

# Planning Commission Agenda

May 7, 2001, 7:00 p.m.

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| <b>1. Roll Call</b>  |
| <b>2. Minutes: Meeting of April 2, 2001</b>                    |
| <b>3. Development Review Committee Report (Separate Cover)</b> |
| <b>4. Policy Committee Report</b>                              |
| <b>5. Public Hearings</b>                                      |

- A.** Case No. AFD 6-86. Cranston's Pond Agricultural and Forestal District Withdrawal  
Alvin Anderson on behalf of Wallace L. Sink, trustee of the Ware Estate, has applied to withdraw the Ware Property from the Cranston's Pond Agricultural and Forestal District. The Ware property consists of approximately 90.79 acres located at **6991 Richmond Road**. The property is zoned A-1, General Agricultural, and is designated Low-Density Residential on the Comprehensive Plan. This property may be further be identified as Parcel Nos. (1-21) and (1-22) on James City County Real Estate Tax Map No. (23-4).
- B.** Case No. AFD-8-86. Casey Agricultural and Forestal District Withdrawal  
Alvin Anderson, on behalf of C.C. Casey Ltd., Co., has applied to withdraw all of their property, now and formerly, from the Casey AFD. New Town will be developed on this land, approximately 378 acres. The properties, currently zoned R-8, Rural Residential, and designated Mixed Use on the Comprehensive Plan Land Use Map, are located on 4692 Old News Road, 5216, 5248, 5244 & 5235 Monticello Avenue. The properties can further be identified as Parcel No. (1-8) on James City County Real Estate Tax Map No.(38-1); Parcel No. (1-34) on JCC Real Estate Tax Map No. (38-3), and Parcel Nos. (1-50), (1-51), (1-52), (1-53) on James City County Real Estate Tax Map No.(38-4)
- C.** Case No. SUP-7-01. Jolin Kennels  
Joseph H. Banks, Jr., and Linda B. Banks have applied for a special use permit to operate a kennel at **4472 Ware Creek Road**. The property is zoned A-1, General Agricultural, and is designated Rural Lands on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No.(14-1).
- D.** Case No. Z-4-00. Colonial Heritage of Williamsburg  
Alvin Anderson, on behalf of U.S. Homes Corporation, has applied to rezone approximately 754 acres near Norge. The applicant proposes to rezone specific parcels to a Mixed Use designation for commercial/office and residential use. This development would consist of 2,000 residential units with a commercial/office area abutting Route 60. The properties, located at **6799, 6895, 6991, and 6993 Richmond Road and 6175 Centerville Road**, are currently zoned A-1, General Agriculture and M-1, Limited Business/ Industrial, and designated as Low-Density Residential, Moderate-Density Residential and Mixed Use on the Comprehensive Plan Land Use Map. The properties

can be further identified as Parcel Nos. (1-11), (1-21), (1-22), (1-32), (1-32a) on James City County Real Estate Tax Map Nos. (31-1), (23-4), (23-4), (24-3), (24-3) respectively.

**E. Case No. Z-6-00/SUP-28-00. Loulynn Acres (Chesapeake Bank)**

Mr. Vernon Geddy, III, has applied on behalf of Loulynn Acre Associates to rezone approximately 9.9 acres located at 8909 Barhamsville Road from A-1, General Agriculture, to B-1, General Business, with proffers. Proposed uses include a bank and other commercial, office and retail uses. A special use permit is requested to allow for uses which generate 100 or more additional vehicle trips to and from the site during peak hours. The property is located at the intersection of Barhamsville Road (Route 30) and Old Stage Road, across the street from the Stonehouse Commerce Park, on property more specifically identified as Parcel No. (1-3A) on the James City County Real Estate Tax Map No. (12-1). (

**F. Case No. SUP-3-01. Colonial Virginia Council**

Mr. Dick Collins has applied for a special use permit to allow for the improvement and continuation of the Boy Scout Camp on 499 Jolly Pond Road. The property is zoned A-1, General Agriculture, designated Rural Lands and Low-Density Residential on the Comprehensive Plan Land Use Map and is further identified as Parcel No. (1-7) on the James City County Real Estate Tax Map No. (22-4).

|                                      |
|--------------------------------------|
| <b>6. Planning Director's Report</b> |
| <b>7. Adjournment</b>                |

1. Roll Call

Members Present

Mr. Bradshaw

Mr. Gilley

Ms. Garrett

Mr. Hunt

Ms. Lowe

Mr. Meadows

Mr. Richardson

Members Excused

Ms. Smith

Also Present

Ms. Karen Drake, Planner

Mr. Ben Thompson, Planner

Mr. Mathew Arcieri, Intern

Mr. Alvin Anderson, Applicant

Members Absent

Mr. Kennedy

2. Minutes

Mr. Gilley asked for the minutes of the November 16, 2000, meeting to be read. Ben Thompson read the minutes and Mr. Gilley asked if there were any changes to the minutes. There being no changes, Mr. Gilley made a motion to approve the minutes. The minutes were approved by a unanimous voice vote.

3. Old Business

Ms. Garrett questioned if Mr. Farley was still a member of the AFD Advisory Committee. Ms. Drake responded that Mr. Farley had been dismissed from the committee and no one had been appointed to date to fill the vacancy.

4. Case No. AFD-6-86. Cranston's Pond (Ware Parcel Withdrawal)

Mr. Thompson presented the staff report stating that the application met all three criteria of the adopted Board of Supervisors policy regarding the withdrawal of lands from AFD's inside the Primary Service Area, and is consistent with surrounding zoning, development and the Comprehensive Plan. Mr. Thompson then elaborated on the rezoning and master plan application that accompanied the AFD Withdrawal request. Mr. Thompson stated that while the Ware AFD parcel was approximately 90 acres, the total proposal would include the adjacent Ware Farm parcels and the Massie Farm parcels totaling approximately 740 acres. The proposal would be a rezoning to the Mixed Use designation for a gated, golf course community with roughly 2000 dwelling units and commercial frontage along Richmond Road. Ms. Garrett asked where the Boy Scout property was in relation to the Ware Property. Mr. Thompson stated the Peninsula Boy Scouts of America property was southwest of the Ware property and showed the property on the location map. Mr. Thompson then answered several more detail questions about the development proposal's roadway access, amenities,

and what types of uses were proposed on both the Ware and Massie Properties. Ms. Smith then stated that it was a shame that developments were taking James City County's prized farms. Mr. Thompson then stated that County staff was undertaking an initiative to implement a Purchase of Development Rights Program. The AFD Committee stated in unison that they were happy to see the PDR process underway. With no more questions, Mr. Thompson asked if there was a motion on the Ware Property AFD withdrawal. Mr. Richardson made a motion to recommend withdrawal of the Ware Property (approx. 90 acres) from the Cranston's Pond AFD. Ms. Garrett seconded this motion. The motion carried unanimously on a roll call, voice vote. Mr. Thompson stated that the AFD application would run concurrently with Planning Commission and Board of Supervisors public hearings for the previously mentioned rezoning/ master plan proposal

#### Case No. AFD-8-86. Casey AFD (Casey Withdrawal)

Ms. Drake presented the staff report stating that the application met all three criteria of the adopted Board of Supervisors policy regarding the withdrawal of lands from AFD's inside the Primary Service Area, and is consistent with surrounding zoning, development and the Comprehensive Plan. New Town would be developed on the approximate 378 acres now or formerly owned by C.C. Casey Ltd that is under consideration for withdrawal. Ms. Drake noted that if the Casey withdrawal was approved, then the remaining property in the Casey AFD, approximately 197 acres owned by the J.G. Warbuton Estate, would be below the minimum 200-core acre requirement for an AFD. This issue would be addressed when the Casey AFD was reviewed for renewal in September 2002 when more land must be added to AFD, or the property transferred to another AFD or the Casey AFD would be dissolved. Mr. Bradshaw confirmed the options for the future continuation of the Casey AFD and the rollback tax implications. Ms. Lowe state that she thought the dissolving of the Casey AFD simply because the AFD fell below the 200-core acre minimum requirement was a failure of the system and the County should make the appropriate amendments either at the County or the State level as necessary. Ms. Drake said that staff would notify the Warbuton Estate of the proposed changes occurring in the Casey AFD and discuss the various options. Ms. Lowe then questioned the location of the threatened Small Whorled Pogonias. Mr. Anderson replied that there was one know location behind Ukrop's Grocery Store near the Ford's Colony property line. Development plans for this area were being designed to accommodate the colony of Small Whorled Pogonias. The second potential colony had been identified near the Route 199 and Radio Tower, however no site plans have been designed at this time. Ms. Garrett questioned the other withdrawals from the Casey AFD and Mr. Anderson briefly reviewed the history of the Casey AFD. There being no further questions, Ms. Garrett made a motion to recommend the withdrawal of ± 378.34 acres from the Casey AFD. Ms. Lowe seconded the motion. The motion was passed on a unanimous roll call vote. However, both Ms. Garrett and Ms. Lowe requested that it be re-stated their difference of opinion with the manner the New Town Development has been handled, the Board's withdrawal policy and recommended that the proper time to

withdraw AFD property is during a district's renewal period.

### New Business

Mr. Bradshaw stated that there had been questions by an interested party about the withdrawal process and the rollback taxes for the one remaining piece of Rees property that was still in an AFD. Additionally there were requests to not have the committee meetings at the County Complex at 4pm due to traffic congestion.

### Adjournment

There being no further business, Mr. Gilley adjourned the meeting at 4:45 p.m.

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Robert E. Gilley, Chairman

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Karen Drake

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Ben Thompson



**N/F C.C. Casey Co., Ltd Property  
to be withdrawn from the Casey AFD**

500 0 500 1000 1500 Feet



NEW TOWN ASSOCIATES, LLC  
c/o The Staubach Company  
8000 Towers Crescent Drive, Suite 1100  
Vienna, Virginia 22182  
(703) 448-3555

March 15, 2001

Board of Supervisors  
James City County  
101-E Mounts Bay Road  
Williamsburg, VA 23185

**Re: Casey Agricultural and Forestal District (AFD-8-86)**

Gentlemen:

The undersigned owners of property now or formerly owned by C.C. Casey Ltd., Co. and located in the Casey Agricultural and Forestal District ("Casey AFD") hereby request that all their respective properties within the Casey AFD be removed from the Casey AFD.

In keeping with the policy adopted by the Board of Supervisors on September 24, 1996 regarding withdrawal of lands from agricultural and forestal districts within the primary service area we respectfully request that the Board of Supervisors note the following:

1. This is the sole withdrawal request this year for any portion of land within the Casey AFD that was formerly owned by C.C. Casey Ltd., Co.
2. The acreage requested to be withdrawn is in excess of seventy-five (75) acres.
3. The anticipated new land use will be in a conformance with the Comprehensive Plan. No specific formal application to convert the current use of the land is accompanying this request since such application was previously filed and approved by the James City County Board of Supervisors on December 22, 1997 (Casey/New Town rezoning and related Design Guidelines).

Enclosed is a money order in the amount of \$50.00 in payment of the withdrawal application fee.

We thank you for consideration of this request.

Sincerely,

NEW TOWN ASSOCIATES, LLC

By: Michael B. W. Sh...  
Its: EXECUTIVE DIRECTOR

C.C. CASEY LIMITED COMPANY

By: Robert V. I. Casey  
Its: Secretary

st  
nclosure

: John T.P. Horne, Manager of Development Management, James City County  
Alvin P. Anderson, Esq., Kaufman & Canoles



SEP 22 1998

ORDINANCE NO. 174A-8BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIACASEY AGRICULTURAL AND FORESTAL DISTRICT (AFD-8-86)

WHEREAS, James City County has completed a review of the Casey Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4305 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Casey Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on August 27, 1998, voted 8-0 to recommend renewal of the district; and

WHEREAS, the Planning Commission following its public hearing on September 2, 1998, voted 6-0, with one absence, to renew the district with the conditions listed below.

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

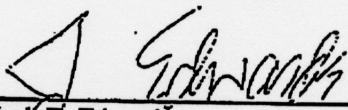
1. The Casey Agricultural and Forestal District is hereby continued for a period of four years beginning the twenty-second day of September, 1998, in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.
2. That the district shall include the following parcels:

| <u>Owner</u>                          | <u>Parcel No.</u> | <u>Acres</u>  |
|---------------------------------------|-------------------|---------------|
| J. G. Warburton Est., c/o M. McMurrin | (37-3)(1-4)       | 165.58        |
| C. C. Casey LTD, Co.                  | (38-4)(1-1)       | 177.63        |
| C. C. Casey LTD, Co.                  | (38-4)(1-7)       | 200.71        |
| J. G. Warburton Est., c/o M. McMurrin | (47-2)(1-1)       | 31.47         |
| Sasha L. and Mary Digges              | (38-3)(1-18)      | <u>45.28</u>  |
| Total:                                |                   | <u>620.67</u> |

provided, however, that all land within 60 feet of the road right-of-way of Ironbound Road and within 25 feet of News Road and John Tyler Highway shall be excluded from the district. Also, all land within the proposed rights-of-way of Route 199, the extension of Monticello Avenue, and the potential realignment of Ironbound Road shall be excluded from the district.

3. That pursuant to the Virginia Code, Section 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Casey Agricultural and Forestal District be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:

- a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) The subdivision does not result in the total acreage of the district to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
- b. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District (AFD) may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land inside the PSA and within the AFD may be withdrawn from the district in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts within the Primary Service Area adopted September 24, 1996.
- c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this district. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

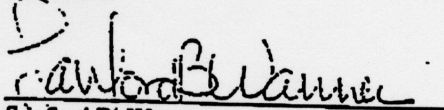
  


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 Jack D. Edwards  
 Chairman, Board of Supervisors

| SUPERVISOR | VOTE |
|------------|------|
| SISK       | AYE  |
| MCGLENNON  | AYE  |
| BRADSHAW   | AYE  |
| NERVITT    | AYE  |
| EDWARDS    | AYE  |

ATTEST:


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 Sanford B. Wanner  
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of September, 1998.

## RESOLUTION

### CASE NO. SUP-15-00. ST. BEDE CATHOLIC CHURCH

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 process; and

WHEREAS, Mr. Douglas E. White of The LandMark Design Group has applied on behalf of St. Bede Catholic Church and property owners Sasha L. and Mary Catherine Digges for a special use permit to allow the construction of a house of worship on 42.8 acres located at 3686 Ironbound Road; and

WHEREAS, the proposed development is shown on the Master Plan prepared by LandMark Design Group, dated May 18, 2000, and entitled "Master Plan for Special Use Permit, St. Bede Catholic Church;" and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (1-18) on James City County Real Estate Tax Map No. (38-3); and

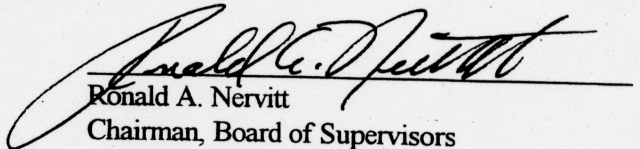
WHEREAS, the Planning Commission, following its public hearing on June 5, 2000, voted 6-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-15-00 as described herein with the following conditions:

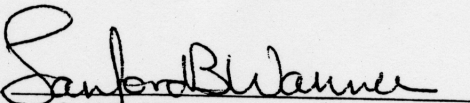
1. Development and land clearing of the site shall be generally in accordance with the "Master Plan for Special Use Permit, St. Bede Catholic Church" prepared by LandMark Design Group, March 21, 2000, with corrections dated May 18, 2000, with such accessory structures and minor changes as the Development Review Committee determines does not change the basic concept or character of the development. Structures to be built on the Property in the future which are described on the master plan shall not require a special use permit.
2. The location of any Resource Protection Area shall be identified by the developer and shall be indicated on any site plan or development plan which is submitted to James City County for approval. This identification must be approved by the James City County Environmental Division prior to the issuance of preliminary site plan approval.
3. A minimum 50-foot wide undisturbed buffer shall be maintained along the property lines for adjoining lots in The Meadows, however, where the edge of pavement of a proposed parking area is closer than 70-feet to an adjacent residential lot, a wall or solid fence a minimum height of 60-inches and additional landscaping placed on the outside of the wall or fence shall be provided between the edge of pavement of the proposed parking area and the undisturbed buffer. The wall or solid fence and additional landscaping shall be approved by the Planning Director or his designee.

4. The applicant shall provide and construct a four-foot wide paved sidewalk along Ironbound Road adjacent to any turn lanes and associated improvements required by the Virginia Department of Transportation (“VDOT”) or, in the alternative, the applicant may provide and maintain a cash escrow account with an agreement in a form suitable to the County Attorney to ensure the construction of the improvements when similar improvements are completed on both sides of the Property along Ironbound Road at which time the cash escrow account shall be released.
5. The applicant shall construct a five-foot wide VDOT standard shoulder bike lane along the front of the property adjacent to Ironbound Road (State Route 615). If turn lanes or other road, drainage, or utility improvements are required by VDOT along other portions of Ironbound Road (“Ironbound Road Improvements”), the applicant shall either construct additional five-foot wide VDOT standard shoulder bike lanes along the Ironbound Road Improvements, as required by the Planning Director or his designee, or construct the Ironbound Road Improvements in such a way that subsequent installation of the bike lanes shall not require relocation of the Ironbound Road Improvements. The intent of this condition is that the County will only need to add base material and pavement for the additional bike lanes that do not adjoin the front property line. The construction of the required bike lanes shall be completed prior to issuance of a Certificate of Occupancy or, in the alternative, the applicant may provide and maintain a cash escrow account with an agreement in a form suitable to the County Attorney to insure the construction of the improvements when similar improvements are completed on both sides of the Property along Ironbound Road at which time the cash escrow account shall be released.
6. All exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to, and approved by, the Planning Director or his designee which indicates no glare outside the property lines. “Glare” shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.
7. The applicant shall implement the road improvements recommended by the traffic study “St. Bede Catholic Church Traffic Impact Study, James City County, Virginia” prepared by LandMark Design Group, March 20, 2000. If additional right-of-way and/or improvements are required by the Virginia Department of Transportation, the additional right-of-way shall be acquired and dedicated prior to final site plan approval and the additional improvements shall be constructed prior to the issuance of any Certificate of Occupancy.
8. The building elevations for any structure on the site shall be approved by the Planning Director or his designee prior to final site plan approval. The intent of this condition is to ensure that all future buildings on the site are uniform and compatible with the design, materials and colors of the main structure.
9. All dumpsters shall be screened by landscaping and fencing in a location approved by the Planning Director or his designee prior to final site plan approval.

10. Free-standing signs within 50-feet of the Ironbound Road right-of-way, as may exist from time to time, shall be ground mounted, monument style and shall be approved by the Planning Director or his designee prior to final site plan approval.
11. A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval.
12. A land disturbing permit shall be obtained by the developer for this project within 36 months from the date of approval of this special use permit or the permit shall become void.
13. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

  
Ronald A. Nervitt  
Chairman, Board of Supervisors

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

| <u>SUPERVISOR</u> | <u>VOTE</u> |
|-------------------|-------------|
| MCGLENNON         | AYE         |
| HARRISON          | AYE         |
| GOODSON           | AYE         |
| KENNEDY           | AYE         |
| NERVITT           | AYE         |

Adopted by the Board of Supervisors of James City County, Virginia, this 19th day of December, 2000.

RESOLUTION

WITHDRAWAL OF LANDS FROM AGRICULTURAL AND FORESTAL DISTRICTS

WITHIN THE PRIMARY SERVICE AREA

- WHEREAS, the Board of Supervisors has determined that Agricultural and Forestal Districts (AFD) are a valuable tool to help protect the agricultural and forestal lands and industry in James City County; and
- WHEREAS, premature withdrawal of land from the Districts is contrary to the intent of the Board in allowing the establishment of these Districts; and
- WHEREAS, the Board of Supervisors recognizes that lands outside the Primary Service Area are intended to remain rural and the preferred use for rural lands is agricultural and forestal use; and
- WHEREAS, the Board of Supervisors recognizes that lands inside the Primary Service Area are intended for urban development at some point in the future and, therefore, are not expected to remain in agricultural and forestal use in the long term; and
- WHEREAS, the Board of Supervisors has previously adopted a resolution for the Withdrawal From Agricultural and Forestal Districts on December 18, 1989, which still remains in force outside the Primary Service Area; and
- WHEREAS, at each renewal, the Board will review urban development trends in the County, and consider carefully whether the general public interest continues to be served by allowing land within the Primary Service Area to remain in an Agricultural and Forestal District.

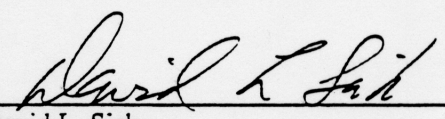
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following policy relating to the withdrawal of lands from AFD inside the Primary Service Area during the terms of those Districts. This policy in no way supersedes the provisions for withdrawal by right under Sections 15.1-1511F or 15.1-1513D of the Code of Virginia.

FOR AGRICULTURAL AND FORESTAL DISTRICTS WITHIN THE PRIMARY SERVICE AREA, the Board of Supervisors will use the minimum standards listed below. These standards are different standards from the standards applied to those districts located outside the Primary Service Area (PSA). They are in recognition that lands within the PSA are intended for urban development at some point in the future and, therefore, are not expected to remain in agricultural and forestal use in the long term. Lands outside the PSA are intended to remain rural and the preferred use for rural lands is agricultural and forestal use.

1. Withdrawals will be approved no more than once per year, per AFD, per landowner. This means that an owner of multiple parcels within an AFD will be allowed only one withdrawal per year from the AFD.

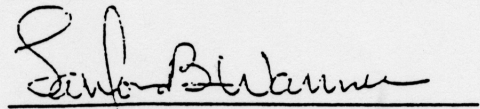
- 2. The minimum acreage for withdrawals shall be 75 acres, either as a single parcel or in combination with more than one parcel. Individual landowners who own less than 75 acres must withdraw all of their parcel from the District. Parcels withdrawn as part of any one request need not be contiguous.
- 3. The new land use shall be in conformance with the Comprehensive Plan. A formal application to convert the use of the property shall accompany any request for withdrawal, such as an application for rezoning, special use permit or other development plans. The application shall include a conceptual plan acceptable to the Director of Planning. The application for withdrawal and the application to convert the use of the property shall be submitted together and processed concurrently as a single development request.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever criteria and it deems appropriate for the individual case.



David L. Sisk  
Chairman, Board of Supervisors

ATTEST:

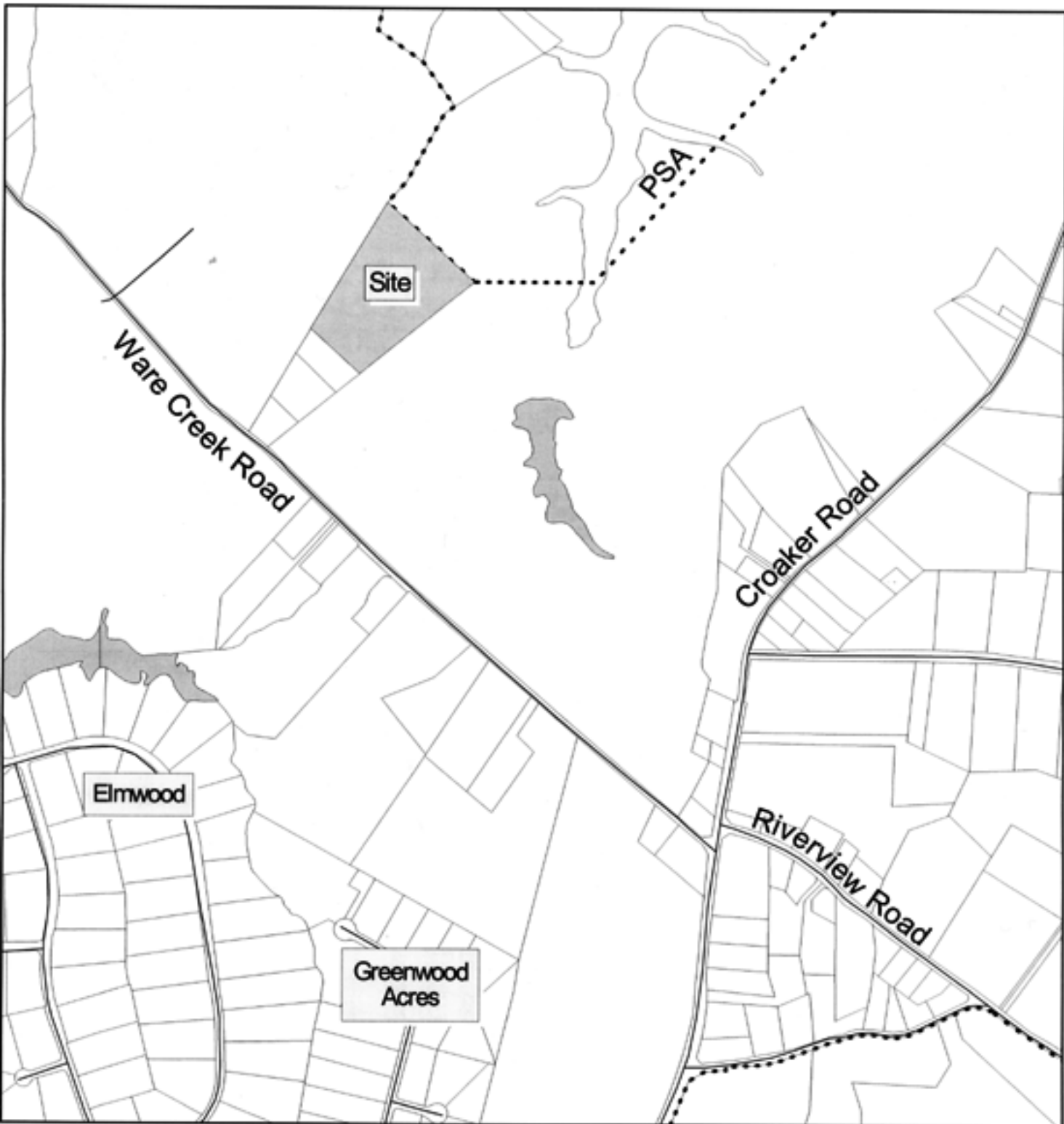


Sanford B. Wanner  
Clerk to the Board

| <u>SUPERVISOR</u> | <u>VOTE</u> |
|-------------------|-------------|
| TAYLOR            | NAY         |
| MAGOON            | AYE         |
| DEPUE             | AYE         |
| EDWARDS           | AYE         |
| SISK              | AYE         |

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of September, 1996.

WtAgrFor.res



Case No. SUP-7-01  
Jolin Kennels

500 0 500 1000 1500 2000 2500 Feet





April 23, 2001

To Whom It May Concern:

My name is Delores Johnson and I live at 4466 Ware Creek Road in James City County. Joe and Linda Banks live behind me at the end of a long gravel road which begins next to my driveway entrance off Ware Creek Road.

Joe recently spoke with me about their plans to open a boarding kennel on their property. Even though I do not live on their gravel road, and I am approximately 1,200 feet from them, I do consider this my neighbors.

Joe keeps his road in excellent condition, and I have never heard any noise coming from their property - dogs or otherwise.

I support their application to open a boarding kennel.

Sincerely,

A handwritten signature in cursive script that reads "Delores Johnson". The signature is written in dark ink and is positioned to the right of the typed name "Delores Johnson".

Delores Johnson

To Whom It May Concern:

My name is James Vincent and I live at 4468 Ware Creek Road in James City County. Joe and Linda Banks have been my neighbors for over 25 years and they live approximately 950 feet from me.

The Banks' are good, quiet neighbors, and Joe has always kept the gravel road in excellent condition. He spoke with me recently about Linda's desire to open a dog boarding kennel. I have never heard dogs barking back where they live, even though they have had as many as 12 dogs there when Linda was doing a lot of showing and breeding.

I have not objection, whatsoever, to them opening a dog boarding kennel.

Sincerely,

*James Vincent*  
*Helen Vincent*  
James Vincent

To Whom It May Concern:

My name is Harold Johnson and I live at 4470 Ware Creek Road in James City County. Joe and Linda Banks have been my neighbors since 1975 and they live approximately 800 feet from me at the end of a long gravel road.

Joe has always maintained the gravel road and even though Linda has had numerous dogs over the years, I have never heard them barking. I am their closest neighbor and I cannot even see their prospective kennel from my property.

I completely support their interest in opening a dog boarding kennel.

Sincerely,

Harold Johnson

A handwritten signature in cursive script that reads "Yours Truly Harold Johnson". The signature is written in dark ink and is positioned below the printed name "Harold Johnson".

April 23, 2001

To Whom It May Concern:

My name is Rachel Smith and I live at 4464 Ware Creek Road in James City County, approximately 1,200 feet from Joe and Linda Banks.

Joe and Linda are great neighbors. They keep the road in excellent shape and have never asked us for a penny toward its maintenance, even though we often use it.

You would never know that Linda has done rescue work, and shown and bred dogs for years, as you can't see or hear them.

I completely support the Banks' application to open a boarding kennel.

Sincerely,



Rachel Smith



Kim Smith

4-20-

so whom it may concern:

My husband & I have known Joe & Linda Banks all of our 23 years of married life. My husband grew up on Ware Creek Rd, & we have both lived on Ware Creek Rd. most of our married life.

Both Joe & Linda have always been wonderful neighbors ... considerate & pleasant ... respectful to all their neighbors.

We are in full support of whatever endeavor they wish to undertake involving the building, and operating a kennel, on their property. We trust that they will undertake this project with the same concern they have always had for their neighbors & the environment. Please feel →

to take up my husband  
myself reading this  
letter of your web.

Sincerely,

Joseph M. Wenzel +  
Anna M. Wenzel

4553 Wane Creek Rd.

(757) 560-3808 home

560-3028 (bus - wife)

220-645 (bus - ~~the~~ husband)

Anna M. Wenzel  
Joe Wenzel

**REZONING 04-00/MP-01-01. Colonial Heritage at Williamsburg  
Staff Report for the May 7, 2001, Planning Commission Public Hearing**

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*This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.*

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**PUBLIC HEARINGS**

Building C Board Room; County Government Complex  
Planning Commission: May 7, 2001, 7:00 p.m.  
Board of Supervisors: July 2, 2001 (tentative), 7:00 p.m.

**SUMMARY FACTS**

Applicant: Mr. Alvin Anderson, on behalf of U.S. Home Corporation  
Land Owner: Jack L. Massie and the Ware Estate

Proposed Use: Mixed Use Zoning. The applicant proposes developing a 2,000 unit, gated, golf course community which is age restricted to 55 years and older. The application also includes 350,000 sq. ft. of commercial area fronting Richmond Road.

Location: 6175 Centerville Road, 6799 Richmond Road, 6895 Richmond Road, 6993 Richmond Road, and 6991 Richmond Road

Tax Maps and Parcel Nos.: (23-4) (1-21), (23-4)(1-22), (24-3)(1-32), (31-1)(1-11), (24-3)(1-32a)

Primary Service Area: Inside

Parcel Size: Approx. 740 acres

Existing Zoning: A-1, General Agriculture and M-1, Limited Business/Industrial

Proposed Zoning: MU, Mixed Use

Comprehensive Plan: Low-Density Residential, Moderate Density Residential, and Mixed Use

Surrounding Zoning: East: B1, General Business and M-1 Limited Business/Industrial (Colonial Towne Plaza and The Williamsburg Pottery, respectively)  
North: R-2, General Residential (Kristiansand Subdivision)  
South: A-1, General Agriculture and R-1 Limited Residential (Briarwood Park Condominiums, Jameshire/Settlers Lane, and Adam's Hunt Subdivision)  
West: A-1, General Agriculture (Peninsula Boy Scouts of America/ Camp Chickahominy and Hidden Acre Farm, Inc.)

Staff Contact: Ben Thompson - Phone: 253-6685

**STAFF RECOMMENDATION:**

There are still significant unresolved issues and forthcoming materials to be reviewed further by staff, including a revised traffic impact study and proffers. Due to the scale of this application, staff and the applicant are requesting that they be permitted to provide an informal briefing at the Planning Commission's May 7, 2001 meeting. The applicant has also requested a deferral of the application but to be allowed presentation time. Staff recommends deferral of this case to the June 4, 2001, Planning Commission Meeting, with the belief that a formal recommendation will be offered at that meeting.

### ***Project Description***

The applicant proposes a rezoning of five parcels of land to the Mixed Use designation. The applicant has submitted a master plan showing a 2,000 residential unit (1,200 single-family detached, 600 single-family attached, and 200 multifamily dwellings), eighteen hole golf course, gated and age -restricted community. The proposed development, as it appears now, would contain 350,000 square feet of commercial development, fronting on Richmond Road. (The number of dwelling units and commercial square footage are still being reviewed by staff and the applicant and could change.) The applicant intends to develop this community so that it is marketable to retirees and those approaching retirement.

### ***Proffers***

The applicant has submitted proffers as part of this project, which will be discussed throughout the staff report. The proffers address the following issues:

- water conservation;
- increased density standards;
- sidewalks and trails;
- road improvements;
- recreation facilities;
- enhanced landscaping; and
- stormwater management/water quality.

### ***Topography and Physical Features***

The property is primarily open fields divided by steep ravines, and contains several resource protection areas along the property boundary lines. Approximately 552.3 acres of the 740 acre site is developable land. The property does have a ravine on the southwest portion of the property which may affect the ability to construct the proposed connection to Centerville Road. Also, environmental constraints may alter the layout, in particular the location of the golf course and dwelling units, and the number of dwelling units.

### ***Surrounding Zoning and Land Use***

The site is predominately zoned A-1, General Agriculture with a small portion of Richmond Road frontage being M-1, Limited Business/Industrial. This property is commonly known as the Massie and Ware Farms and is located on Richmond Road across from the Williamsburg Pottery. Properties to the east of the site located along Richmond Road are zoned B-1, General Business and M-1, Limited Business/Industrial. These B-1 properties include Colonial Towne Plaza which lies in front of the Ware Property adjacent to Richmond Road. Also along Richmond Road and adjacent to the Massie Farm portion of the proposal is the Williamsburg Pottery which has an M-1, Limited Business/Industrial zoning designation. To the west of the site is the Peninsula Boy Scouts of America Property/ Camp Chickahominy and Hidden Acres Farm which are both zoned A-1, General Agriculture. The northern boundary line of the site abuts the Kristiansand Subdivision which is zoned R-2, General Residential. The majority of the properties to the south of the site, located on Centerville Road, are residential communities. These include Adam's Hunt, zoned R-1, Limited Residential, and Settlers Lane/Jameshire Subdivision, Briarwood Park Condominiums and several scattered single-family dwellings all zoned A-1, General Agriculture.

### ***Water Conservation***

The applicant has submitted a proffer stating that the stormwater retention ponds, supplemented by other supplies will be used for all golf course irrigation. The Environmental Division and James City Service Authority finds that this proffer is acceptable. In addition, to help mitigate the impact of the development on the water supply, the developer has offered a proffer to establish water



conservation standards to be approved by the James City Service Authority. These water conservation standards would be developed and enforced by the community's Homeowner's Association. These standards would address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, and the use of approved landscaping materials. JCSA has stated previously that it is willing to accept this approach as a starting point in reducing the demands on the water supply.

### **Utilities**

The property is located in the Primary Service Area, and public water and public sewer lines are available to serve the property.

In terms of the impact of the development on water demand and supply, the James City Service Authority (JCSA) requires a water model as part of the subdivision plan review process and will review the results at that time. The JCSA has stated the following in regard to the County's overall water supply system:

Water demands for James City County are based on projected population growth, historical trends, and land use designations in the Comprehensive Plan. These trends are documented in the JCSA's Master Water Infrastructure Plan, which projects 10.0 million gallons per day (mgd) demand in 2040. Current average daily demands are approximately 3.7 mgd. An additional 2.0 mgd of water demand is projected to be needed over the next seven to ten years.

The JCSA water supply system has a current permitted capacity of 4.5 mgd. JCSA has applied to the Department of Environmental Quality for a groundwater withdrawal permit to support a brackish groundwater treatment facility that is planned for a site behind Clara Byrd Baker School. It is expected that James City County will receive a draft permit/letter of intent in early 2002 to begin withdrawal in 2005 when the proposed facility is complete. This permit will support the JCSA's projected water needs of 6.0 mgd through 2015 when the permit expires. Upon expiration of this permit JCC will need to apply for an additional groundwater withdrawal permit.

To meet the projected water needs over the next 40 years, James City County has participated in the King William Reservoir Project. If this project is not permitted the County will continue to participate in a regional program to obtain a surface water supply or expand groundwater withdrawals.

Water supply is a concern in James City County. To help address this the developer has incorporated water conserving practices into the project design to reduce demands on the available supply. Considering these practices coupled with the County's long-term water plan the JCSA does not see water supply as the determining factor on this project. The JCSA is concerned that the development not begin construction until assurances are received from the state and federal agencies that permits for the desalination plant and the groundwater withdrawal permit are received. The JCSA expects to receive a draft permit/letter of intent in early 2002. At this time, the applicant has not proffered that the construction will be delayed until the Department of Environmental Quality has indicated it's intent to issue the required permits.

Currently, the applicant has proffered a cash contribution of \$750.00 for each residential unit developed on the property. These contributions will be made available to the County at the time of subdivision plat approval and are to be used for County water needs at the discretion of the Board of Supervisors determination. The JCSA finds that this amount is adequate and is in favor of a cash contribution.

### ***Transportation and Access***

The site would contain two main access points. One would be an entrance/exit off of Richmond Road with the other on the southern boundary line along Centerville Road. There would also be one primary access point for the commercial/office area located on Richmond Road. The applicant has proffered several roadway improvements and performed a traffic analysis. The traffic analysis study has been evaluated and accepted by the Virginia Department of Transportation (VDOT). However, County staff still has several outstanding issues dealing with roadway capacity, signalization, and the amount of commercial development possible, and has requested the applicant to provide additional information. Staff is also not confident that the connection to Centerville Road is feasible due to the size of the ravine crossing and is concerned about traffic impacts on Richmond Road should this connection not be built. Progress has been made in resolving these issues, but due to these concerns, staff is not prepared to accept the applicant's transportation analysis and proffers at this time.

When staff is prepared to come before the Planning Commission with a formal recommendation, we will address transportation needs as a result of this project in three separate areas: Richmond Road improvements, Centerville Road improvements, and signalization improvements.

The applicant has proffered that all streets within the residential portion of the property shall be private and conform to VDOT construction standards. All private streets are to be maintained by the development.

The applicant agrees that the employees of the community will generate the need for transit service. The residents may also use JCCT's Visitor Shuttle, which provides "shop and ride" service to businesses along Route 60. Due to this, the applicant has proffered bus pull offs and shelters on both Richmond Road and Centerville Road, with the design and location to be approved by the JCC Transit Administrator.

### ***Fiscal Impact***

JCC Financial Management Services has reviewed the Fiscal Impact Study and offered the following comments:

The fiscal impact analysis model presented by the applicant is based on several assumptions, extended over a 20-year period. Because the community is not expected to generate school-aged children, the overall fiscal impact is expected to be positive. The magnitude of that positive impact, however, depends on how valid the assumptions prove to be. The analysis assumes no net additional sales tax revenue from the commercial development, with all sales taxes shifting from other county commercial locations. The majority of County general fund revenue comes from real property taxes. The applicant's fiscal impact analysis provides three scenarios for real property growth over and above the rate of inflation: 1.5%, 3% and 5%. The attached executive summary provides the estimated impacts from each scenario. In general, growth in real property values for upscale communities in James City County has been strong over the past decade or so. This growth has occurred during a period of unprecedented economic growth nationwide, and there is some uncertainty about what impact a slowing economy will have, particularly over a 20-year period. However, even if the real growth rate were zero, the net fiscal impact would still be positive.

The analysis does not assume any induced residential growth will be created by the construction and permanent jobs associated with the development. At buildout, the average annual wage per Full Time Equivalent (FTE) employee is approximately \$12,600. The applicant estimates that their proposal will create an average of 46 FTE positions. This estimation is used to show long term employment after the developments projected twenty

year buildout. After buildout, the average payroll is estimated to total \$579,000. annually. These FTE jobs will be generated through the need for management, operations, and maintenance of the golf course, clubhouse, and community. The staff assumptions is that very few of these employees will be induced to live in James City County.

### ***Age Restriction***

The applicant has proffered that occupancy of all residential dwellings developed upon the property shall be age restricted to persons fifty-five (55) years of age or older. In some instances, persons under the age of fifty-five but over the age of eighteen shall be allowed to occupy the residential units. Such circumstances may include the marriage of someone over fifty-five (55) to someone younger than fifty-five. Age restricted communities are legal under Federal statute. Staff continues to work with the applicant to provide assurances that the homes will be constructed in a manner that makes them attractive to persons 55 and over.

### ***Adequate Public Facilities***

While the proposal will not place a strain upon our public school system, it will affect several other public facilities. These facilities include the libraries, recreation, and Community Services.

#### *WRLS Library:*

Current library records indicate that 78% of the potential user population of the area served by the Williamsburg Regional Library System possess valid library cards. If this figure is extrapolated to the potential 4,000 residents of this development, it means the addition of 3,120 card holding users for the library. This number would necessitate the addition of books and other materials and staff to the Library System to continue to provide the same level of service. To mitigate this, the applicant has proffered to provide a room within the main "community building/ clubhouse" for the use by the WRLS Library for stocking books and providing service. This would enable the Williamsburg Regional Library System to provide on-site delivery services and computer access to the library and other databases and lower the impact of this development on current library locations.

#### *Recreation:*

It is expected that this development would cause a significant amount of strain on the County's recreation facilities and may preclude construction of a major section of a proposed public greenway. To alleviate this strain, the applicant has proffered several facilities within the development. These include park land, an eighteen hole golf course, a 10.2 acre clubhouse site, a minimum of three tennis courts, a twenty-five by twenty-five meter swimming pool, and one-half (1.5 ) miles of trails for each 590 residential units. Staff finds that the current proffers meet the requirements of the Parks and Recreation Master Plan but the applicant's expected revised proffers will better alleviate the strain on current County Recreation Facilities. Staff will continue working with the applicant to address the greenway concern.

#### *Community Services:*

It is anticipated that the addition of 2,000 units of age 55+ housing will have a significant impact on services provided by Community Services. The Adult Services Unit is required to provide specific services to those over the age of 60. It has been staff's experience that demand for these services include all income brackets and neighborhoods. When no family member is willing, Adult Services must arrange and oversee guardianships. Adult Services also include case management/assistance to help adults remain in their own homes. This assistance includes home-based services, transportation, and adult day care. Additionally, a large portion of elderly residents need assistance with arranging in-home care when they can afford it, dealing with Social Security and Medicare Programs, and finding transportation to medical appointments. At this time the applicant has not included measures in their proposal to mitigate these issues.

### *Emergency Services:*

Police: Staff feels that the increased number of residents in the development would create a significant strain on the Police Department including a higher number of service calls for incidents such as traffic-related matters. The JCC Police Department has attempted to maintain a ratio of 1.3 officers for every 1,000 residents. Applying that current ratio, the new residents would require the addition of approximately five officers along with the vehicles and other equipment that would be attendant to these five positions. The applicant has not addressed this issue.

Fire: Staff estimates that the proposed development will have an impact on emergency response traffic on Richmond Road from Fire Station 1 and Fire Station 4. Therefore, installation of traffic preemption equipment on new and existing traffic signals at the proposed development, Williamsburg Pottery and Richmond Road and Lightfoot Road would be valuable in reducing response time. There will also be a need to increase the number of apparatus in the County with the transmitting equipment to operate the traffic preemption equipment. The development will have also have an impact on equipment replacement and supply. The JCC Fire Department projects a five percent increase in workload as a result of this project. There will be a need to replace an ambulance at Fire Station 1 as well as continued replacement of operating supplies and materials. The applicant has proffered a cash contribution (\$70,000) to the County for fire and rescue equipment replacement and supply and traffic signal preemption equipment. Staff is working with the applicant on the payment timing of these monies.

### ***Residential Cluster Zoning Ordinance Requirements***

Since the density of this project is greater than one unit per acre, the proposal is expected to adhere to the residential cluster section of the Zoning Ordinance. The following section contains a breakdown of the requirements for a residential cluster as stated in the Zoning Ordinance and outlines how this proposal meets those requirements.

#### *Density Standards*

The maximum density permitted in a residential cluster for Low-Density Residential designated property is 4.0 dwelling units per acre. This proposal requests a density of 2.7 dwelling units per acre. The following description outlines the required Density Standards that apply to this development.

The following standards are required for cluster developments of up to three units per acre. While this development is not required to adhere to the Residential Cluster Development Standards, they are expected to work to mitigate many similar issues. The Comprehensive Plan calls for development proposals to be consistent with their land use designations. This application would be expected to follow one of the JCC residential zoning designations and achieve its desired density (2.7 dwelling units per acre) through Cluster Development Standards and density bonuses. While this is not a requirement, it is an expectation by James City County Staff. The project shall conform to the **Streetscape Guidelines Policy**, which specifies the number and type of trees required along entrances and along all street rights-of-way. The proposal also is required to implement the County's **Archaeological Policy**. A cluster with this density is expected to provide **sidewalks** along both sides of internal streets. Proffers have been added ensuring that the proposal will adhere to the County's Streetscape Guideline Policy. The applicant has stated their intent to proffer the County's Archaeological Policy. The applicant has only proffered sidewalks on one side of internal streets.

A cluster development with this density shall provide **recreation facilities** in accordance with the recommendations of the County's Comprehensive Parks and Recreation Master Plan (PRMP).

The PRMP contains a formula for a specific amount, size, and type of recreation facilities to be provided based upon the projected number of residents within a development. It is staff's understanding that the applicant is revising the proffers to include more recreational facilities. Staff finds that the current proffers meet the requirement of the Parks and Recreation Master Plan but the revised proffers will better alleviate the strain on current County recreation facilities.

The cluster ordinance also requires that the applicant implement the County's **Natural Resources Policy** prior to site plan approval in order to conserve natural resources, including rare, threatened, and endangered species. The ordinance requires the cluster development to provide a combination of **pedestrian and/or bicycle trails** connecting cul-de-sac streets, and requires the construction of **curb and gutter streets**. While pedestrian and/ or bicycle trails have been proffered, curb and gutter streets have not.

#### *Affordable Housing*

The applicant has not included any measure, nor are they required by ordinance, within their proposal to mitigate James City County's need for affordable housing.

#### *Open Space*

The applicant must adhere to the Mixed Use portion of the Zoning Ordinance, which states that the amount of open space shall be not less than ten percent of the developable area of the site. Stream beds, areas subject to flooding, wetland and areas with slopes exceeding a 25 percent gradient shall not be counted toward meeting the open space requirement. As allowed by the JCC Zoning Ordinance, the applicant will be counting their golf course for up to 60 percent of the required open space. Both the application's Master Plan and site plan will be required, per JCC Mixed Use Ordinance, to adhere to this open space requirement.

Staff needs to obtain final revisions of the Master Plan before formalizing a recommendation on whether this plan meets the Cluster Ordinance.

#### **Comprehensive Plan**

The site is designated Low-Density Residential, Moderate Density Residential, and Mixed Use on the 1997 Comprehensive Plan Land Use Map. Low-density areas are residential developments on land suitable for such developments with overall densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential development with density greater than one unit per acre is not recommended unless it offers particular benefits to the community. The Zoning Ordinance will specify the benefits which may be the basis for a development to go beyond one unit per acre. Moderate density areas are residential developments or land suitable for such developments with a minimum density of 4 dwelling units per acre, up to a maximum of 12 dwelling units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, and the degree to which the development is consistent with the Comprehensive Plan. The third Comprehensive Plan designation shown on this property is Mixed Use. The Mixed Use portion also extends to Williamsburg Pottery across Richmond Road. Mixed Use areas located at or near intersections of major thoroughfares (Richmond Road and Centerville Road) are intended to maximize the economic development potential of these areas primarily for more intensive commercial, office, and limited industrial purposes. This specific Mixed Use area has principal suggested uses of large commercial developments and large office developments.

Currently, it is staff's position that the commercial/office portion of the Master Plan should be expanded and the residential area reduced to more clearly represent what was intended on the Comprehensive Plan Land Use Map. The Mixed Use designation on the Comprehensive Plan in

this area is roughly twice the size of what is being proposed by the applicant. The applicant is in the process of revising the traffic analysis study to determine/demonstrate the ability of Richmond Road to accommodate revised land use assumptions. This issue will be a significant policy decision to be made by the Commission and Board.

Additionally, the Comprehensive plan calls for a dear separation between Norge and Lightfoot to preserve the character of Norge. For this reason, the Comprehensive Plan states that further “strip” commercial development will undermine the community character of Norge. The applicant has stated the intent to provide a revised proffer to address this issue and require specific design criteria for review by the County. The proposed commercial/ office design proffer would provide County review in a manner very similar to a commercial special use permit. Staff believes that an important part of the commercial area will be a phasing plan. The phasing plan should be done in conjunction with and based upon a revised and approved Fiscal Impact Study. The applicant is considering this request.

In terms of density, the property currently is zoned A-1, General Agriculture (primarily). Under the A-1 zoning, the developer could develop a maximum of one dwelling unit per three acres, for a total of 246 dwelling units on approximately 740 acres. This project proposes 2.7 dwelling units per acre, as opposed to the current density of .33 dwelling units per acre.

The Comprehensive Plan discusses development impacts in the Development Standards section. It states:

Considering the careful balance the County must strike between accommodating additional development and providing services for the already approved development, the County will not approve additional residential development without first carefully considering the issues of adequate transportation, water, sewer, recreation and public safety facilities and services.

A general land use standard further describes the County's approach to development when considering its impacts. It states:

Permit the location of new uses only where public services, utilities, and facilities are adequate to support such uses. The need for public services (*police, fire education, recreation, etc.*) and facilities generated by a development should be met by that development. Means to address public service needs include proffers involving cash, construction, project phasing, uses, density, intensity, dedication, facility construction, and cost sharing.

Staff continues to assess whether the proposal adequately addresses these standards.

The Comprehensive Plan also discusses at length the need for affordable housing in James City County. The Housing section states, “while the newer developments provide an abundant supply of certain types of housing, affordability to large numbers of local citizens remains a concern.” Figures in the Comprehensive Plan indicate a shortage of affordable homes in the County. The County has higher than average housing and rental costs which add to the shortage of affordable housing for low- and moderate-income citizens. One goal of the Housing element is to “achieve a range of choice in housing type, density and price range.” As previously stated, this development proposal will add to the lack of availability of low income housing within the County.

### **RECOMMENDATION**

There are still significant unresolved issues and forthcoming materials to be reviewed further by staff, including a revised traffic impact study and proffers. Due to the scale of this application, staff and the applicant are requesting that they be permitted to provide an informal briefing at the

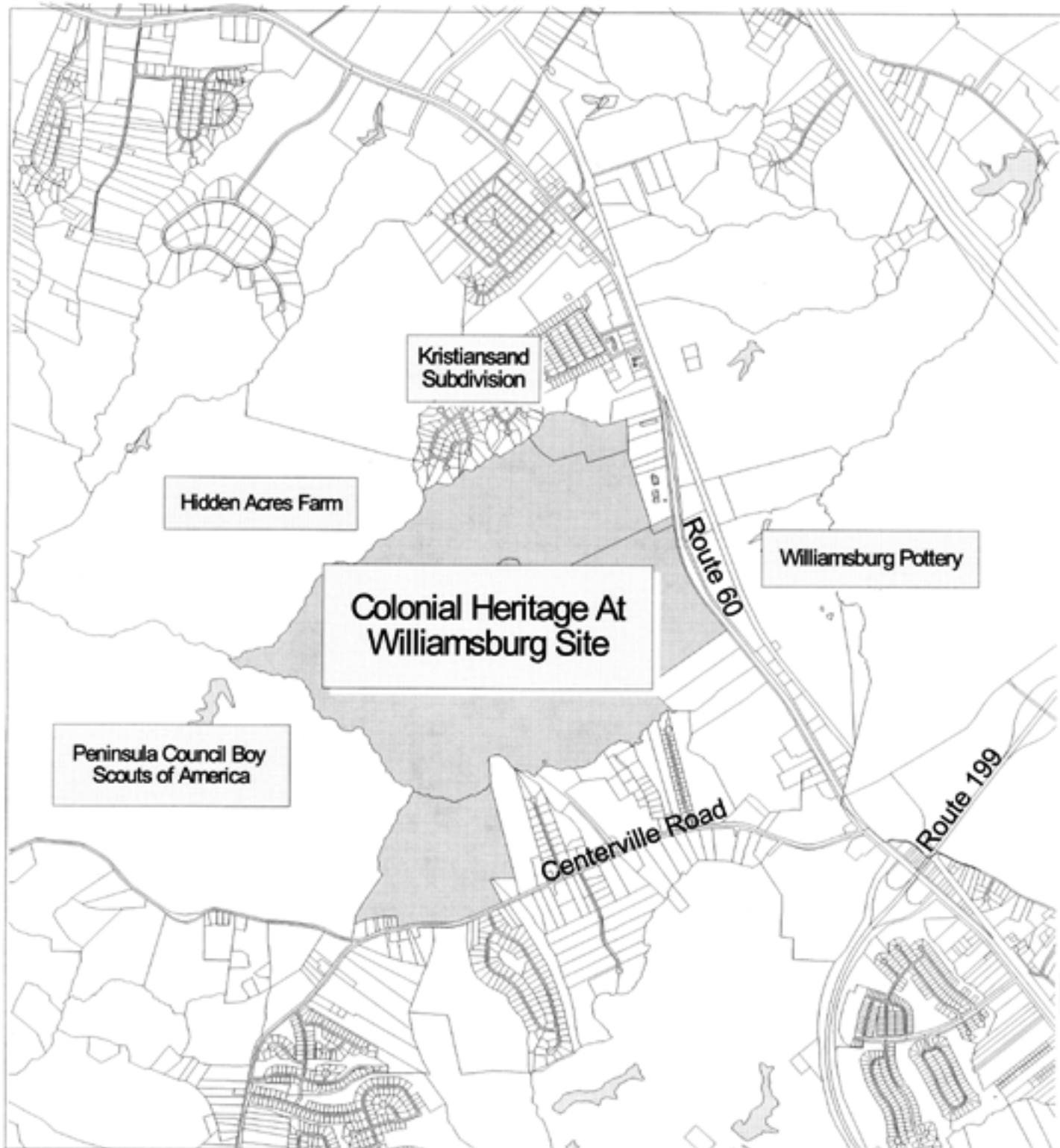
Planning Commission's May 7, 2001 meeting. The applicant has also requested a deferral of the application but to be allowed presentation time. Staff recommends deferral of this case to the June 4, 2001, Planning Commission Meeting, with the belief that a formal recommendation will be offered at that meeting.

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Ben Thompson

Attachments:

1. Site location map
2. Executive Summary of Fiscal Impact Study
3. Proffers
4. Packet from the Applicant (not reviewed or edited by the applicant)



# Z-04-00/ MP-1-01 Colonial Heritage at Williamsburg

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Attachment 1



**Colonial Heritage at Williamsburg  
Planned Active Adult Community**

**Fiscal Impact in James City County, Virginia  
November 1, 2000**

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**Revised April, 2001**

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**Prepared for:**

**U. S. Home Corporation**

**Prepared by:**

*The Wessex Group, Ltd.*

**479 McLaws Circle, Suite 1**

**Williamsburg, Virginia 23185**

**Telephone: (757) 253-5606**

**Facsimile: (757) 253-2565**

**e-mail: [info@wessexgroup.com](mailto:info@wessexgroup.com)**

Colonial Heritage at Williamsburg  
Planned Active Adult Community

Fiscal Impact in James City County, Virginia

EXECUTIVE SUMMARY

On behalf of **U. S. Home Corporation (USHC)** and as part of a rezoning application submitted to James City County, this report from **The Wessex Group, Ltd. (TWG)** presents estimates of the fiscal impact of developing an active adult community on a 740+-acre site in James City County, Virginia. The project is called Colonial Heritage at Williamsburg and will be restricted to adults, of which at least one per household will be age 55 or older. Age-restricted communities such as this are permitted by law under certain conditions that will be met by this development. The development also includes a commercial component. A second scenario in this report is based on developing the site under current zoning (A-1 for residential development and the same commercial space as the first scenario), which allows low density residential units of no more than one per three acres.

All dollar figures contained in this report are expressed in 2000 dollars. No attribution for economic inflation has been made. However, assumptions have been made about real appreciation on residential development. This report shows three outcomes based on varying assumptions of appreciation, which are 1.5% annually, 3% annually, and 5% annually.

Key Estimates of an Active Adult Community

**Development Plans and Construction Investment:** Over 20 years, the developer plans for a gated, adults-only community of 2,000 housing units along with a golf course, and a clubhouse that will be only for the use of the residents of Colonial Heritage at Williamsburg and their guests. Adjacent to the community will be 350,000 square feet of commercial space, probably to consist of retail and office space and assisted living facilities. Total construction investment is estimated at \$607.4 million. The incremental residential population is estimated at 3,460 at 100% occupancy in 20 years. The residential mix and market values/construction costs are:

- 1,200 single family detached homes averaging 2,500 square feet per unit - \$300,000 each
- 600 single family attached homes averaging 1,800 square feet per unit - \$220,000 each
- 200 multi-family units averaging 2,000 square feet per unit - \$175,000 each

**Incremental Revenues, Expenditures and Net Fiscal Impact on James City County:** Throughout the 20 year development period and after buildout, James City County will realize incremental revenues and incur expenditures as a direct result of this development. These estimates are summarized below, along with the net fiscal impact on the county.

For this study, varying rates of real appreciation on residential property have been assumed. Tables A, B, and C following show the results of this variation. As indicated in the tables, the project will result in net fiscal gains for James City County. If real appreciation on this residential development averages 5% annually, the county would net more than \$15.7 million per year at buildout. Real appreciation averaging 3% annually would provide the county with almost \$10.7 million per year at buildout. Should real appreciation average only 1.5% annually, the county still would realize nearly \$7.9 million per year at buildout from Colonial Heritage at Williamsburg.

Table A

Assumption: 5.0% Annual Real Appreciation on Residential Property

|   | <u>Years 1-4</u> | <u>Years 5-8</u> | <u>Years 9-12</u> | <u>Years 13-16</u> | <u>Years 17-20</u> | Annually<br>After<br><u>Buildout</u> |
|---|------------------|------------------|-------------------|--------------------|--------------------|--------------------------------------|
| Incremental County Revenues (\$ Millions)     | \$3.347          | \$10.801         | \$21.849          | \$38.098           | \$61.700           | \$18.466                             |
| Incremental County Expenditures (\$ Millions) | <u>\$1.493</u>   | <u>\$3.781</u>   | <u>\$6.089</u>    | <u>\$8.352</u>     | <u>\$10.648</u>    | <u>\$2.746</u>                       |
| Net Fiscal Impact (\$ Millions)               | <u>\$1.854</u>   | <u>\$7.020</u>   | <u>\$15.760</u>   | <u>\$29.746</u>    | <u>\$51.052</u>    | <u>\$15.720</u>                      |

Table B

Assumption: 3.0% Annual Real Appreciation on Residential Property

|   | <u>Years 1-4</u> | <u>Years 5-8</u> | <u>Years 9-12</u> | <u>Years 13-16</u> | <u>Years 17-20</u> | Annually<br>After<br><u>Buildout</u> |
|---|------------------|------------------|-------------------|--------------------|--------------------|--------------------------------------|
| Incremental County Revenues (\$ Millions)     | \$3.276          | \$10.014         | \$18.967          | \$30.791           | \$46.266           | \$13.412                             |
| Incremental County Expenditures (\$ Millions) | <u>\$1.493</u>   | <u>\$3.781</u>   | <u>\$6.089</u>    | <u>\$8.352</u>     | <u>\$10.648</u>    | <u>\$2.746</u>                       |
| Net Fiscal Impact (\$ Millions)               | <u>\$1.783</u>   | <u>\$6.233</u>   | <u>\$12.878</u>   | <u>\$22.439</u>    | <u>\$35.618</u>    | <u>\$10.666</u>                      |

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Table C

Assumption: 1.5% Annual Real Appreciation on Residential Property

|   | <u>Years 1-4</u> | <u>Years 5-8</u> | <u>Years 9-12</u> | <u>Years 13-16</u> | <u>Years 17-20</u> | Annually<br>After<br><u>Buildout</u> |
|---|------------------|------------------|-------------------|--------------------|--------------------|--------------------------------------|
| Incremental County Revenues (\$ Millions)     | \$3.224          | \$9.471          | \$17.105          | \$26.381           | \$37.564           | \$10.624                             |
| Incremental County Expenditures (\$ Millions) | <u>\$1.493</u>   | <u>\$3.781</u>   | <u>\$6.089</u>    | <u>\$8.352</u>     | <u>\$10.648</u>    | <u>\$2.746</u>                       |
| Net Fiscal Impact (\$ Millions)               | <u>\$1.731</u>   | <u>\$5.690</u>   | <u>\$11.016</u>   | <u>\$18.029</u>    | <u>\$26.916</u>    | <u>\$7.878</u>                       |



**PROFFERS**  
**COLONIAL HERITAGE AT WILLIAMSBURG**

THESE PROFFERS are made this \_\_\_\_ day of \_\_\_\_\_, 2001, by and among:

U.S. HOME CORPORATION, a Delaware corporation ("U.S. Home") (to be indexed as grantor) and

JACK L. MASSIE and VIRGINIA M. MASSIE, husband and wife (collectively, "Massies") (to be indexed as grantor) and

MASSIE CORPORATION, a Virginia corporation ("Massie Corp.") (to be indexed as grantor) and

L. WALLACE SINK, Trustee of the Marital Trust under the Will of David W. Ware, deceased ("Sink") (to be indexed as grantor), and

THE COUNTY OF JAMES CITY, VIRGINIA ("County") (to be indexed as grantee), provides as follows:

Prepared by: Kaufman & Canoles, P.C.  
1200 Old Colony Lane  
Williamsburg, VA 23187

**RECITALS:**

R-1. Jack L. Massie is the owner of certain real property located in the County of James City, Virginia, containing 470± acres, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Jack L. Massie Property").

R-2. Massie Corp. is the owner of certain real property located in the County of James City, Virginia, consisting of 94± acres, more particularly described on **Exhibit B** attached hereto and made a part hereof (the "Massie Corp. Property").

R-3. Virginia M. Massie is the owner of certain real property located in the County of James City, Virginia, containing 2.68± acres, more particularly described on **Exhibit C** attached hereto and made a part hereof (the "Virginia M. Massie Property").

R-4. Sink is the owner of certain real property located in the County of James City, Virginia, containing approximately 180± acres, more particularly described on **Exhibit D** attached hereto and made a part hereof (the "Ware Trust Property").

R-5. The real property described on Exhibits A through D inclusive shall be referred to collectively herein as the "Property".

R-6. The Massies, Massie Corp. and Sink are referred to collectively herein as the "Owners."

R-7. U.S. Home is the contract purchaser of the Property.

R-8. The Owners and U.S. Home have requested that the Property be rezoned to MU – Mixed Use district as described by Section 24-514 *et seq.* of the County's zoning ordinance in

effect on the date hereof ("Zoning Ordinance") in order to permit the construction of an age restricted residential community and commercial development.

R-9. The provisions of the Zoning Ordinance, Section 24-1, *et seq.* possibly may be deemed inadequate for protecting and enhancing orderly development of the Property in accordance with the County Comprehensive Plan. U.S. Home and the Owners, in furtherance of their application for rezoning, desire to proffer certain conditions which are specifically limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code"), and Section 24-16 of the Zoning Ordinance.

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

R-11. Phase I, II and III Archaeological Studies have been performed on the Jack L. Massie Property, the Virginia M. Massie Property and the Massie Corp. Property and those studies with treatment plans required pursuant to paragraph 2 below have been approved by the County Director of Planning.

R-12. Copies of each of the Studies referenced in Recital paragraph R-10 and paragraph 2 below are on file in the office of the County Director of Planning.

R-13. A Community Impact Statement has been submitted to the County Director of Planning for review and approval by the County in connection with the rezoning request referenced above, and is on file in the office of the County Director of Planning. The County

hereby acknowledges that the Community Impact Statement described above has been submitted and is on file in the office of the County Director of Planning.

NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning of the Property, and pursuant to Section 15.1-2296 of the Virginia Code and Section 24-16 of the Zoning Ordinance, the Owners and each of them and U.S. Home agree that they shall meet and comply with the following conditions and proffers as indicated in developing the Property.

**PROFFERS:**

**SECTION I. Proffers Applicable to All Property.**

1. Master Plan. The Property shall be developed generally in accordance with a Master Plan of Development pursuant to Section 24-515(b) of the Zoning Ordinance entitled "Master Plan of Colonial Heritage at Williamsburg" made by AES Consulting Engineers and Land Design, Inc. and Williamsburg Environmental Group, Inc., dated November 1, 2000, which is incorporated by reference (the "Master Plan"). The Master Plan shall provide for the general location of proposed streets, the general location of proposed areas of open space, buffer areas, recreation facilities, the general location of proposed areas for development, pedestrian connectivity and other amenities. The County hereby acknowledges that the Master Plan described above has been submitted to and is on file in the office of the County Director of Planning.

2. Archaeological Study.

A. A Phase I-A Archaeological Study entitled "An Archaeological Assessment of the Massie and Ware Tracts, James City County, Virginia" has been performed on the Ware Trust Property by Cultural Resources, Inc. A Phase I Archaeological Study of the Ware Trust Property shall be performed and submitted prior to land disturbance, relating only to the 71.98 acres identified as having either high or moderate potential for the location of archeological resources in the Phase I-A Assessment described above.

B. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study referenced above that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the 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 II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area.

All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation (48 FR 44734-37, September 29, 1983), as applicable, and shall be conducted under the supervision of a



qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon. Treatment plan(s) as described herein may include measures to avoid, mitigate or minimize effects upon the site, and shall not be construed to refer only to data recovery.

3. Traffic.

A. U.S. Home has submitted to the Office of the County Director of Planning and the Virginia Department of Transportation ("VDOT") a traffic analysis dated October 23, 2000 entitled: "Traffic Analysis for U.S. Homes Site on Richmond Road" prepared by DRW Consultants, Inc. (the "Traffic Study"). The Traffic Study is on file with the County Department of Planning.

B. The following entrance and road improvements shall be installed to VDOT standards and specifications:

(1) A traffic signal at the west crossover as shown and defined in the Traffic Study (hereinafter "West Crossover").

(2) Construction of double left turn lanes on westbound Richmond Road at the West Crossover.

(3) Construction of a right-turn lane on eastbound Richmond Road at the West Crossover.

(4) Construction of three (3) exit lanes and two (2) entrance lanes at the site entrance at the West Crossover.

(5) Construction of a left-turn lane on eastbound Richmond Road at the West Crossover as necessary to accommodate the traffic signal described above.

(6) Modifications to crossover pavement to accommodate improvements listed herein.

C. The following entrance and road improvements shall be installed to VDOT standards and specifications:

(1) A traffic signal at the east crossover as shown on the Traffic Study (hereinafter "East Crossover").

(2) Construction of double left turn lanes on westbound Richmond Road at the East Crossover.

(3) Construction of a right turn lane on eastbound Richmond Road at the East Crossover.

(4) Construction of three (3) exit lanes and two (2) entrance lanes at the site entrance at the East Crossover.

(5) Construction of an eastbound left turn lane at the East Crossover as necessary to accommodate a traffic signal.

(6) Construction of East Crossover pavement to accommodate improvements listed herein.

(7) If commercial component or Nonresidential Use (as defined below) development precedes residential development and commercial component or Nonresidential access to the West Crossover is requested, then the West Crossover improvements cited above shall be required as a condition of the Nonresidential development approval upon determination of necessity by the County Director of Planning and approval by VDOT.

D. The East Crossover and West Crossover improvements cited above shall be phased in accordance with a commercial phasing plan described herein and/or in the Master Plan. Any phasing of East Crossover and West Crossover improvements must be approved by VDOT and the County Director of Planning as a condition of the site plan approval for the commercial phase.

E. For any right turn in/right turn out driveway on eastbound Richmond Road to provide access to the Nonresidential areas of the Property, a right turn lane on eastbound Richmond Road shall be installed to VDOT standards and specifications prior to the issuance of any temporary or permanent Certificate of Occupancy for buildings shown on the associated site plan.

F. The following entrance and road improvements shall be installed to VDOT standards and specifications:

(1) Construction of a left turn lane on northbound Centerville Road at the point of access.

(2) Construction of a right turn lane on southbound Centerville Road at the point of access.

(3) Construction of two (2) exit lanes and one (1) entrance lane at the point of access.

G. Plantings approved in advance by the County Director of Planning and VDOT, if necessary, shall be placed in the median of Richmond Road along those portions of Richmond Road which abut the Property.

H. The entrance and road improvements described in subparagraphs B, C, D, and G above shall be completed prior to approval of any subdivision plat for any lot, section or phase within the Property. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required improvements by entering into an agreement with the County and furnishing to the County a certified check, bond with surety or letter of credit satisfactory to the County, along with such agreements which are satisfactory to and approved by the County Attorney, all as more particularly set forth in Section 19-72 of the County Code as written on the date hereof.

I. The entrance and road improvements for Centerville Road described in subparagraph F above shall be completed prior to approval of any subdivision plat for any lot, section or phase within land bay V shown on the Master Plan. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required

improvements and by entering into an agreement with the County and furnishing to the County a certified check, bond with surety or letter of credit satisfactory to the County, along with such agreements which are satisfactory to and approved by the County Attorney, all as more particularly set forth in Section 19-72 of the County Code as written on the date hereof.

4. Underground Utilities. All existing and new utilities, including electrical and telephone wires, conduits and all sewer and water pipes within the Property (but outside of the area currently dedicated to the transmission lines for Dominion Virginia Electric & Power, Dominion Virginia Natural Gas and the City of Newport News) shall be underground, except as approved by the County Director of Planning.

5. Bus/Transit Facilities. A bus pull-off area and bus stop shelter shall be constructed on both Richmond Road and Centerville Road adjacent to the Property. Design and location of the pull-off and shelter shall be approved in advance by the County Transit Administration.

## **SECTION II. Proffers Applicable to Residential Property**

1. Age Restriction. Occupancy of all residential dwellings, houses, condominiums or other units ("Residential Units") developed upon the Property shall be age restricted to persons fifty-five (55) years of age or older generally in accordance with the following parameters:

A. It is the intent of the parties that Residential Units shall be occupied by persons fifty-five (55) years of age or older and that no Residential Unit shall be occupied by a person under the age of eighteen (18). In some instances, persons under the age of fifty-five (55)

but over the age of eighteen (18) shall be entitled to occupy Residential Units, subject, at all times, to the laws and regulations governing age fifty-five (55) and over restricted housing as more particularly set forth and described in subparagraph B below.

B. All residential areas within the Property shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons fifty five (55) years of age or older, including but not limited to: the Fair Housing Act (42 U.S.C. 3601, *et seq.*) and the exemption therefrom provided by 42 U.S.C. 3607(b)(2)(C) regarding discrimination based on familial status; the Housing for Older Persons Act of 1995 (46 U.S.C. 3601, *et seq.*); the Virginia Fair Housing Law (Section 36-96.1, *et seq.* of the Virginia Code); any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a declaration of restrictive covenants and property owners' association documents described in paragraph 7 below.

2. Density. No more than two thousand (2,000) Residential Units shall be developed upon the Property.

3. Water Source: Cash Contribution. U.S. Home, or any subsequent owner of the Property shall contribute to the County the sum of Seven Hundred Fifty and No/100 Dollars (\$750.00) for each Residential Unit developed on the Property. The County shall make these monies available for development of water supply alternatives for the County. Such contributions shall be payable for each of the Residential Units developed within the Property at

the time of subdivision plat approval by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

4. Neighborhood Recreation Facilities. The following recreation facilities shall be provided by U.S. Home, open to all residents of the development, maintained and regulated by the Association (defined below):

A. Park land which meets or exceeds the Guidelines (defined below) shall be established by U.S. Home. Included shall be an eighteen (18) hole golf course, a 10.2 acre p clubhouse site with a clubhouse facility of at least 15,000 square feet and related amenities. Clubhouse amenities shall include a room for library use which shall accommodate a cooperative program between the Williamsburg Regional Library (or successor public library) and the Association (defined in paragraph 7 below). Clubhouse amenities shall also include an aerobic exercise room and locker rooms.

B. Tennis courts numbering not fewer than three (3).

C. Swimming pool or pools with an aggregate area of all pools (whether one or more, indoor, outdoor or both) not less than twenty-five (25) meters by twenty-five (25) meters.

D. Based upon the unique needs of the residents in an age restricted community, no playgrounds, picnic areas or softball fields will be established as a requirement of development of the Property. This proffer shall not be read as a prohibition of playgrounds, picnic areas or softball fields otherwise permitted by the Association documents and the Zoning Ordinance.

E. The golf course, clubhouse and swimming pool(s) shall be completed before issuance of the Certificate of Occupancy for the 450<sup>th</sup> Residential Unit within the Property.

5. Transitional Screening.

A. A landscape area shall be established between all commercial and residential use areas within the Property. Such landscape area shall be fifty (50) feet in width, and shall contain plantings which meet or exceed the landscape area standards of Section 24-94 of the Zoning Ordinance. This landscape area may be located on areas within the Property which are designated for commercial or residential uses, or both.

B. A buffer of one hundred fifty (150) feet shall be maintained between any lot and the Centerville Road right-of-way as it exists on the date hereof. In areas of this buffer which are not presently wooded, a minimum of three (3) trees per four hundred (400) square feet of buffer area shall be planted; not less than fifty percent (50%) of such trees shall be evergreen species.

C. A buffer of fifty (50) feet shall be maintained between any parcel, lot or property line within the Property and the Richmond Road right-of-way as it exists on the date hereof.

D. The buffers proffered in paragraphs B and C of this Section II (5) may include underground utilities, underground and above ground drainage facilities, bus stops, curbs, gutters, sidewalks and signs as otherwise permitted by the Zoning Ordinance.



6. Golf Course Water Usage. Unless otherwise specifically approved by the James City Service Authority, no groundwater or water supplied by a public water system as defined in the Zoning Ordinance shall be used for irrigation purposes upon the golf course developed upon the Property. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total irrigated area of the golf course in order to accomplish the limitation on use of public water and groundwater contained within this paragraph.

7. Property Owners Association. A residential property owners' association ("Association") shall be established in accordance with the Virginia Property Owners' Association Act, Section 55-508 et seq. of the Virginia Code, in which all owners of Residential Units within the Property, by virtue of their property ownership, shall be members. The articles of incorporation or organization and bylaws of the Association and declaration of restrictive covenants enforceable by the Association shall be submitted to and reviewed by the County attorney for consistency with this proffer. Such governing documents shall require or provide for, inter alia the following:

A. The Association shall adopt an annual maintenance budget and assess all members for the maintenance of all properties owned and/or maintained by the Association, including private roads.

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

C. The Association shall have the power to assess its members in order to provide for the budget described above, and shall further have the power to levy special assessments, and to have a lien upon property owned by its members for collection and enforcement of such assessments, and for the cost of remedying violations of the rules and regulations established by the Association. Separate owners' associations may be established for individual sections within the Property, and impose supplemental restrictive covenants on individual sections or areas of the Property.

D. The Association shall have the power and obligation to enforce the age restrictions described above, including without limitation the application of such restrictions upon sale and/or resale of any Residential Unit.

E. The Association shall administer the Automatic External Defibrillator program described in paragraph 14 below.

8. Private Streets. All streets (as defined by the County Code) within the residential portions of the Property shall be private and shall conform to VDOT construction standards. All private streets shall be certified to the satisfaction of the County engineer as required by Section 19-49 of the County Code as written on the date hereof.

9. Water Conservation. The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials, and the use of water conserving fixtures and appliances

to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to the first subdivision approval for a Residential Unit within the Property.

10. Deed Provisions. Every deed by which any lot or parcel created for a Residential Unit is first conveyed to any owner by U.S. Home, its successors or assigns shall contain reference to the age restriction provisions of Section II, paragraph 1 above.

11. Streetscapes. Any and all residential development within of the Property shall be in conformity with the County Streetscape Guidelines Policy as in effect on the date hereof.

12. Sidewalks/Pedestrian and Bicycle Trails.

A. Sidewalks shall be constructed within the Property which meet or exceed the standards of Section 24-35 of the County Code. In addition, sidewalks shall be constructed on at least one (1) side of every street or road constructed within the Property at the time of construction.

B. Sidewalks shall be constructed along those portions of Richmond Road and Centerville Road which abut the Property.

C. A system of pedestrian and bicycle trails shall be established in connection with each phase, section or land bay shown on the Master Plan (which trail system shall include the sidewalks described above) conforming to the following design guidelines:

(1) All trails shall be not less than four (4) feet in width;

(2) Access to abutting land bays shown on the Master Plan and where possible, connection of cul-de-sacs shall be established;

(3) Trails shall, when practical, avoid lands with greater than twenty-five percent (25%) slopes, environmentally sensitive areas and areas designated as resource protection areas;

(4) All weather surfaces shall be provided, except as limited by environmentally sensitive areas, wherein pervious, soft surfaces underlaid with filter cloth shall be employed;

(5) One and one-half (1.5) miles of trail shall be provided for each 590 Residential Units constructed within the Property.

(6) Except as provided or contradicted above, the trails shall be designed to meet or exceed the standards of the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof ("Guidelines").

13. EMS Equipment/Signalization: Cash Contribution. U.S. Home, or any owner(s), of the property present or future shall contribute to the County the sum of Seventy Thousand and No/100 Dollars (\$70,000.00) for fire and rescue equipment replacement and supply and traffic signal preemption equipment. This payment shall be made at the rate of Seventy and No/100 Dollars (\$70.00) per lot for the first one thousand (1,000) lots subdivided for Residential Units within the Property, and shall be payable at the time of subdivision plat approval by the County upon approval of the one thousandth Residential Unit or grouping, phase or section of Residential Units.

14. Automatic External Defibrillator ("AED") Program. An AED program shall be established for administration by the Association within the Property which shall comply with Section 32.1-111.14:1 *et seq.* of the Code of Virginia, as written on the date hereof, and Virginia State Board of Health regulations promulgated pursuant thereto. Not less than one defibrillator to be used as a part of the AED program shall be supplied for use in this AED program by U.S. Home, its successors or assigns.

### **III. Proffers Applicable to Commercial Property**

1. Area of Nonresidential Uses. A portion of the Property as shown on the Master Plan shall be developed for Nonresidential Uses defined in Section 24-521 and/or Section 24-522 of the Zoning Ordinance as written on the date hereof ("Nonresidential Use").

2. Development Plans.

Design review standards for Nonresidential Use development shall be established by U.S. Home and provided to the County Director of Planning for approval. Thereafter, conceptual plans and conceptual elevations for development shall be approved prior to site plan approval for any Nonresidential building by the County Development Review Committee of the Planning Commission with a procedure generally as provided by Section 24-142 *et seq.* of the Zoning Ordinance so as to assure conformity with such design review standards, including but not limited to the following:

- (a) landscaping requirements,
- (b) location and number of entrances,

- (c) structure layout,
- (d) architectural review,
- (e) setbacks from adjacent properties or roadways.

Such approval shall be designed to address the uniformity, appearance and quality of Nonresidential Use of the Property, and shall not be unreasonably withheld.

3. Homeowners' Association Not to Control Commercial Property. The Association shall not control any of the Property developed for Nonresidential Uses. This provision shall not be read to preclude establishment of a separate association created in connection with development of areas of Nonresidential Use within the Property.

4. Strip Shopping Center(s) Prohibited. No retail construction/development or Nonresidential Use shall be undertaken on the property consisting of a solid or connected row or line of storefronts or separately occupied businesses one (1) unit deep parallel to Richmond Road, it being the intent of this proffer to prohibit development commonly known as "strip shopping centers" fronting on Richmond Road.

#### **IV. Miscellaneous Provisions**

1. Headings. All section and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.

2. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the

Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

3. Conflicts. In the event that there is any conflict between these Proffers and the Zoning Ordinance, these Proffers shall govern.

4. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligation(s) of U.S. Home hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

5. Void if Rezoning not Approved. In the event that the requested rezoning is not approved by the County, these Proffers shall be null and void.

U.S. HOME CORPORATION, a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_(SEAL)  
JACK L. MASSIE

\_\_\_\_\_(SEAL)  
VIRGINIA M. MASSIE

MASSIE CORPORATION, a Virginia corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_(SEAL)  
L. Wallace Sink, Trustee of the Marital Trust under the Will of David W. Ware, deceased

THE COUNTY OF JAMES CITY, VIRGINIA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2001, by \_\_\_\_\_, \_\_\_\_\_ of U.S. Home Corporation, a Delaware corporation, in its behalf.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2001, by Jack L. Massie.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2001, by Virginia M. Massie.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2001, by \_\_\_\_\_, \_\_\_\_\_, of Massie Corporation, a  
Virginia corporation, in its behalf.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2001, by L. Wallace Sink, Trustee, of the Marital Trust under the Will of David W. Ware, deceased.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

EXHIBIT A

THE JACK L. MASSIE PROPERTY

That certain tract or parcel of land in Powhatan Magisterial District, James City County, Virginia, containing 470 acres, more or less, being all of the tract of 480 acres that was conveyed to Leon H. Cooley by deed from Louise Trosvig and husband, dated January 14, 1918 and recorded in the Clerk's Office of said County in Deed Book 17, at page 272, less 10 acres, a part thereof which was conveyed by deed to Leon H. Cooley and wife to Louise Trosvig, dated April 3, 1920 and recorded in said Clerk's Office in Deed Book 18, at page 450.

Said tract of 480 acres is bounded on the East by the Telegraph Road, now known as U. S. Highway No. 60; on the North by the land of W. G. W. Farthing and Farnville Spring Swamp, which separates it from the land of R. L. Henley and William H. E. Morecock; on the West by the Swamp which separates it from the land of R. L. Henley and H. B. Warren; on the South by the land of T. P. Marston, the land of E. C. Wynne and a 20 acre tract.

Said tract of 10 acres, shown as excluded above, is bounded and described as follows:

Commencing at the Northeast corner of the tract of land now owned by Louise Trosvig on the Main Road from Williamsburg to Richmond, running north along said road from Williamsburg to Richmond, running north along said road 7 rods; thence West between parallel lines with the land of Louise Trosvig 103 rods to a point; thence south 38 rods to the land of C. C. Branch to the southwest corner of the land of Louise Trosvig; thence north along the line of Louise Trosvig to a corner of her land; thence east along the line of Louise Trosvig to the Main Road, the point of beginning.

Excepting from the above description, however, 1.28 acres conveyed to the Commonwealth of Virginia, for additional right of way for State Highway No. 60 as will appear from deed recorded in Deed Book 20, at page 221.

It being the same property conveyed to JACK L. MASSIE from Jack L. Massie and Virginia M. Massie, his wife dated October 25, 1971 and duly recorded November 18, 1971 in the Clerk's Office of the Circuit Court of James City County in Deed Book 133 page 757.

LESS, SAVE AND EXCEPT that parcel conveyed to the Commonwealth of Virginia for Route 60, in Deed Book 95, at page 83 and the Order entered in Deed Book 109, at page 635, in the aforesaid Clerk's Office.

LESS, SAVE AND EXCEPT that parcel conveyed to the James City Service Authority in Deed Book 186, at page 531, in the aforesaid Clerk's Office.

LESS, SAVE AND EXCEPT that parcel conveyed to Virginia M. Massie, in Deed Book 237, at page 398, in the aforesaid Clerk's Office (described herein as the "Virginia M. Massie Property").

**EXHIBIT B**

THE MASSIE CORP. PROPERTY

All that certain lot, piece or parcel of land situate, lying and being in James City County, Virginia, designated as "94 ACRES +" on that certain plat entitled "TITLE SURVEY, 94+ ACRES LOCATED ON THE NORTH LINE OF CENTERVILLE ROAD STANDING IN THE NAME OF ELIZABETH CARTER, REF. W.B. 6-478, JAMES CITY COUNTY, VIRGINIA" dated June 27, 1985 and made by AES, a professional corporation, which said plat is attached hereto to be recorded herewith for a more complete description of the property herein conveyed, in Plat Book 41, at page 32.

It being the same property conveyed to MASSIE CORPORATION a Virginia corporation from ELIZABETH CARTER, unmarried, individually and as Executrix of the Estate of Signor Bradby, deceased dated July 24, 1985 and duly recorded August 14, 1985 in the Clerk's Office of the Circuit Court of James City County in Deed Book 278 page 734.

LESS, SAVE AND EXCEPT that certain parcel of land shown on a plat entitled "BOUNDARY LINE ADJUSTMENT BETWEEN WILLIAM A. & ALINE W. WALLACE AND THE MASSIE CORPORATION, LOCATED IN JAMES CITY COUNTY, VIRGINIA" made by Spearman & Associates, P.C., dated December 28, 1990, a copy of which is attached hereto and made a part hereof and shown thereon as: "AREA FOR CONVEYANCE = 3967.75 S.F. OR 0.091 ACRE", said parcel being bounded as follows: Beginning at a point which marks the southerly boundary of the properties of the Grantor and Grantee on Route 614 and thence proceeding N 14 degrees 30' 00" W. a distance of 194.95 feet to a point, thence proceeding N 88 degrees 30' 00" E. a distance of 41.77 feet to a point, thence proceeding S 02 degrees 07' 45" E. a distance of 189.97 feet to the point of beginning.

LESS, SAVE AND EXCEPT that parcel conveyed to the Commonwealth of Virginia for Route 614, in Deed Book 634, at page 397, in the aforesaid Clerk's Office.

EXHIBIT C

THE VIRGINIA M. MASSIE PROPERTY

All that certain, piece or parcel of land, situate, lying and being in the County of James City, Virginia, and containing 2.68 acres as described on that certain plat entitled "Survey of 2.68 Acres for conveyance to Virginia M. Massie", which said plat was dated May 17, 1983, and prepared by Paul C. Small, Land Surveyor, the said parcel fronting 234.18 feet on Route 60, and running back therefrom between parallel lines along the Northerly side of said plat N 72 degrees 00' 00" E a distance of 553.82 feet, and running back therefrom on the Southerly side S 71 degrees 12' 19" W a distance of 469.36 feet, the said parcel having a Westerly line which is N 19 degrees 27' 17" W and running a distance of 228.20 feet.

It being the same property conveyed to VIRGINIA M. MASSIE, herein by deed dated AUGUST 10, 1983, from JACK L. MASSIE AND VIRGINIA M. MASSIE, HUSBAND AND WIFE, duly recorded AUGUST 30, 1983, in the Clerk's Office of the Circuit Court of the City of WILLIAMSBURG, VIRGINIA, in Deed Book 237, page 398.

**EXHIBIT D**

**THE WARE TRUST PROPERTY**

Approximately one hundred eighty (180) acres of land being all of the approximately two hundred five (205) acre tract owned by L. Wallace Sink, Trustee of the Marital Trust Under the Will of David W. Ware, fronting on Richmond Road, James City County, Virginia which was conveyed to David W. Ware by James E. Farthing, et als., by deed dated August 4, 1966 recorded in the Clerk's Office of the Circuit Court for Williamsburg/James City County, Virginia in Deed Book 107, page 670 and being more particularly described in such deed and shown on a plat attached thereto entitled, "Plat of Survey, A Tract Containing 205.79 acres, owned by David W. Ware" dated June 22, 1966 made by R. H. Highland, C.L.S. LESS AND EXCEPT: 25 +/- acres fronting on Richmond Road and bounded on the west by a line running parallel to Richmond Road at a distance from Richmond Road which will mark the westerly boundary line of a twenty five (25) acre parcel.

IT being part of the same property devised unto L. WALLACE SINK, TRUSTEE OF THE MARITAL TRUST UNDER THE WILL OF DAVID W. WARE, DECEASED, by Deed of Confirmation, from L. WALLACE SINK, ADMINISTRATOR C.T.A. OF THE ESTATE OF DAVID W. WARE, DECEASED, dated October 14, 1994, recorded November 17, 1994, in Deed Book 715, Page 97, in the Clerk's Office of James City County, Virginia.

**GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.**ATTORNEYS AT LAW  
516 SOUTH HENRY STREETPOST OFFICE BOX 379  
WILLIAMSBURG, VIRGINIA 23187-0379TELEPHONE: (757) 220-6500  
FAX: (757) 229-5342

e-mail: vgeddy@widomaker.com

VERNON M. GEDDY, JR.  
STEPHEN D. HARRIS  
SHELDON M. FRANCK  
VERNON M. GEDDY, III  
SUSANNA B. HICKMAN

April 26, 2001

Mr. Paul Holt  
James City County Planning Department  
101-E Mounts Bay Road  
Williamsburg, Virginia 23185Re: Rezoning and Special Use Permit  
8909 Barhamsville Road

Dear Paul:

On behalf of Chesapeake Bank, I am writing to confirm our conversation yesterday in which I indicated that Chesapeake will be amending its rezoning application to apply only to the bank site. The balance of the property would remain in its existing A-1 zoning. We will be submitting an amended plan and proffers to reflect this change. I do not believe that any special use permit would be required for the bank use but would appreciate it if you would confirm that for us. Given these changes, we understand and agree that consideration of this case will be deferred until the June Planning Commission meeting.

Sincerely,



Vernon M. Geddy III

VMG:s

cc: Mr. Ray Hargett  
Mr. Marshall Warner  
Mr. Robert J. Singley  
Mr. Richard A. Costello