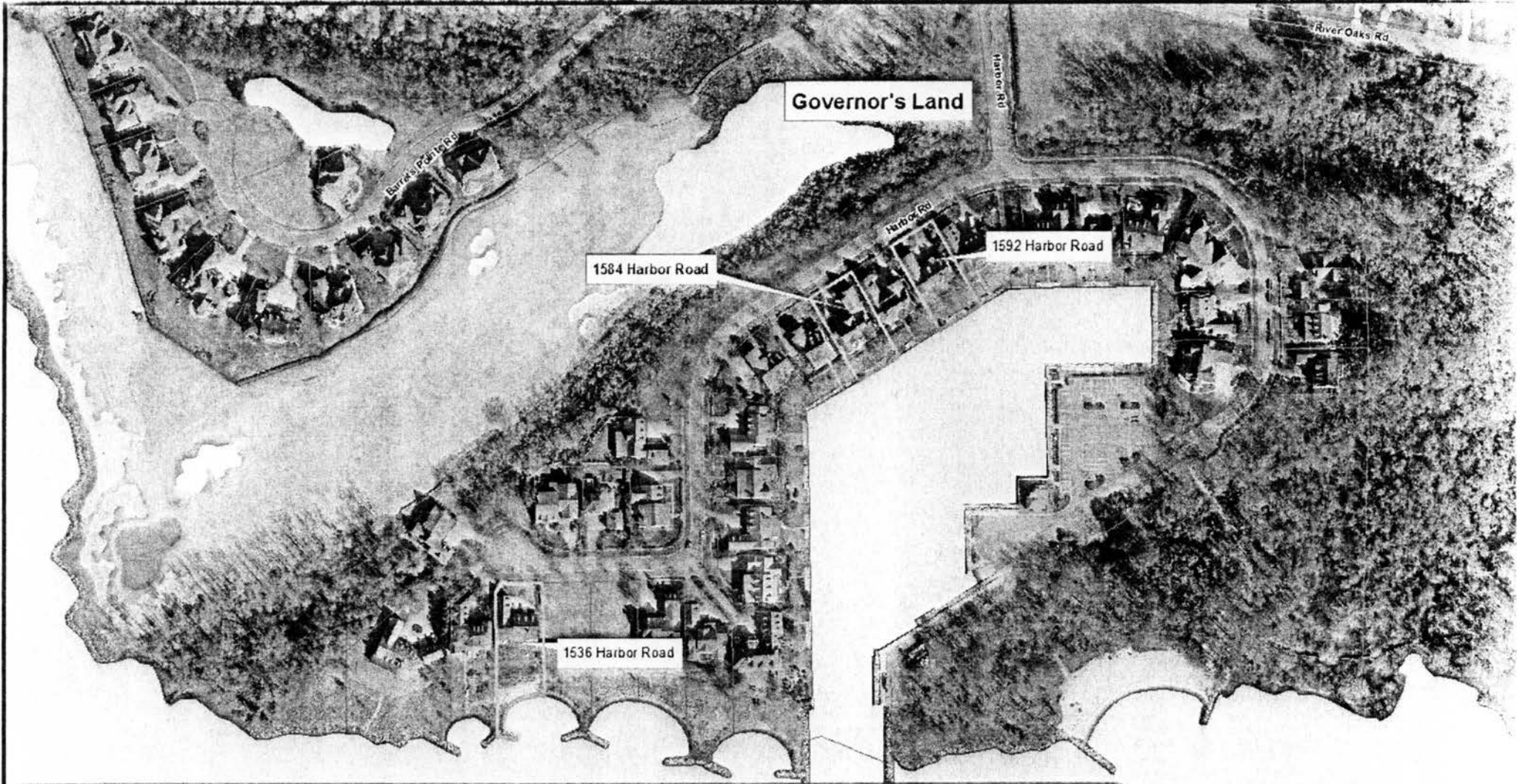


**ENGINEERING AND RESOURCE PROTECTION REVIEW COMMENTS**  
1584 Harbor Road – The Harbor at Governor’s Land  
COUNTY PLAN NO. C-029-14  
May 16, 2014

**General:**

1. Easement. Per the recorded Deed of Conservation Easement, any modifications to the 50-foot dedicated conservation area must be approved by the Planning Commission.
2. CBE. Per the Chesapeake Preservation Ordinance, the changes proposed with the 50 foot seaward portion of the Resource Protection Area (RPA) must be approved by the Chesapeake Bay Board. Provide a water quality impact assessment (WQIA) consistent with Sections 23-7(b) and 23-11 of the Chesapeake Bay Preservation ordinance.
3. Deck. A minimum of 3” gravel overtop of filter fabric shall be placed under the decks to prevent erosion under said decks.
4. Landscaping. Native landscape plantings are always preferred as mitigation in accordance with County Chesapeake Bay Preservation Area (CBPA) program requirements. However, a maximum of 25% of all plant material within the 50-foot RPA may be non-native plant material. This includes lawn area. (Note: This is one aspect of standards developed for non-native, ornamental plant options in RPA as defined in the County’s non-native plant policy developed by the Native Plant Advisory Committee in 2008. This policy can be provided to the landscape designer for the project if needed.)
5. Step Features. The plan indicates a specific type and manufacturer of steps between the proposed deck and existing dock. It is unclear if the step features are of impervious or pervious nature. The new steps shall promote infiltration of ground water through the use of a pervious paver system. (Note: Refer to the Engineering and Resource Protection Division website for County guidance on use of pervious paver block systems as part of Chesapeake Bay Exceptions for residential applications. This information is required to be submitted as part of a water quality impact assessment WQIA and Chesapeake Bay Exception.)
6. Irrigation. No irrigation will be allowed within the conservation easement.
7. Turf Management. A nutrient management plan prepared by a certified nutrient management planner or program, such as the Virginia Cooperative Extension Landscape Love/Turf Love program or equivalent, shall be submitted to the Engineering and Resource Protection Division for review and approval prior to plant installation. Nutrient Management plans shall cover both the lawn areas and the landscape areas.
8. Other Permits. Building permits may be required through the County’s Division of Building, Safety and Permits for certain features of the improvements as proposed.

Location Map showing properties with current and previous similar requests for DRC action



- 1584 Harbor Road → Current request under DRC consideration.
- 1536 Harbor Road → DRC recommended approval on January 30, 2013; PC approved on February 6, 2013.
- 1592 Harbor Road → DRC recommended approval on January 29, 2014; PC approved on February 5, 2014.

**SPECIAL USE PERMIT 0004-2014. WindsorMeade Marketplace Wendy's (New Town Sec. 11)  
Staff Report for the May 28, 2014 Development Review Committee Meeting**

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**SUMMARY FACTS**

Applicant: Mr. Paul Gerhardt  
Land Owner: SLN Casey Associates, LLC  
Proposed Use: Fast food restaurant  
Location: 4800 Monticello Avenue (WindsorMeade Marketplace in front of the Martin's fuel station).  
Tax Map/Parcel No.: 3831800003A  
Primary Service Area: Inside  
Parcel Size: +/- 1.322 acres  
Zoning: MU, Mixed Use  
Comprehensive Plan: Mixed Use (area #7 – New Town)  
Reason for DRC Review: The proposed project requires a special use permit which has been submitted for consideration at the June 4 Planning Commission meeting. The applicant has requested that the project be placed on the DRC agenda.

**Project History:**

- Planning Commission and Board of Supervisors: The project is located within the New Town master planned area for Section 11. The Board of Supervisors approved Z-0005-2003/MP-0006-2003 for WindsorMeade Marketplace on October 14, 2003.


Staff Contact: Leanne Pollock

Phone: 253-6876

**BACKGROUND**

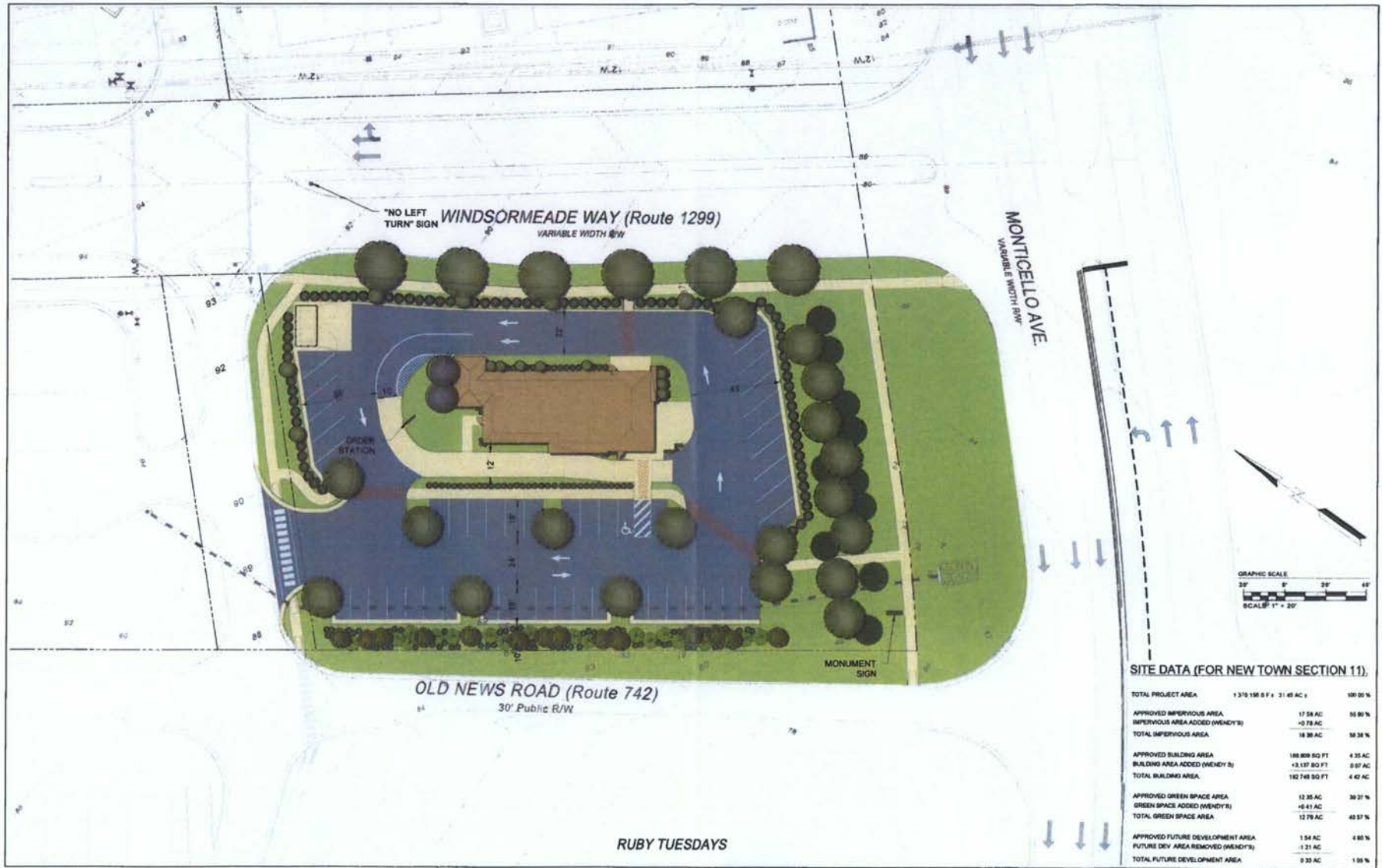
Mr. Paul Gerhardt has submitted a special use permit for an approximately 3,100 square foot Wendy's fast food restaurant. Fast food restaurants require an SUP in the MU, Mixed Use zoning district. The New Town Design Review Board has reviewed and approved the conceptual layout and elevations.

The applicant has requested that the DRC have the opportunity to review the layout and elevations for the project in advance of the June 4 Planning Commission. No formal action is required at this meeting.

  
\_\_\_\_\_  
Leanne Pollock

**Attachments:**

1. Layout and elevations



**SITE DATA (FOR NEW TOWN SECTION 11)**

TOTAL PROJECT AREA	1310 198 SQ FT	31.45 AC	100.00 %
APPROVED IMPERVIOUS AREA	17.58 AC		55.90 %
IMPERVIOUS AREA ADDED (WENDY'S)	+0.78 AC		
TOTAL IMPERVIOUS AREA	18.36 AC		58.38 %
APPROVED BUILDING AREA	188,869 SQ FT	4.35 AC	
BUILDING AREA ADDED (WENDY'S)	+3,137 SQ FT	0.07 AC	
TOTAL BUILDING AREA	192,006 SQ FT	4.42 AC	
APPROVED GREEN SPACE AREA	12.35 AC		38.27 %
GREEN SPACE ADDED (WENDY'S)	+6.41 AC		
TOTAL GREEN SPACE AREA	12.79 AC		40.37 %
APPROVED FUTURE DEVELOPMENT AREA	1.54 AC		4.80 %
FUTURE DEV AREA REMOVED (WENDY'S)	-1.21 AC		
TOTAL FUTURE DEVELOPMENT AREA	0.33 AC		1.05 %

RUBY TUESDAYS

Rev	Date	Description	Appr'd By

**AES**  
CONSULTING ENGINEERS

5748 Old News Road, Suite 1  
Williamsburg, Virginia 23188  
Phone: (757) 323-0845  
Fax: (757) 323-8864  
www.aesinc.com

Hampton Roads | Central Virginia | Mid-Atlantic

CONCEPTUAL SITE LAYOUT

**WENDY'S**

JAMES TOWN DISTRICT    JAMES CITY COUNTY    VIRGINIA

Project Number: 2008-002  
Sheet Number: 008-01  
Scale: 1"=20'  
Date: 11.05.11

**1 OF 1**



Wendy's #10538  
 MONTICELLO AVENUE  
 WILLIAMSBURG, VIRGINIA

SURROUNDING AREA PRECEDENTS

Project No. 131104 Date: 02/04/14



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

SURROUNDING AREA PRECEDENTS

Project No: 131104 Date: 02/04/14



Wendy's #10538  
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WILLIAMSBURG, VIRGINIA

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Wendy's #10538  
 MONTICELLO AVENUE  
 WILLIAMSBURG, VIRGINIA

Project No: 131104 Date: 02/04/14

SURROUNDING AREA PRECEDENTS



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

FRONT VIEW CONCEPTUAL RENDERING

Project No: 131104 Date: 02/04/14



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

FRONT VIEW CONCEPTUAL RENDERING

Project No: 131104 Date: 02/04/14



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

DRIVE-THRU SIDE CONCEPTUAL RENDERING

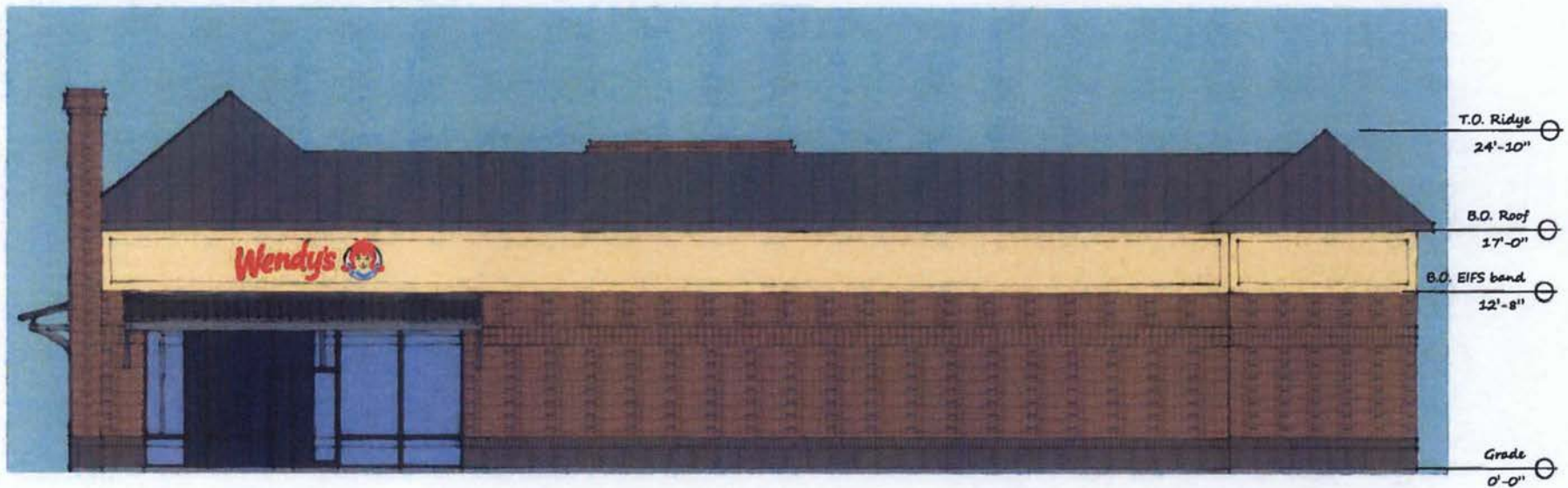
Project No: 131104 Date: 02/04/14



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

ENTRY SIDE CONCEPTUAL RENDERING

Project No: 131104 Date: 02/04/14



Wendy's #10538  
 MONTICELLO AVENUE  
 WILLIAMSBURG, VIRGINIA

ENTRY SIDE CONCEPTUAL RENDERING

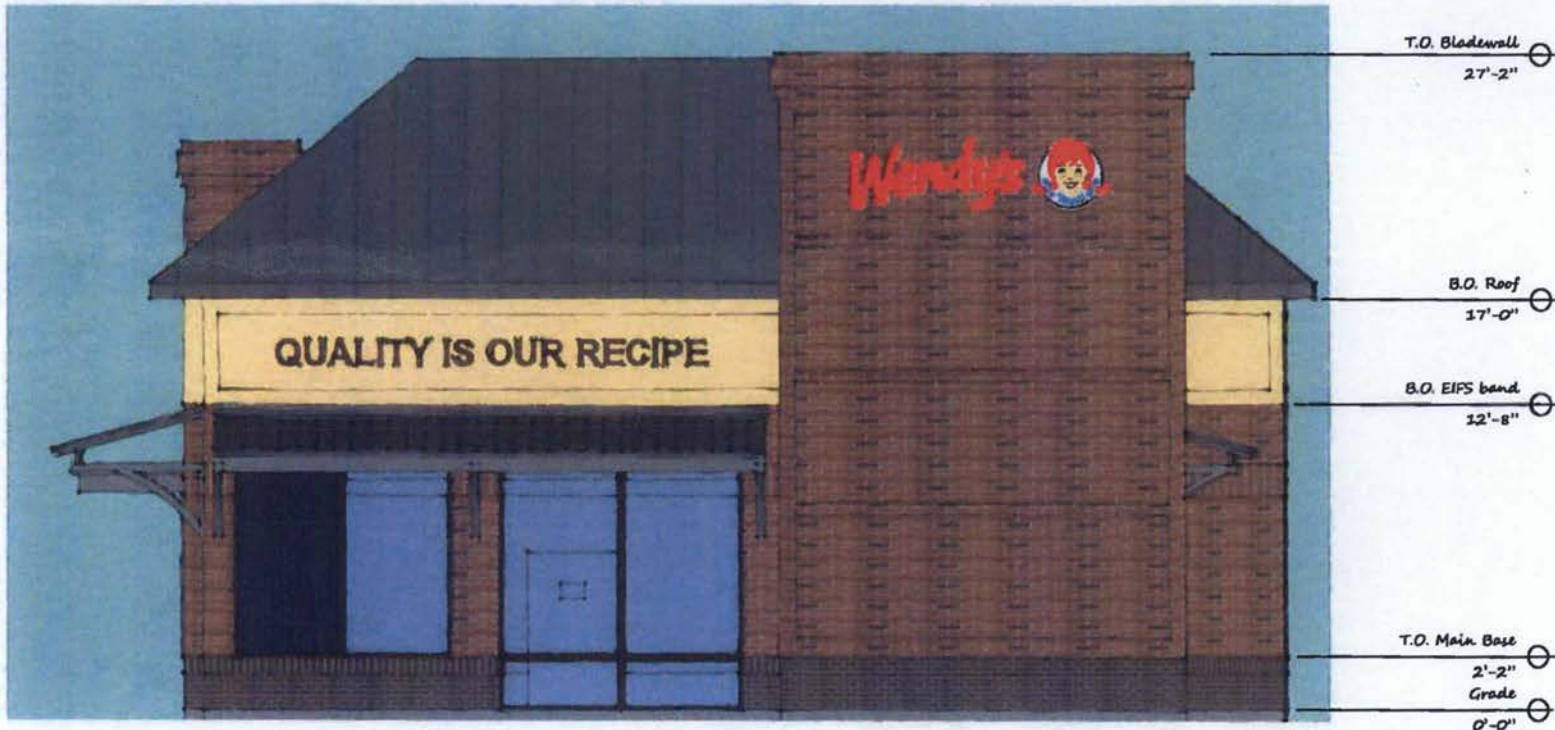
Project No: 131104 Date: 02/04/14



Wendy's #10538  
 MONTICELLO AVENUE  
 WILLIAMSBURG, VIRGINIA

Project No: 131104 Date: 02/04/14

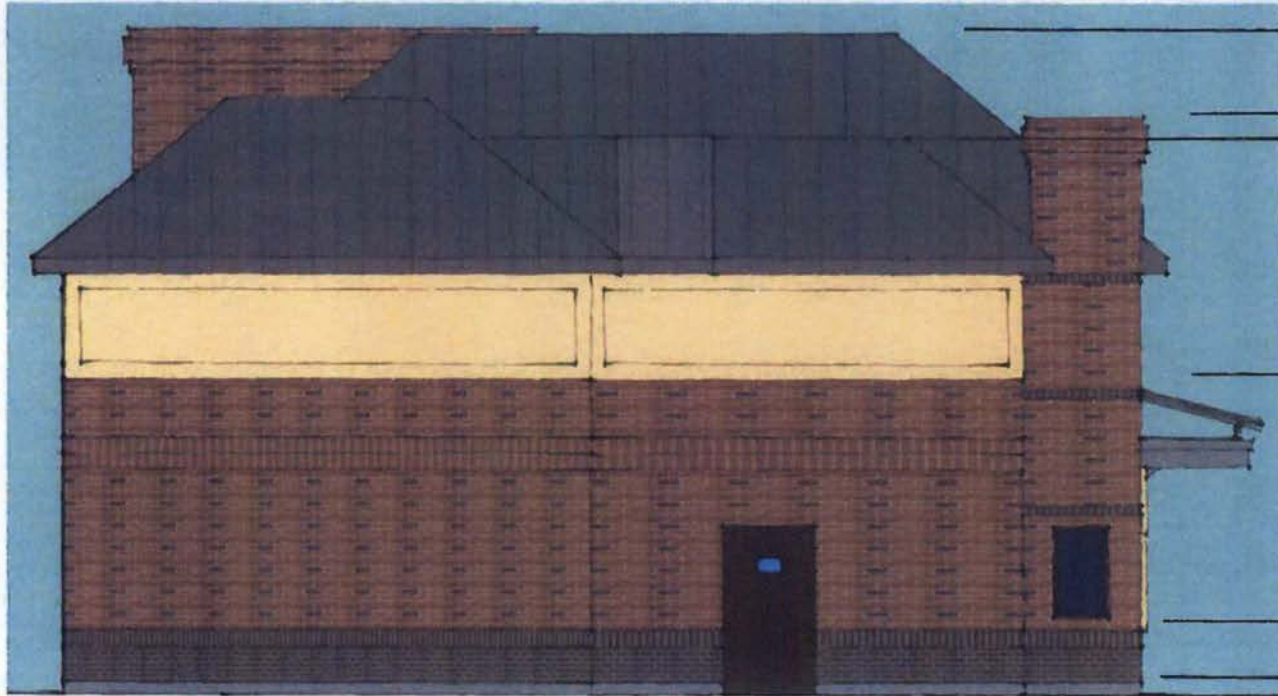
DRIVE-THRU CONCEPTUAL RENDERING



Wendy's #10538  
 MONTICELLO AVENUE  
 WILLIAMSBURG, VIRGINIA

FRONT CONCEPTUAL RENDERING

Project No: 131104 Date: 02/04/14



T.O. Ridge  
27'-6"

T.O. PUW Tower  
23'-6"

T.O. Ridge  
23'-0"

T.O. Canopy  
12'-8"

T.O. Main Base  
2'-2"  
Grade  
0'-0"



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

Project No: 131104 Date: 02/04/14

REAR CONCEPTUAL RENDERING

THE IONIC CLEZIGN STUDIOS  
ARCHITECTURE INTERIORS GRAPHICS  
1000 N. 10TH ST. SUITE 100  
WILLIAMSBURG, VA 23185  
757-835-1111  
WWW.IONICCLEZIGN.COM



Wendy's #10538  
MONTICELLO AVENUE  
WILLIAMSBURG, VIRGINIA

AERIAL CONCEPTUAL RENDERING

Project No: 131104 Date: 02/04/14