

Planning Commission Agenda

July 2, 2001, 7:00 p.m.

1.	Roll Call
2.	Minutes:
3.	DEVELOPMENT REVIEW COMMITTEE REPORT (Separate Cover)
4.	Policy Committee Consideration
	A. Day Cares
5.	Public Hearings

A. Case No. SUP-3-01. Colonial Virginia Council (Boy Scouts of America)

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. Case No. SUP-13-01. JCSA Jolly Pond Road Water Main

Mr. Larry Foster has applied on behalf of the James City Service Authority to amend the conditions of SUP-47-90, the Jolly Pond Road Water Main Extension, which was approved previously by the Board of Supervisors on October 29, 1990. The existing water main is located within the road right-of-way of Jolly Pond Road and runs from Centerville Road to Cranston's Mill Pond Road.

C. Case No. SUP-8-01. Hogan Day Care.

Ms. Cathrine Hogan has applied for a special use permit for the operation of a child day care service at 233 Nina Lane. The property is zoned R-2, General Residential, and is more specifically identified as Parcel No. (3-203) on the James City County Real Estate Tax Map No. (24-4).

D. Case No. SUP-10-01. Vickie's Clubhouse Day Care

Ms. Vickie Skutans has applied for a special use permit to operate a child day care center out of her home located at 118 Leon Drive. The property is zoned R-1, Limited Residential District and is designated Low Density residential on the Comprehensive Plan Land Use Map. The property can be further identified as Parcel No. (2-3-7) on James City County Real Estate Tax Map (47-2).

E. 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 further be identified as Parcel Nos. (1-21) and (1-22) on James City County Real Estate Tax Map No. (23-4).

F. 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.

G. Case Nos. Z-2-01/MP-2-01. VA United Methodist Homes-Windsor Meade

Mr. Alvin P. Anderson has applied on behalf of C.C. Casey Limited Company to rezone approximately 9 acres from R-8, Rural Residential, and approximately 102 acres from R-8, with proffers, to MU, Mixed Use, for a continuing care retirement community consisting of 300 dwelling units and 119 continuing care beds located at 4692, 4694, 4740, 4710, 4704, and 4700 Old News Road and 144 Jesters Lane and can be further identified as Parcel Nos. (1-34), (1-7), (1-2), (1-5), (1-6), (1-8) and (2-18) on James City County Tax Map No. (38-3) and Parcel No. (1-8) on James City County Tax Map No. (38-1).

H. Case No. SUP-14-01. JCSA Water Main Alignment

Mr. Danny Poe has applied on behalf of the James City Service Authority to install a 20" and 30" force main in the Greensprings area between Route 5 and Monticello Avenue Extended. The project is a new wastewater force main which primarily runs along VDOT right-of-way (Greensprings Plantation Drive and Monticello Avenue Extension) and bisects properties identified as Parcel Nos. (1-5) and (1-1) on JCC Real Estate Tax Map Nos. (37-3) and (46-1) respectively. All adjacent properties to the proposed force main are zoned R-4, Residential Planned Community.

6.	<u>Planning Director's Report</u>
7.	Adjournment

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF JUNE, TWO-THOUSAND AND ONE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

John Hagee
Don Hunt
Wilford Kale
Joe McCleary
Joe Poole
Peggy Wildman

ALSO PRESENT

John Horne, Development Manager
Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Paul Holt, Senior Planner
Christopher Johnson, Senior Planner
Karen Drake, Planner
Benjamin Thompson, Planner

2. MINUTES

Upon a motion by John Hagee, seconded by Joe McCleary, the minutes of the May 7, 2001, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee presented the DRC report stating the committee recommended approval of the five cases that were heard. He stated one case was a request for a septic tank replacement while two other cases were for overhead utilities exception to the Subdivision Ordinance. Additionally, he stated the committee reviewed a conceptual plan from JCSA for a new water tank storage facility and proposed office building and finally, they reviewed a modification to the Sidewalk Section of the Zoning Ordinance for Williamsburg Plantation.

Peggy Wildman, made a motion, seconded by Joe McCleary, to approve the DRC report. In a unanimous voice vote, motion passed.

4. PLANNING COMMISSION CONSIDERATION

A. Water Demand and Supply

Joe McCleary stated that as a new Commission member it had become obvious to him that one of the major issues within the County as development continues was water. He felt it was advisable to invite Larry Foster, General Manager of JCSA, to speak to the Commission on present usage and availability of water and where they were going in the future with resources.

Larry Foster of JCSA handed out information to the Commission members for them to follow during his presentation. He began with an explanation of the role of JCSA in supplying water to a large portion of the County. He stated projections were based on the Master Infrastructure Plan approved by the Board of Supervisors and the JCSA Board of Directors in 1997 and that this plan was based on the County's Comprehensive Plan. He stated that one objective of JCSA was to reduce dependence on the Chickahominy/Piney Point Aquifer. He spoke on water projections based on the County population stating that 90% of the population lived within the PSA with 80% served by JCSA. He stated the residential water allocation per capita was 72 gallons per day and projected to be 67 gallons per day in the year 2010 because of their aggressive water conservation programs. He said there was another way in which the Comprehensive Plan dealt with projecting water and used the U.S. Home project as an example. He said 80 acres of that site would be used for commercial purposes and they allocated 1,000 gallons per acre per day when the property was fully developed. He said there were 50 acres of moderate-density residential of 4 to 12 units per acre and estimating 200 gallons per unit, the projected usage would be 40,000 to 120,000 gallons per day. He said the remaining 604 acres of low-density residential of one unit per acre was

estimated at 120,000 gallons per day. Larry Foster stated if the project went solely by the designations in the Comprehensive Plan, the water demand allocation would be 240,000 to 320,000 gallons per day. He said in Master Infrastructure Plan projected demand for water through 2015 would be 6 million gallons per day. Larry Foster further explained the regulatory permits required by the Virginia Department of Health and the Department of Environmental Quality, who regulates the quantity of water that can be withdrawn monthly and annually. He noted these permits needed to be renewed every ten years and there were no guarantees the permits would be renewed, stating there was no reason to think that they wouldn't be, and there was not guarantees that the amounts of water would be expanded at time of permit renewal. He continued the presentation with the Water Supply Plan from 2002-2015 explaining that JCSA would be purchasing 1.8 million gallons of water from Newport News until the completion of the ground water treatment plant in the year 2005-2006. Then in 2005-2010 the plant would produce 2.5 million gallons of water and they would continue to use capacity from existing facilities up to 5 million gallons per day. He stated projections for 2010 indicated a need to bring an additional 2.5 million gallons from the second phase of the Ground Water Treatment Facility. He said beyond the year 2015 the existing permits would expire and they hoped to participate in the Regional Surface Water Project, the King William Reservoir and/or a Regional Groundwater Treatment Program. He said he would be happy to answer any questions of the Commission.

John Hagee asked Larry Foster to again review JCSA's philosophy of first come, first serve.

Larry Foster stated there were no commitments to any one project. If a development was existing and in a certain phase of development and water was available, then water would be supplied to that project but, if water was not available, then there would be no commitment to supply water for that project.

John Hagee asked, if an individual purchases a lot in the Stonehouse Development and several years later when they are ready to build and there was no water available, would they then not be entitled to have water.

Larry Foster stated JCSA would likely not be able to honor the commitment if water was not available and said further discussion about the question is necessary.

Joe McCleary noted that the Chickahominy/Piney Point aquifer was one that JCSA would like to get away from and there were three other aquifers, the Potomac Upper, Potomac Middle, and Potomac Lower, which JCSA was tapping into for the Ground Water Treatment Facility. He asked Larry Foster to characterize the capacity of those aquifers in comparison with the Chickahominy/Piney Point aquifer and what other resources were available.

Larry Foster stated collectively they were much larger than the Chickahominy/Pine Point aquifer but the aquifers were not directly potable or drinkable and that was the reason why JCSA was building the Ground Water Treatment Facility.

Joe McCleary commented that in the 1997 Comprehensive Plan there were requirements for population projections and he felt that was the key factor since land didn't drink water, people drank water. He asked Larry Foster if he felt confident that the water needs of the County would be satisfied based on the population projections for the next ten years.

Larry Foster stated their experience had matched the population projections almost exactly and said unless there was a major change in the development pattern for the County, he felt confident that the water needs would be satisfied.

Wilford Kale asked why there was no information as to the location of where the projected populations would be within the County or projected industrial usage.

Larry Foster stated that industrial usage was impossible to project but said the pattern has been that industrial usage had tracked about 35% of the residential usage.

Wilford Kale asked how many localities could tap into the Upper and Lower Potomac aquifers.

Larry Foster explained that the aquifer started on the fall line at I-95 and went east all the way into the coast and it was not tapped very much at this time and the largest users of that water was probably the West Point Paper Mill.

Peggy Wildman ask if the price of the water being drawn from Newport News Waterworks was going up as water became scarce or would it be tracked another way.

Larry Foster stated that Newport News Waterworks would sell JCSA water for \$1.65 per thousand gallons used and would track their water rate increases from there on.

There being no further questions from the Commission, Joe Poole thanked Larry Foster for his presentation.

5. CASE NO. SUP-3-01. COLONIAL VIRGINIA COUNCIL - BOY SCOUTS OF AMERICA.

_____ Paul Holt presented the report stating staff had continued to work with the applicant on this application and proposed SUP conditions. He stated that the applicant had requested a one month deferral and staff concurred.

There being no speakers, this case was continued to the July 2nd meeting.

6. CASE NO. SUP-13-01. JCSA JOLLY POND ROAD WATER LINE - SUP AMENDMENT.

Paul Holt presented the staff report stating that the applicant had applied to amend the conditions of SUP-47-90 which was approved by the Board on October 29, 1990. The purpose of this amendment was to amend the water line SUP conditions to provide public water to a portion of the Boy Scout Camp facility. He stated that since the applicant for Case No. SUP-3-01 had requested deferral, staff recommended deferral of this case so the two cases could go forward concurrently in the public hearing.

Joe Poole opened the public hearing. There being no speakers, the case was continued to the July 2nd meeting.

7. CASE NO. ZO-3-01. PLANNED UNIT DEVELOPMENT DISTRICTS.

Paul Holt presented the staff report stating the proposed Zoning Ordinance revision would add golf courses to the list of permitted uses in the Planned Unit Development Commercial District (PUD-C). He stated the purpose of this change was due to a recent title search on property located in the Stonehouse Planned Unit Development. He said the research found that part of the 18-hole golf course was developed on property zoned PUD-C which is not permitted according to the present ordinance. He stated the attached text amendment, if adopted, would correct this and would bring the entire golf course into a conforming status. Staff found that golf courses on PUD-C property would be consistent with the intent of the PUD Ordinance and recommended the Commission recommend approval this request.

Joe Poole opened the public hearing. There being no speakers, the public hearing was closed.

Wilford Kale stated he was not in favor of putting a golf course on commercial property in

a PUD in order to place it in conformance with what already had been done. He felt that was not a good policy and was uncomfortable with this request and could not support the application.

Don Hunt made a motion, seconded by Peggy Wildman, to recommend approval. In a roll call vote, motion passed (5-1). AYE: Hagee, Wildman, Hunt, McCleary, Poole; (5); NAY: Kale (1).

8. CASE NO. SUP-11-01. CARROT TREE BAKERY AT JAMESTOWN ISLAND.

Karen Drake presented the staff report stating that the applicant had applied for a special use permit to operate a seasonal concession stand at Jamestown Island on property owned by the Association for the Preservation of Virginia Antiquities. Staff found the proposal compatible with the existing development, consistent with the surrounding property and the Comprehensive Plan. Staff recommended the Planning Commission approve this application.

Joe Poole opened the public hearing. There being no speakers, the public hearing was closed.

Joe McCleary made a motion, seconded by Don Hunt, to approve this application. In a roll call vote, motion passed (6-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Poole (6); NAY: (0).

9. CASE NO. SUP-8-01 HOGAN DAY CARE.

Ben Thompson presented the staff report stating the applicant had requested a special use permit to operate a child day care out of her home to accommodate up to 10 children. He stated the applicant currently operated a day care with up to 5 children, as generally permitted by James City County as a home occupation. Staff found the proposal inconsistent with the surrounding zoning and development and the Comprehensive Plan as outlined in the staff report and recommended the Commission recommend denial of this application. He mentioned that the proposal created more impacts than home occupations.

Joe Poole opened the public hearing.

John Hogan spoke on behalf of the applicant and gave a brief history of the procedures which were followed in order to come before the Planning Commission tonight. He said the state required one teacher per eight children and that it was the policy of the day care to have one teacher per five children. He stated the purpose of this application was to hire on additional staff. He also stated that when checking with the County, he was informed that in the R-2 zoning this type of business was permitted and did not understand why staff had requested denial of this application. He said he also spoke to JCSA and the Health Department and felt confident that this business would operate under the water restrictions. He also said that the school buses usually completed its routes by 7:30 in the morning and did not feel their business would impact the traffic since their hours of operation were 8:30 a.m. to 1:30 p.m. Regarding the Comprehensive Plan he felt this business was a limited commercial establishment and was community oriented and said the parents/customers were pleased with the service they provided. He requested that the Commission approve this application.

Peggy Wildman asked John Hogan if all the names on the petition were neighbors.

John Hogan stated that the petitioners were surrounding neighbors and offered to supply their addresses, if requested by the Commissioner.

Wilford Kale asked if anyone in the area had voiced any concerns over this application.

John Hogan stated that he did not know of anyone who had concerns. He added that they

placed an ad in their community newsletter and they were very supportive.

Wilford Kale asked if the current five children were full time.

John Hogan stated that on average the children came one or two times a week.

John Hagee asked if the community association had any by-laws about home businesses.

John Hogan stated not to his knowledge.

Don Hunt asked if there was an age limit for the children attending the day care.

Cathrine Hogan said she preferred to refer to her business as a mothers morning out program/pre-school program and did have an age limit at present of walking toddlers through five-years old. She stated that during school year breaks, many of the parents had requested if they could also bring their older child and said she could not provide that service and that was one reasons she had applied for this application.

Mary Minor, Director of Child Caring Connection, stated she was here to support this and two other special use permits coming before the Commission tonight. She explained the role of the Child Caring Connection and confirmed the need for more infant and toddler care within the County. She supported this application.

Joe McCleary said he spoke with the DSS and they stated that for children two and above there were vacancies, understanding that there were differences between in-home and institution care. He did state they reported a lack of facilities for the new born and after hour day cares. He asked Mary Minor if she agreed.

Mary Minor said under state regulations, infant care was up to 16 months and anything after 16 months to 36 months was considered toddler care. She stated it was a broader age group than what most would consider and that day care was hard to find, especially good high quality, pre-screened care.

There being no further speakers, the public hearing was closed.

Wilford Kale stated that his own children attended a day care facility within his community and was very comfortable with this application. He felt in this situation the applicant had done a wonderful job and he could support this application.

John Hagee said he also could support this application but, he did have a problem with the parameter or the lack thereof. He said the applicant had requested 12 children and asked how the Commission could limit that number and how would they deal with a situation where two or three neighbors did not want a day care in their community. He said that the state set a maximum of 5 children and any more than that a special use permit was required. He asked what the County's maximum was, stating one application tonight was for 10 children and the other for 12 children. He also asked if there was a request for 15 children, how would additional traffic and noise impact the neighborhood and the adjacent neighbors.

Don Hunt suggested that the number of children allowed at a day care be determined by the size of the facility, stating that a similar project with of greater size might allow for a larger number of children.

Marvin Sowers stated the Zoning Ordinance tied the threshold of 5 children to the state building code and beyond that threshold, you get into fire suppression and handicap requirements and state requirements for an additional employee in some cases. He stated that the ordinance

tries to keep this type of use in line with what was allowed for home occupations, stating that home occupations are not permitted to have anyone else working there besides those who reside on the premises and by definition, once the number of children exceeds eight, another employee is required by the state. The ordinance also was trying to keep day cares and home occupations similar in terms of the amount of traffic and the visibility of the business within a neighborhood. Another issue that concerns staff is that they could not think of any physically distinguishing characteristics that separates this neighborhood from other neighborhoods such as Ford's Colony, Kingsmill, or Kingspoint and when looking at a special use permit staff recommends narrowing the precedent as much as possible.

Joe McCleary said he shared John Hagee's concerns. He also felt it would increase traffic within the neighborhood and was concerned with the size of the lot and the noise that could occur. He said the problem he had with any special use permit was that once that permit was granted, the permit stays with the property and if another person moved into the home and did not have the simpatico nature of the Hogans they could operate a day care that would bring problems to the neighborhood.

Peggy Wildman said she was also concerned that the special use permit stayed with the property because the applicant had stated in her goals that she wanted to move the day care once she got up to ten children.

Cathrine Hogan stated she spoke with Martin Garrett and he asked if she would be open to the Commission placing stipulations on the business and also having a special use permit that would only last for one year at a time. She said she told Martin Garrett that would fit right along with her goals and had no problem with a time limitation.

Leo Rogers stated the County did have the authority of to put time limits on special use permits and they would expire if not renewed.

Wilford Kale questioned the need for a sign and felt that 12 children was satisfactory for a home day care and that 15 children become more of a commercial operation.

Joe Poole said, since this case may be recommended for deferral in order to sharpen some of the criteria, he wanted to comment that being a parent of two pre-school children he was very sensitive to the needs in the community and commended the applicant for their dedication and interest. He said he was very cautious about introducing a commercial use in a residential community, especially in some of the older neighborhoods and also agreed with Commission members concerns as to what number you stop at. He said he was not ready to support this application as it now stood.

John Hagee suggested that the Commission limit the application for a home day care to 8 children in residential areas.

Peggy Wildman did not feel the Commission was in a position tonight to determine these parameters and felt it would be doing an injustice to the applicants. She felt the Commission needed to be careful about not getting a lot of commercial uses into residential neighborhoods.

Joe McCleary said he would prefer that staff looked into this matter before the Commission took any action.

Wilford Kale stated that he thought there were more home day cares existing in the community that were not licensed by the state but fit within the County's parameters and, if the Commission limited it to 8 children, he knew of 4 that would be closed tomorrow that had been operating for 10 or 15 years without County requirements on them because they had done different things such as, full-time kids, part-time kids, and kids that were there for drop off in the morning

to catch a school bus. He felt this was a broader situation and the limit of 8 children would cause serious problems to existing home day cares.

Wilford Kale moved for deferral for one month and asked that a committee of the Commission meet with staff during the next 30 days to come up with parameters that the Commission could accept even though it may not be supported by staff.

Don Hunt supported the deferral but felt that by placing a time limit on a special use permit, with the agreement of the applicant, would resolve some of their concerns.

John Hagee seconded the motion of Wilford Kale.

Marvin Sowers informed the Commission that this case had been pre-advertised for the June 12, 2001, Board of Supervisors meeting and asked the applicant if they preferred the Commission taking action or deferring for one month.

Cathrine Hogan stated she would accept a deferral, which was very disappointing to her, and informed the Commission that during the deferral period, she would have to close down her day care.

Joe Poole stated the motion was for a one month deferral and that a subcommittee of this Commission would meet to sharpen the criteria with staff and present it at the July 2, 2001, meeting.

In al roll call vote motion for deferral passed (6-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Poole (6); NAY: (0).

10. CASE NO. SUP-10-01. VICKIE'S CLUBHOUSE CHILD DAY CARE CENTER.

Jill Schmidle presented the staff report stating the applicant applied for a special use permit to operate a child day care center from her home. She stated the applicant would renovate her existing two-car garage into space for the day care center for 12 children between the ages of 15 months and 5 years. She stated the applicants's mother-in-law would be assisting in the running of the day care since the state required an additional employee for centers greater than eight children. Staff found this application to be inconsistent with the surrounding zoning and development and the Comprehensive Plan. Staff recommended the Planning Commission recommend denial of this proposal and if the Commission chose to recommend approval, staff recommended the conditions listed in the staff report.

Joe Poole opened the public hearing.

Willafay McKenna, representing the applicant, stated the applicant had been a resident of Indigo Park for all of her life. She made reference to an article in the 1992 Planning Commissioners Journal on the problems in finding day care and the desire of parents to place their children in an atmosphere that was home like, particularly when their children are young. She continued to say the article pointed out how very easy it was to exclude these from operating anywhere in the community. She stated she looked at other statutes and ordinances that had addressed this problem in their communities. She stated one standard she came across was the home area square footage per child: inside was 35 sq. ft. per child, and outside was 75 sq. ft per child. She stated the applicant met those requirements even though they were not part of the James City County statute. Willafay McKenna noted that, as of June 1st, the applicant had revised her request by reducing the number of children from 12 to beginning with 8 and not exceeding 10. She gave a brief history of the community of Indigo Park. She stated regarding staff's concern of traffic, she felt most of the children would be from the community but, if they came from other areas, they would not all be arriving at the same time. She said that the noise would be minimal since the

applicant had a large yard and the age groups would be divided into two play areas and little time would be spent outside. She stated the applicant did not mind if the Commission placed a time limit on the special use permit with the understanding that if the home day care was running with out any objections from the neighbors, it would not be necessary to come back to a formal Planning Commission hearing. She concluded stating that the Commission should note the petition in the Commission's packet noting that the applicant had gone around the community to get the names and addresses of those in support of the application. She said she would answer any questions of the Commission and asked that they support this application.

Joe Poole opened the public hearing. There being no other speakers, the public hearing was closed.

John Hagee asked if the Commission could recess this meeting to a work session to discuss the two day cares so they could take action and the applicants could move forward to the Board.

Leo Rogers stated that Commission could either adjourn this meeting and have a special meeting or they could recess this meeting and indicate in a vote what cases they wanted to defer to the special meeting.

Wilford Kale moved for deferral to the July 2, 2001, meeting, seconded by Joe McCleary. In a roll call vote, motion for deferral passed (6-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Poole, (6); NAY: (0).

11. CASE NO. SUP-9-01. MT. GILEAD BAPTIST CHURCH.

Paul Holt presented the staff report stating the applicant requested a special use permit to allow for the operation of a day care and an Academy inside the existing church which could accommodate up to 104 children. He stated the applicant has spoken with the Code Compliance Division and that the needed changes to the church had been made to accommodate both facilities. Staff found the proposal consistent with the surrounding uses, zoning, and the Comprehensive Plan. Staff recommended the Commission recommend approval of this application with the conditions as outlined in the staff report.

Joe Poole opened the public hearing.

Abram Frink of 148 Magruder Avenue and representing the church handed out materials to the Planning Commission and then introduced Pastor Dawson.

Pastor Dawson reviewed the materials handed out stating that the Day Care and Academy would only enhance the already rich heritage of Mt. Gilead Church and the community. He explained the intent of the application and discussed the facilities existing within the church that would serve both the Day Care and Academy. He asked that the Commission approve this request for a special use permit.

There being no further speakers, the public hearing was closed.

Don Hunt felt this application should not be categorized as the two previous cases since the Day Care and Academy would be operated in a church and not in a single-family residence. He hoped that the Commission would act on this case tonight.

Peggy Wildman stated that this was an incredible proposal and complimented the applicant on what was being proposed for the children and said she would fully support this application.

Joe McCleary felt that this was an eminently wonderful use of the church and it was

apparent that the entire congregation had worked together and he highly commended them for taking this action. He fully supported this application.

Joe Poole stated this application epitomized a non-residential use. He stated that this was an existing house of worship on a main arterial road so it was different than the two previous cases. He also supported this application.

Peggy Wildman made a motion, seconded by Wilford Kale, to recommend approval with the conditions as outlined in the staff report.

In a roll call vote, motion passed (6-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Poole (6); NAY: (0).

12. CASE NO. AFD-6-86. CRANSTON'S POND AGRICULTURAL AND FORESTAL DISTRICT, WARE WITHDRAWAL.

Ben Thompson presented the staff report stating the applicant had requested this case run concurrently with Case No. Z-4-00/MP-1-01. Colonial Heritage at Williamsburg. Staff therefore, recommended deferral of this application until the July 2, 2001, Planning Commission.

There being no speakers, Joe Poole continued this public hearing until the July 2nd meeting.

13. CASE NO. Z-4-00/MP-1-01. COLONIAL HERITAGE AT WILLIAMSBURG.

Ben Thompson presented the staff report stating the Commission was presented this case with facts and issues at its May 7, 2001, meeting. The staff report before the Commission tonight was based upon staff's review of signed proffers received on May 29, 2001 and that proffers had since been revised and a revised master plan had been received on May 31st. Staff did not have sufficient time to complete its review of the latest proffers and master plan had identified the latest proffer parts and master plan that contained additional changes as outlined in the staff report. He stated the proffers, in legal form, were received after the submittal date, which is not in accordance with the adopted policy for proffers. Staff recommended deferral of this case to allow staff adequate time to review the proffers.

Joe McCleary asked what the approval process would be regarding the second paragraph under the Transportation and Access section of the staff report.

Ben Thompson stated that under the proffer the traffic study would be brought back to the Planning Department as an update and at that time it would be determined whether the Centerville Road access would be needed due to further development or if it was not necessary. He stated staff would determine the amount the developer could continue to build based on the traffic study, noting it would be approved at the staff level and not at the Commission level.

John Hagee stated the staff report mentioned that the applicant had not included measures to mitigate several issues and the proffers had not sufficiently addressed this issue. He asked if staff was waiting for the applicant to address these issues. He also asked about the social services and medicare programs and what could an applicant do since they were federal programs.

Ben Thompson said the County had not recommended specific measures but they were asking the applicant to address that issue in some type of manner as earlier cases had.

John Hagee asked why the County would expect that.

Ben Thompson explained that, for example, if Newport News had a sufficient number of physicians that were accepting new medicare patients, that could affect our Social Service

Department since they provide transportation services for citizens to these services.

John Hagee asked what the County expected in regards to the similar issue of police services.

Ben Thompson stated that staff was specifically looking for something along the lines as to what was offered for the Fire Department in order to mitigate additional vehicle and equipment expenses of the necessary additional police officers.

Alvin Anderson on behalf of U.S. Home began his presentation with a comparison of the annual sales of selected James City County industries and how they ranked in sales along with U.S. Home and stated the proposed construction investment of this project in the 20-year build out period was \$607,400,000. He said that the community in northern Virginia, in which several Commission members toured, was the model proposed to be duplicated in the County with certain architectural changes that would be more suited to the area. He continued his presentation with a review of the facilities that would be developed and stated that Community Adult Services was required to provide specific services to those over the age of 60, such as home based services, transportation, and adult day care. He stated that at this time the applicant did not include measures in their proposal to mitigate these issues. He also stated that the applicant had not included any measures to mitigate any of the County's need for affordable housing or police services. He stated this proposal was reviewed by the County's Financial Management Services, in conjunction with The Wessex Group, and revealed a \$10,660,000 per year net, a net of all County expenses including police, affordable housing, and adult services. He stated that the contribution to those areas would be paid by the community through taxes and concluded that the applicant had indeed addressed each of those areas. He spoke of the water conservation measures of the project and stated no soil disturbing permit would be issued until a draft desalination permit was issued to the County and explained the proffer of a contribution of \$750.00 per dwelling unit to JCSA. He reviewed the history of this application since it was submitted to the Planning Department in November, 2000 and concluded his presentation stating the applicant would appreciate a favorable recommendation.

Alvin Anderson spoke on the concern of Section 5 going over to Centerville Road. He stated the crossing there was far narrower and shallower than other crossings done of a similar nature by U.S. Home in other projects as opposed to using a box culvert. He stated that what was proposed to be used was a conspand that has a foundation on each side of the stream bed and there would be a span that would adequately reduce the disturbed area. He felt confident that they would get the permit but did include a provision in the proffers to protect the impact on Richmond Road.

Peggy Wildman stated the water irrigation proposed for the golf course noted that if there was a particularly bad drought during the summer, beyond the two retention ponds, they would withdraw water from Yarmouth Creek.

Alvin Anderson said that was mentioned in subsequent studies and they found that if they made the retention ponds somewhat wider and deeper there would be enough water on site to give them the assurance that they would have enough water for the golf course.

Joe Poole asked if anyone wanted to speak on this matter noting that this case would be deferred to the July 2, 2001, meeting.

Richard Boggs of 105 Butler Road stated that many of his concerns about this project were

covered in the June 2nd Virginia Gazette. He deferred to that article for his concerns and addressed two issues. He said he had nothing against the U.S. Home Corporation but, as a resident of the County, as all residents, had been told for several years that there was a pending water crisis. He stated that Larry Foster, as well as other JCSA employees, had been speaking with homeowner associations, civic associations, and others to warn them of the need to conserve our water resources. He stated that Ford's Colony had initiated a major effort to encourage water conservation by its residents. He questioned if the citizens had been lead astray by this effort to conserve water since the staff report stated that JCSA did not see water supply as a determining factor on this project. He said that citizens were now hearing that adding 2,000 units was okay. He asked if the citizens should believe that this was also okay with the 12,000 homes already in the pipeline. He said JCSA was confident that future efforts would correct this so called crisis. He asked if the citizens need not worry after all about water conservation. He encouraged the Planning Department to look at and evaluate the apparent lack of senior medical care currently in James City County. He said it appeared that much of our medical community was swamped with patients and, in fact, many physicians were no longer accepting new patients. He requested, for these and many other reasons brought forward by residents, the Planning staff, and Board of Supervisors, that the Commission deny this development application at this time.

Burt Roth of 112 Winged Foot felt that one concern missing from the staff report and other reports was the impact of the development on the watersheds. He stated that the County was spending a lot of money doing a study on the Powhatan Watershed and did not feel that they should gloss over this area.

There being no further speakers, the public hearing was closed.

Don Hunt stated he supported the application and did not feel another delay was necessary as long as they could work the proffers up before it went to the Board.

Joe McCleary was concerned about the general public in getting adequate exposure to this project and what was being proposed. He suggest that this be deferred to the July 2, 2001, meeting.

John Hagee felt the Commission had an awful lot of information to digest with many questions still unanswered. He felt he needed more time before he was able to make a decision on this case. He said the only question would be to defer this to another meeting but asked if there would be enough time to get everything done so it could go forth to the Board of Supervisors. He was in favor of a deferral.

Peggy Wildman supported both suggestions and felt this should be deferred because there were still too many questions and the public had not had enough time to review the proffers. She stated if the Commission were to defer, it would be helpful to have a work session to discuss everyone's opinion and come up with some consensus.

Joe McCleary said if the Commission deferred to another public meeting it should be to a date the public was most certain to observe, preferably to a Monday night.

Wilford Kale did not think staff nor the developer could respond to the Commission any sooner than a month.

Marvin Sowers stated that the July 2, 2001, meeting agenda at this time would include the two day cares that were deferred, two cases that were listed in the Planning Director's Report, and the Boy Scout case, if it was ready to go forward. He stated potentially there was a large case load

for July.

Joe Poole said he did not like pushing everything back to July but conversely the way the proffers had gone back and forth, felt there should be sufficient time for everyone to review those proffers. He also supported the deferral.

John Hagee asked what the Commission would do at the July 2nd meeting. Would the staff and applicant give another presentation, would the Commission ask questions they want answered at that time or, would they need to go back and get answers and delay this again.

Joe Poole suggested that the Commission advise the applicant and staff as quickly as possible of concerns they had so they could have the answers at the next meeting.

John Horne said the July 2nd meeting had not been advertised so, if the Commission was willing to start earlier, they had that option. He felt from the County staff's point of view, they would have very few issues left.

Joe McCleary made a motion, seconded by Wilford Kale, to defer this case to the July Planning Commission meeting. In a roll call vote, motion for deferral passed (6-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Poole (6); NAY: (0).

Joe Poole encouraged all Commission members to be swift in getting all questions to staff and the applicant.

Wilford Kale asked staff and the applicant to make some reference to the impact on the watershed since the County was presently studying the Powhatan Creek Watershed.

Peggy Wildman stated she spoke with Tracy Dowling at the Williamsburg Community Hospital and she agreed to have one of her staff members to do a telephone survey of doctors in the area who were willing take medicare patients and also asking about secondary insurance. In addition, she stated she called "Ask a Nurse" and they informed her that there was not one Riverside Medical practice in the Williamsburg area accepting medicare patients. She felt this was an issue to be reviewed.

Don Hunt commented that the relocation of the Williamsburg Community Hospital would certainly impact the Lightfoot area.

John Hagee asked if the medicare situation was really a problem, how should the Commission deal with it and, would that mean they shouldn't approve any age-restricted communities.

14. CASE NO. Z-6-00/SUP-28-01. LOULYNN ACRES - CHESAPEAKE BANK.

Paul Holt presented the staff report stating that since the last Planning Commission meeting the applicant had revised his request to master plan the entire parcel with a bank and future uses. The applicant was now proposing a partial rezoning of the property and construction only of the bank. Staff did not find the proposal consistent with the Comprehensive Plan and recommended that the Commission recommend denial of this application.

John Hagee asked how the staff defined strip development.

Paul Holt stated the proposal before the Commission last month was considered by staff as strip development. He said all of the uses were oriented toward the road, as if they could be

sold out piece by piece and not what staff saw as an internally oriented park, citing the example of the Norge Office Park.

Wilford Kale asked staff to review the problem with the entrance on Route 30.

Paul Holt stated that the Comprehensive Plan specifically states that no access to Route 30 shall be designed and used in the Stonehouse Mixed Use area.

Joe Poole opened the public hearing.

Vernon Geddy made a presentation on behalf of Chesapeake Bank. He briefly reviewed the reasons why Chesapeake Bank chose the site for its business and stated this use would be a very low-impact business to this area. He stated the property owner was not willing to sell just the bank site, but since the bank was committed to come to this area, they were willing to purchase the entire property and rezone only its site, then come back at a future date to rezone the remainder of the property. He commented on the Community Character Corridor and stated in the new plan the building had been moved back and proffering enhanced landscaping in order to keep parking up front so the bank would not impact the adjacent property owners behind them. He stated there were conditions in the staff report that he requested be changed, asking that the construction begin within 60 months rather than 24 months and that the 8-foot pedestrian connection with Highfield Drive be changed to a 5-foot wide sidewalk. He stated that when proposing the original master plan the rendering was going to be the basis of the consistent architecture for the entire project and hoped they could continue to use this rendering. He stated that with those changes he felt it would be a good use, it would enhance the area, and have a positive fiscal impact on the County. He urged the Commission to recommend approval of this proposal.

There being no speakers, the public hearing was closed.

Joe Poole stated that he recently had been asked to serve as a Board member of another bank and checked with Leo Rogers regarding any conflict of interest. He stated that, even though there was no legal conflict, he felt that there was a personal conflict and therefore, would abstain from voting on this application.

John Hagee made a motion of approval, seconded by Don Hunt, with the conditions as outlined in the staff report.

Wilford Kale asked to amend that motion by including the changes requested by the applicant. Item #2 change 8-feet to 5-feet; Item # 3 change 24 months to 60 months. Wilford Kale questioned how to reword Item #5 and asked for some guidance.

Marvin Sowers stated since this item was to be determined by the Planning Director, he felt the rendering proposed by the applicant was consistent with the surrounding areas and, for the record, referenced the June 4, 2001, rendering proposed by Guernsey-Tingle Architects shown to the Commission.

Joe Poole stated the a motion for approval, with changes made to the conditions, had been made. In a roll call vote, motion for approval passed (5-1). AYE: Hagee, Wildman, Hunt, McCleary, Kale (5); NAY: (0); ABSTAIN: Poole (1).

15. CASE NO. Z-8-00/SUP-29-00. WILLIAMSBURG CHRISTIAN RETREAT CENTER.

Jill Schmidle presented the staff report stating the applicant had applied to rezone 138 acres with a special use permit to allow for a 51-lot single-family community for residents 55 years and

older with a 9-hole golf course for youth and retirees. Staff found that the residential rezoning outside the Primary Service Area (PSA) was contrary to the adopted policy for preferred development outside the PSA. Staff believed that approval of a residential rezoning outside the PSA would encourage development of agricultural and forestal land residentially rather than preserve the current uses as recommended in the Comprehensive Plan. Staff recommended the Commission recommend denial of this rezoning and special use permit. Jill Schmidle stated if the Commission chose to approve these applications, staff recommended the conditions listed in the staff report.

John Hagee stated that he and several other Commission members attended a conference regarding rural clusters and felt that this particular property lent itself to it thematically. He asked if staff's position was based on the fact that the County ordinance had not been adjusted to accommodate a rural cluster or was staff discouraging it.

Jill Schmidle stated that, at this time, there was not a rural cluster ordinance but was something that had been discussed for several years. She stated that the special use permit for parcel clusters was an option for the developer but they chose not to pursue it.

Marvin Sowers commented on the presentation referred to by John Hagee stating that Randall Arendt presented very attractive proposals from a design standpoint for preserving the visual character of the community whether inside or outside the PSA. He stated that what staff had a concern with was the fact that Randall Arendt's concepts would potentially accelerate the rate of residential growth in the community and eliminate farming and forestry uses unless other land use policy changes are made. He stated that currently the Comprehensive Plan policy was clearly contrary to that notion.

David Eberly of 205 Roger Webster spoke on behalf of the Williamsburg Christian Retreat Association asking that the Commission approve these applications for this unique 9-hole golf course and residential development. He gave a brief history of the Williamsburg Christian Retreat Master Plan previously approved by the County and the steps they took with County staff to bring this proposal before the Commission tonight.

Steve Driver, Senior Engineer from McGee-Carson, spoke on behalf of the applicant stating it was a privilege for his firm to work with the Williamsburg Christian Retreat Center and Mennowood in developing this master plan. He stated the purpose of this application was to promote and provide a community that would help our young people to build character traits. He stated the youth-retirees concept of golf and retirement home was believed to be a win-win combination in achieving its goal. He said that they recognized that the 138-acre parcel was outside but contiguous with the PSA and it was his task to work with all regulatory personnel and County staff to produce a concept that was sympathetic to both the County's Comprehensive Plan and its growth policy. He reiterated that this request for rezoning was not for the purpose of obtaining a high-density development but to allow the clustering of homes to facilitate retirees while preserving maximum open space for both passive and active recreation. He continued his presentation and concluded by saying he appreciated the Commission's time this evening in hearing this presentation and looked forward to a favorable recommendation.

There being no further speakers, the public hearing was closed.

Joe McCleary stated he had a major conflict and problem with this application because it was outside the PSA.

Joe Poole felt that the mission, interest, and package presented was very appealing but was located outside of the PSA and could not support this application.

John Hagee believed that this was a wonderful idea and again referred to the seminar he attended. He fully supported this concept and felt it was thinking outside the box, leaving a very pastoral type of environment and he commented that he did not think that the people of James City County gave a hoot about agricultural and forestal lands. He felt basically that they don't want development in that area. He said looking at the forestal concept there was an area on this property that would still be fairly wooded. He mentioned the past issues on Barnes Road with concerns of traffic and large trucks and that was in a forestal district. He stated from a practical perspective he would much rather see this type of development rather than having a by-right development with the homes spread out among the 138 acres. He felt this was an issue that needed to be looked at since he speculated that he did not see farming as a thriving business in the County since the children of families that have farms no longer want to do it. He felt what they were after as a practical perspective would be nice pastoral settings outside the PSA area and said he doubted whether this type of subdivision would work inside the PSA due to the high cost of the land. He supported this application.

Peggy Wildman felt this was one of the best designed plans to come before the Commission but regretfully could not support it because it was outside the PSA.

John Hagee made a motion to approve this application.

There being no second, Joe Poole ask for another motion.

Joe McCleary made a motion, seconded by Peggy Wildman, to deny this application.

In a roll call vote, motion for denial was approved (5-1). AYE: Wildman, Hunt, McCleary, Kale, Poole (5); NAY: Hagee (1).

16. COMMISSION COMMENTS.

A. Greenway Advisory Committee Report.

Joe Poole stated the next matter was not on the agenda but felt it should be brought up. He said Peggy Wildman was the Commission representative on the Greenway Advisory Committee and asked if she had anything to report.

Peggy Wildman stated the committee began meeting in April and said they hoped that the Greenway Master Plan would help reduce citizens concerns about the loss of open space and address community aesthetics as growth occurs. She said this next meeting would be about the process of educating the public and getting citizens involved.

B. Day Care Facilities.

Joe Poole stated there was discussion on having a subcommittee review criteria for day care within a residential area and suggested that perhaps the Policy Committee could take on this task.

Wilford Kale, Chair of the Policy Committee, agreed that his committee would consider this matter.

The Commission also requested that the Hogan Day Care and Vickie's Clubhouse special use permits be pre-advertised for the July Board of Supervisors meeting.

17. PLANNING DIRECTOR'S REPORT

Marvin Sowers announced the public input meeting on Purchase of Development Rights on June 11, 2001, at 6:30 p.m. at the Norge Library. He said a presentation would be given on the PDR program and citizen input into the program would be sought.

18. ADJOURNMENT.

There being for further business, the June 4, 2001, Planning Commission meeting adjourned at approximately 11:38 pm.

Martin A. Garrett, Chair

O. Marvin Sowers, Secretary

NOTE: A meeting of the Planning Commission's Policy Committee was held on June 22, 2001, to discuss Child Day Care Centers located in the interior of residential neighborhoods. Information will be presented at the July 2, 2001, Planning Commission meeting by Wilford Kale, Chair of the Policy Committee.

Special Use Permit 3-01

Colonial Virginia Council - Boy Scouts of America

Staff Report for the July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS

Building C Board Room; County Government Complex

Planning Commission: April 2, 2001, May 7, 2001, June 4, 2001, July 2, 2001: applicant deferred.
Board of Supervisors: To be scheduled

SUMMARY FACTS

Applicant: Mr. Dick Collins

Land Owner: Colonial Virginia Council, Boy Scouts of America

Proposed Use: The camp ground has been a non-conforming use for many years. The majority of the camp was developed during the 1960's, well before Zoning regulations were adopted. Campgrounds are now a specially permitted use in A-1 zoned land. This special use permit, if granted, would allow the camp to continue and expand in a conforming manner.

Location: 499 Jolly Pond Road; Powhatan District

Tax Map/Parcel: (22-4)(1-7)

Parcel Size: 737± acres

Primary Service Area: Approximately 233 acres are inside the PSA; approx. 504 are outside

Existing Zoning: A-1, General Agriculture

Comprehensive Plan: The portion of the property inside the PSA is designated Low Density Residential and the portion of the property outside the PSA is designated Rural Lands.

Surrounding Zoning: The parcel is completely surrounded by A-1, General Agricultural zoned land.

Staff Contact: Paul D. Holt, III Phone: 253-6685

STAFF RECOMMENDATION

Staff is continuing to work with the applicant on the application and the proposed SUP conditions. In order to provide more time to finalize the details, the applicant has requested an indefinite deferral. Staff concurs and recommends an indefinite deferral. When the application does come back for public hearing, staff will re-advertise the case and renotify adjacent property owners.

Paul D. Holt, III

Special Use Permit 13-01. Jolly Pond Road Water Line - SUP Amendment

Staff Report for the July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS

Building C Board Room; County Government Complex

Planning Commission: June 4, 2001 6:00 p.m.
Board of Supervisors: To be scheduled

SUMMARY FACTS

Applicant: Mr. Larry Foster of the James City Service Authority

Proposal: Amend the SUP conditions of SUP-47-90 which was approved previously by the Board of Supervisors on October 29, 1990. The water line itself has already been constructed.

Land Owner: This existing water line is located inside VDOT right of way

Location: Jolly Pond Road - from Centerville Road to Cranstons Mill Pond Rd

Primary Service Area: Inside and Outside

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Low Density Residential inside the Primary Service Area
Rural Lands outside the Primary Service Area

Surrounding Zoning: Property zoned A-1, General Agricultural is located on both sides of the water line

Staff Contact: Paul D. Holt, III Phone: 253-6685

STAFF RECOMMENDATION

Mr. Larry Foster of the James City Service Authority has applied to amend the conditions of SUP-47-90, the Jolly Pond Road Water Main Extension, which was approved previously by the Board of Supervisors on October 29, 1990. The amendment is linked to Case No. SUP-3-01, the Colonial Virginia Council - Boy Scouts of America, Camp Chickahominy application. The purpose of the amendment is to amend the water line SUP conditions such that the Boy Scout Camp can provide public water to a portion of its facilities. Since the applicant for the Boy Scout Camp has requested an indefinite deferral of SUP-3-01, staff recommends an indefinite deferral of this case so the two cases can move forward together in public hearing. When this case does proceed to public hearing, staff will re-advertise and renotify adjacent property owners.

Paul D. Holt, III

Special Use Permit 08-01. Hogan Day Care

Staff Report for the July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS

County Government Complex

Planning Commission: June 4, 2001, 7:00 p.m. Building C Board Room (deferred)
July 2, 2001, 6:00 p.m. Building C Board Room
Board of Supervisors: July 10, 2001, 7:00 p.m. Building C Board Room

SUMMARY FACTS

Applicant: Ms. Catherine Hogan
Land Owner: Catherine Hogan
Proposed Use: Child Day Care Center for 8 children
Location: 233 Nina Lane (Kristiansand Subdivision)
Tax Map/Parcel: (23-4)(3-2-3)
Primary Service Area: Inside
Parcel Size: .331 acres
Existing Zoning: R-2, General Residential
Comprehensive Plan: Low-Density Residential
Staff Contact: Ben Thompson - Phone: 253-6685

STAFF RECOMMENDATION

Staff finds the proposal inconsistent with the surrounding zoning and development and inconsistent with the Comprehensive Plan. Specifically, the amount of traffic and noise generated by a day care center business with eight children conflicts with the single-family residential character of the neighborhood. It also exceeds the scope of home occupations that are generally permitted in residential districts and sets a precedent for similar requests. Staff recommends the Planning Commission recommend denial of this proposal. If the Planning Commission chooses to recommend approval, staff has provided a list of conditions in the staff report. Please note that this case has been scheduled for the July 10, 2001 Board of Supervisors meeting.

Description of Project

Ms. Hogan has applied for a special use permit to operate a child day care center out of her home in the Kristiansand Subdivision. The applicant proposes renovating portions of the first floor of her house to accommodate up to 8 children for a day care program. When the Planning Commission originally reviewed this case on June 4, 2001, Ms. Hogan had proposed a program to accommodate up to 10 children. This number has since been scaled back, per her request, to eight children. Ms. Hogan currently operates a day care center with up to 5 children on the property, as permitted by JCC as a home occupation. The proposed child day care center with greater than five children requires both state licensing and a special use permit. The state requires an additional employee for day care centers with more than eight children.

RECOMMENDATION:

While staff recognizes the community need for this type of child care service, staff finds the proposal inconsistent with the surrounding zoning and development and inconsistent with the Comprehensive Plan. Specifically, the amount of traffic and noise generated by a day care center business with eight children conflicts with the single-family residential character of the neighborhood. Staff recommends the Planning Commission recommend denial of this proposal. If the Planning Commission chooses to recommend approval, staff recommends the following conditions:

1. If a certificate of occupancy has not been obtained for the project within thirty six (36) months from the issuance of the special use permit, the permit shall become void.
2. No more than 8 children shall be permitted at the day care center.
3. The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval.
4. The owner/operator of the child day care center shall reside on the property.
5. All play areas shall be screened with fencing or shrubbery to be approved by the Planning Director.
6. Hours of operation shall be limited from 7:00 a.m. to 1:30 p.m. Monday to Friday.
7. A site plan shall be submitted to and approved by the Planning Director.
8. The special use permit shall be valid for a period of thirty-six (36) months from the date of issuance of the special use permit.
9. No additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.
10. No signage shall be permitted on the property.

11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Benjamin A. Thompson

Attachment:

1. Policy Committee's proposal for child day care centers located in the interior of residential neighborhoods.

James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a **three-year time limit** in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

Special Use Permit 10-01. Miss Vickie's Clubhouse Child Day Care Center

Staff Report for July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS

County Government Complex, Building C Board Room

Planning Commission: June 4, 2001 - 7:00 p.m. (PC deferred)
July 2, 2001 - 6:00 p.m.

Board of Supervisors: July 10, 2001 - 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Ms. Vickie Skutans

Land Owner: same

Proposed Use: Child day care center for 10 children

Location: 108 Leon Drive; Berkeley District

Tax Map/Parcel: (47-2)(2-3-7)

Primary Service Area: Inside

Parcel Size: .75 acre

Zoning: R-1, Limited Residential

Comprehensive Plan: Low Density Residential

Surrounding Zoning: North, East, South, West: R-1 property (Indigo Park subdivision)

Staff Contact: Jill E. Schmidle Phone: 253-6685

STAFF RECOMMENDATION

Staff finds the proposal to be inconsistent with the surrounding zoning and development and inconsistent with the Comprehensive Plan. Specifically, the amount of traffic and noise generated by a day care center business with ten children under the age of 5 conflicts with the single-family residential character of the neighborhood. It also substantially exceeds the scope of home occupations that are generally permitted in residential districts and sets a precedent for similar requests. Staff recommends the Planning Commission recommend denial of this proposal. If the Planning Commission chooses to recommend approval, staff recommends the conditions listed in the staff report. Please note that this case has been scheduled for the July 10, 2001 Board of Supervisors meeting.

Project Update

The Planning Commission deferred this case at its June 4, 2001 meeting to allow the Policy Committee the opportunity to study the issue of child day care centers located in the interior of residential subdivisions. The Policy Committee met on June 12, 2001 and prepared a proposal, which will be presented at the July Planning Commission meeting. The draft proposal is attached for your reference, and the proposed special use permit conditions have been revised to reflect the recommendations in the Policy Committee's proposal.

RECOMMENDATION:

Staff finds the proposal to be inconsistent with the surrounding zoning and development and inconsistent with the Comprehensive Plan. Specifically, the amount of traffic and noise generated by a day care center business with ten children under the age of 5 conflicts with the single-family residential character of the neighborhood. It also substantially exceeds the scope of home occupations that are generally permitted in residential districts and sets a precedent for similar requests. Staff recommends the Planning Commission recommend denial of this proposal. If the Planning Commission chooses to recommend approval, staff recommends the following conditions:

1. If a certificate of occupancy has not been obtained for the project within thirty six (36) months from the issuance of the special use permit, the permit shall become void.
2. No more than 10 children shall be permitted at the day care center.
3. The applicant shall submit a written agreement outlining the requirements for water meter upgrades and provide an implementation schedule to the James City Service Authority (JCSA) and shall receive approval of this agreement and any improvements from JCSA prior to issuance of a certificate of occupancy.
4. The owner/operator of the child day care center shall reside on the property.
5. All play areas shall be screened with fencing or shrubbery, to be approved by the Planning Director.
6. Hours of operation shall be limited from 7:00 a.m. to 5:30 p.m. Monday to Friday.
7. A site plan shall be submitted to and approved by the Planning Director.
8. This special use permit shall be valid for a period of 36 months from the date of issuance of this special use permit.
9. No additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.
10. No signage shall be permitted on the property.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jill E. Schmidle
Senior Planner

Attachment:

1. Policy Committee's proposal for child day care centers located in the interior of residential neighborhoods

James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a **three-year time limit** in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

**Agricultural and Forestal District 06-86Cranston's Pond (Ware Property Withdrawal)
Staff Report for the July 2, 2001, Planning Commission Public Hearing**

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.

PUBLIC HEARINGS

AFD Advisory Committee: Building C Board Room; County Government Complex
April 20, 2001, 4:00 p.m.
Planning Commission: May 7, 2001, 7:00 p.m. (deferred)
June 4, 2001, 7:00 p.m. (deferred)
July 2, 2001, 6:00 p.m.
Board of Supervisors: August 14, 2001, 7:00 p.m., (tentative)

SUMMARY FACTS

Applicant: Mr. Alvin Anderson, on behalf of L. Wallace Sink, Trustee of the Ware Estate

Land Owner: Ware Estate, L. Wallace Sink

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: 6991 Richmond Road

Tax Maps and Parcel Nos.: (23-4)(1-21) and (23-4)(1-22)

Primary Service Area: Inside

Parcel Size: Approx. 90.79 acres

Existing Zoning: A-1, General Agriculture

Comprehensive Plan: Qualifying portions are Mixed Use, Moderate Density Residential, and Low Density Residential

Surrounding Zoning: North: R-2, General Residential (Kristiansand)
B-1, Strip mall (North along Richmond Road is a strip commercial property containing the New England Grill & Market)
South: A-1, General Agriculture (Many properties. Most notably the Massie Property, Briarwood Lane Condominiums/ Manufactured Home Park and the Settlers Lane Manufactured Home Subdivision.)
East: M-1, Limited Business (The Williamsburg Pottery)
West: A-1, General Agriculture (Hidden Acres Farm)

Staff Contact: Ben Thompson Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposed withdrawal consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff also finds that this application meets all three criteria of the adopted Board policy regarding the withdrawal of lands from Agricultural and Forestal

Districts that are inside the Primary Service Area. The AFD Committee voted unanimously, during their April 20, 2001 meeting, to recommend approval of the Ware Property withdrawal from the Cranston's Pond AFD. However, both staff and the applicant request that this AFD withdrawal application run concurrently with the applicant's rezoning and master plan applications Z-04-00/MP-01-01. Staff recommends deferral of this application until the July 2, 2001 Planning Commission meeting.

District History

The Cranston's Pond Agricultural and Forestal District (AFD) was created on December 1, 1986, for a term of four years and consisted of ten parcels totaling approximately 1,164.369 acres. In September of 1996, the Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels within the Primary Service Area (PSA). On September 22, 1998, the Board of Supervisors approved the latest renewal of this AFD for a period of four years with the conditions listed in the attached resolution.

Currently, there are fourteen parcels totaling "1,164.369 acres owned by ten separate property owners. Alvin Anderson has applied on behalf of the applicant Wallace L. Sink, Trustee of the David A. Ware Estate to remove the Ware Property (90.70 acres) from the Cranston's Pond Agricultural and Forestal District.

Site Description

The Ware tract consists of three cleared agricultural fields with the back half of the property remaining forestal. The front portion of the property (East) borders on a strip commercial center and Richmond Road. Hidden Acres Farm is adjacent to the Western property line and the Massie Property is located to the South. The Ware property contains a single residence, a barn and several other agriculturally related structures.

Surrounding Zoning and Development

The development to the North is the Kristiansand Subdivision, which is, zoned R-2, General Residential. The Colonial Town Plaza Shopping Center containing the New England Grill & Market, zoned B-1, General Business is adjacent to the Ware Property on the east side. The Massie home and farm parcel is immediately to the south side of the property. The Massie farm is zoned A-1, General Agricultural. Another agriculturally zoned parcel is located immediately west of the Ware Property. This is the Hidden Acre Farm, also in the Cranston's Pond AFD, which is zoned A-1 (General Agriculture).

Comprehensive Plan

The portion of the Cranston's Pond AFD that is under consideration for withdrawal has a Low Density Residential designation on the Comprehensive Plan Land Use Map.

Public Utilities

This portion of the Cranston's Pond AFD lies within the Primary Service Area and is served by both water and sewer.

Transportation and Access

The Ware property has a single access onto Richmond Road.

Analysis

On September 24, 1996, The Board of Supervisors adopted a policy and withdrawal criteria for AFD parcels that are within the Primary Service Area. That policy and criteria are as follows:

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 in 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 any 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 as a single development request.

The Board shall weigh each of the above criteria in its deliberation, but may also use whatever criteria it deems appropriate for the individual case. Each of these three criteria have been evaluated by staff:

Criteria 1: One Withdrawal per year

The applicant has not requested a withdrawal within the past year and is requesting to remove all of their land presently included in the AFD. The application meets the above-listed criteria.

Criteria 2: Minimum Acreage

The applicant has requested a withdrawal of ± 90.79 acres which represents all of their land presently in the Cranston's Pond AFD. The application meets the above-listed criteria.

Criteria 3: Conformance with the Comprehensive Plan and the submission of a formal application plan to convert the use of the property.

The parcels are designated as Low Density Residential on the Comprehensive Plan. Low Density Residential areas are located in the PSA and where natural characteristics such as terrain and soils are suitable for residential development. Low Density Residential areas are located where public services and utilities exist or are expected to be expanded to serve the sites. Timing and density of the development of particular sites within low-density areas will depend upon the availability of utilities and the maintenance of an acceptable level of service of roads and other public services. Examples of acceptable land uses within this designation include single-family homes, duplexes,

cluster housing, etc. The rezoning application and plan accompanying this application meets these criteria. The application itself is for a rezoning from the A-1, General Agriculture to a MU, Mixed Use designation. The applicant proposes using this MU zoning to place a 2000 unit, age-restricted, gated community. This development would also incorporate the tract of land adjacent to the Ware Property, known as the Massie Farm. Staff has not yet determined a formal recommendation on the proposed rezoning master plan.

Existing AFD Conditions

The current conditions of the Cranston's Pond Agricultural and Forestal District are as follows:

The subdivision of land is to be limited to parcels of 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.

No land within the Agricultural and Forestal District may be rezoned and no application for such a rezoning shall be filed earlier than six months prior to the expiration of the district.

No Special Use Permit shall be issued except for agricultural, forestal or other activities, and uses consistent with State Code Section 15.1 1506 et. seq. which are not in conflict with the policies of this district.

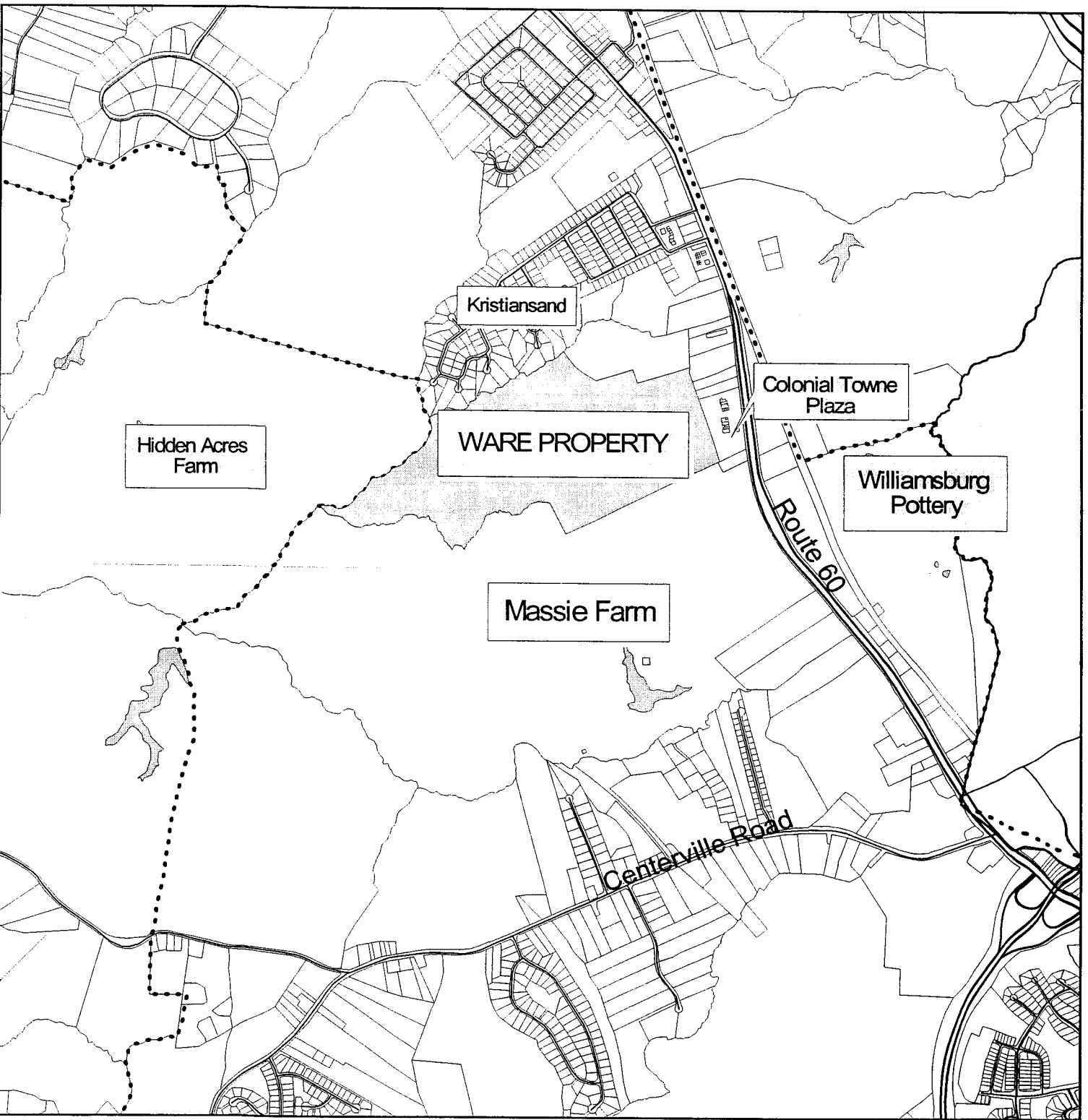
RECOMMENDATION

Staff finds the proposed withdrawal consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff also finds that this application meets all three criteria of the adopted Board policy regarding the withdrawal of lands from Agricultural and Forestal Districts that are inside the Primary Service Area. The AFD Committee voted unanimously, during their April 20, 2001 meeting, to recommend approval of the Ware Property withdrawal from the Cranston's Pond AFD. However, both staff and the applicant request that this AFD withdrawal application run concurrently with the applicant's rezoning and master plan applications Z-04-00/MP-01-01. Staff recommends deferral of this application until the July 2, 2001 Planning Commission meeting.

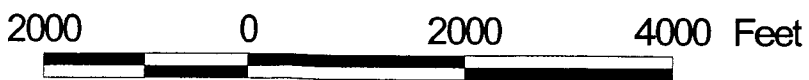
Ben Thompson
Planner

Attachments:

1. Location Map
2. Withdrawal request letter
3. Cranston's Pond AFD Ordinance No. 168 approved on December 1, 1986.
4. Board of Supervisors Policy for withdrawal of lands from AFD s within the Primary Service Area
5. Unapproved AFD Committee Minutes



AFD-6-86
Cranson's Pond AFD (Ware Property Withdrawal)



KAUFMAN & CANOLES

— | A Professional Corporation | —
Attorneys and Counselors at Law

Alvin P. Anderson
757 / 259-3815

1200 Old Colony Lane
P.O. Drawer Q
Williamsburg, VA 23187
757 / 259-3800
fax: 757 / 259-3838
apanderson@kaufman.com

November 10, 2000



By Hand

Planning Commission and Board of Supervisors, James City County, VA
c/o O. Marvin Sowers, Jr.
Planning Director
Office of Development Management
James City County, Virginia
P.O. Box 8784
Williamsburg, VA 23187-8784

Attachment 2

Re: Rezoning Application: U.S. Home Corporation, Massie, Ware

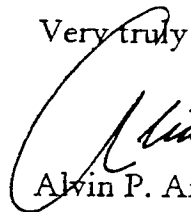
Dear Marvin:

This letter accompanies a rezoning application relative to certain property owned by L. Wallace Sink, Trustee of the Marital Trust under the Will of David W. Ware, deceased. The property at issue is more particularly described as a portion of James City County Tax Map Parcel Nos. 23-4 1-0-0021 and 23-4 1-0-0022 ("Property").

We are advised by your office that all or a portion of the Property may be within an Agricultural and Forestal District created by James City County Ordinance.

This letter constitutes a request in conjunction with the rezoning application for the Property that all portions of the Property rezoned pursuant to the referenced application be removed from the Agricultural and Forestal District simultaneously with the granting of any rezoning of the Property. This letter has been executed by L. Wallace Sink, Trustee, below, in order to manifest the consent of the record titleholder to this request. Please let me know how I may be of further assistance in this regard.

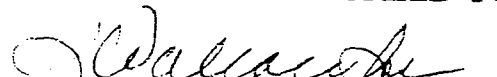
Very truly yours,


Alvin P. Anderson

APA:fmy

cc: U.S. Home Corporation
L. Wallace Sink

ACCEPTED AND AGREED TO:


L. Wallace Sink, Trustee

peake
547-7177

Hampton
757 / 827-9207

Newport News
757 / 873-6300

Norfolk
757 / 624-3000

Virginia Beach
757 / 491-4000

42

ESTABLISHING THE CRANSTON'S POND
AGRICULTURAL AND FORESTAL DISTRICT
(AFD-6-86)

ADOPTED
BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

Attachment 3

WHEREAS, an application for the creation of an Agricultural and Forestal District in the Cranston's Pond area has been filed with the James City County Board of Supervisors; and

WHEREAS, in accordance with Sections 15.1-1511(B), (C) and (D) of the Code of Virginia; public notices have been filed, public hearings have been advertised, and public hearings have been held on the application for an Agricultural and Forestal District in the Cranston's Pond area; and

WHEREAS, the Agricultural and Forestal Districts Advisory Committee at its meeting on September 24, 1986 recommended approval of the application; and

WHEREAS, the Planning Commission following its public hearing on October 28, 1986 recommended approval of the application.

NOW THEREFORE BE IT ORDAINED:

1. That the Cranston's Pond Agricultural and Forestal District is hereby established for a period of four years beginning this first day of December, 1986, in accordance with the provisions of Title 13.1, Chapter 36, Sections 15.1-1506 through 15.1-1513, Code of Virginia (1950), as amended.

2. That the district shall include the following parcels:

(23-3)(1-1)	Nunn	416.5 ac.
(22-3)(1-26)	Geddy	167.5
(1-33)	Constanzo	23.0
(22-4)(1-1A)	English	101.67
(22-2)(1-87)	Harcum	62.8
(1-89)	Carneal, Smith & Marston	40.0
(1-34)	Carneal, Smith & Marston	14.0
(23-4)(1-21)(part)	Ware	90.79
(31-2)(1-3)	Ripley	20.0
(21-4)(1-39)	Constanzo	6.5
(1-46)	Hornsby	205.0
(1-37)	Chieftans Inv. Co.	26.45

provided, however, that all land within 50 feet of the rights-of-way of Chickahominy Road (Route 631) and Centerville Road (Route 614) shall be excluded from the district.

3. That pursuant to Title 15.1, Chapter 36, Section 15.1-1512 (D) of the Code of Virginia of 1950, as amended, the Board of Supervisors requires that no parcel in the Cranston's Pond 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 to be limited to parcels of 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the family.

- (b) No land within the Agricultural and Forestal District may be rezoned to any residential, business, or industrial zone.
- (c) No Special Use Permit shall be issued except for agricultural and forestal activities which are not in conflict with the policies of this district.

William F. Brown
 William F. Brown, Chairman
 Board of Supervisors

ATTEST:

Darlene L. Burcham
 Darlene L. Burcham
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 1st day of December, 1986.

VG/bkh
0018w

<u>SUPERVISOR</u>	<u>VOTE</u>
Edwards	Aye
Taylor	Aye
Mahone	Aye
DeLuc	Aye
Brown	Aye

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.

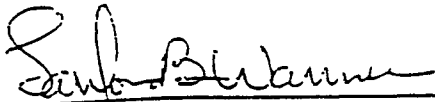
3. The new land use shall be in conformance with the Comprehensive Plan. A formal application to convert the use of the property shall accompany any request for withdrawal, such as an application for rezoning, special use permit or other development plans. The application shall include a conceptual plan 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

AT A REGULAR MEETING OF THE AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF APRIL, TWO THOUSAND ONE, AT 4:00 P.M. AT THE COUNTY COMPLEX, BUILDING C CONFERENCE ROOM, 101 MOUNTS BAY ROAD, WILLIAMSBURG, VIRGINIA.

1. Roll Call

Members Present

Mr. Bradshaw
Mr. Gilley
Ms. Garrett
Mr. Hunt
Ms. Lowe
Mr. Meadows
Mr. Richardson

Members Excused

Ms. Smith

Members Absent

Mr. Kennedy

Also Present

Ms. Karen Drake, Planner
Mr. Ben Thompson, Planner
Mr. Mathew Arcieri, Intern
Mr. Alvin Anderson, Applicant

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

5. 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.

6. 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.

7. Adjournment

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

Robert E. Gilley, Chairman

Karen Drake

**REZONING 04-00/MP-01-01. Colonial Heritage at Williamsburg
Staff Report for the July 2, 2001, Planning Commission Public Hearing**

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.

PUBLIC HEARINGS

Building C Board Room; County Government Complex
Planning Commission: May 7, 2001, 7:00 p.m. (deferred)
June 4, 2001, 7:00 p.m. (deferred)
July 2, 2001, 6:00 p.m.
Board of Supervisors: August 14, 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 425,000 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. 777 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:

Staff finds this master plan and rezoning application consistent with the Comprehensive Plan and compatible with surrounding land uses and zoning. Due to this and reasons stated in the following staff report, staff recommends approval of the rezoning application.

Project Description

The Planning Commission deferred this case from the June 4, 2001 meeting to allow the applicant and staff to resolve several issues. 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 would also contain 425,000 square feet of commercial development, fronting on Richmond Road. The applicant intends to develop this community so that it is marketable to retirees and those approaching retirement and restrict the age of residents through proffers and covenants. Because of the complexity of this case and the previously stated outstanding issues, this staff report is an expansion of the previous report. **Changes since the last Planning Commission Meeting are in bold type.**

Proffers

The applicant has submitted proffers as part of this project, which will be discussed throughout the staff report. **This staff report is based on a review of signed proffers received on June 21, 2001.** The proffers address the following issues:

- water conservation;
- increased density standards;
- sidewalks and trails;
- road improvements;
- recreation facilities;
- archaeological proffers
- 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 777 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 zoned 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. **The proposal is consistent with surrounding zoning and land use.**

Water Conservation

The applicant has submitted a proffer stating that the stormwater retention ponds, supplemented by other supplies approved by JCSA 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 for irrigation and domestic uses.

Utilities

The property is located in the Primary Service Area, and public water and public sewer lines are available to serve the property. The layout and design of internal water and sewer lines could have significant environmental implications and will be a point of significant discussion during the design and development phase.

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.

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.”

The current proffers delay construction until adequate assurances have been received from the Department of Environmental Quality of its intent to issue a permit for the desalination plant or until an alternate acceptable form of water supply is found and approved by the Board of Supervisors. This proffer addresses staff concerns.

Transportation and Access

The residential portion of the project 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). Staff previously had issues dealing with roadway capacity, signalization, and the amount of commercial development possible (thus closer to meeting the Comprehensive Plan). Additional information dealing with roadway capacity and signalization has been provided by the applicant. Staff believes that these issues, which directly relate to the expansion of the commercial portion of the project have been adequately reviewed by the applicant. After reviewing this information, it is staff's determination, that the project should be amended to increase the commercial area of the project. The proposed increase would add an additional 10 commercial acres but would still allow a Level of Service 'C' on all Richmond Road lanes while bringing the project into greater consistency with the Comprehensive Plan. **The applicant has amended their master plan to demonstrate this change and show a commercial area of 50 acres. Staff finds this change to be acceptable and more consistent with the Comprehensive Plan.**

Staff is not confident that the proposed 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. Due to these concerns, the applicant has provided a proffer stating that the Centerville Road connection must be completed or bonded prior to approval of 1200 units. **If this connection is not constructed prior to the 1200th unit a traffic analysis study must be submitted for approval, demonstrating that additional traffic from the remaining residential units based on trip generation will not change the levels of service on Richmond Road. If necessary, additional road improvements that will maintain a Level of Service C must be provided to go beyond 1200 units. This proffer is acceptable to staff.**

In addition to roadway and turning lane improvements, the applicant has proffered a signalization cash contribution proffer to coordinate signals and maintain acceptable levels of traffic service. **This proffer is to be paid when VDOT installs the signals. The applicant has proffered that this is only applicable for signal projects completed prior to December 31, 2020. Staff finds that the proffer is acceptable.**

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 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. **This proffer is acceptable to staff.**

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.**

County revenue trends include the impact of the historical rate of residential growth. **US Home's fiscal impact analysis assumes that the 100 new units per year, are in addition to the normal residential growth already anticipated, meaning an acceleration of the residential growth rate and no "shift" in home building from other parts of the County. If this assumption is not correct, then the fiscal impact may be somewhat overstated, although it continues to 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 assumption 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. The applicant has provided assurances that the homes will be constructed in a manner that makes them attractive to persons 55 and over. **Staff finds this proffer acceptable.**

Adequate Public Facilities

While the proposal will not generate students who attend 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 by the WRLS.

Recreation:

It is expected that this development would generate significant demands on the County’s recreation facilities and may preclude construction of a major section of a proposed public greenway. To alleviate this impact, 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, both indoor and outdoor swimming pools, and one-half (1.5) miles of trails for each 590 residential units. **Staff finds that the revised proffers exceed the requirements of the Parks and Recreation Master Plan and alleviate the strain on current County Recreation Facilities.**

Currently the applicant has proffered the Resource Protection Area adjacent to the western boundary line of their property of their property as a public greenway. **The applicant has also stated that while this is a public greenway, it is restricted from public access and no trail or walkway may be constructed within it. Since the greenway is not open to public access and the development will most likely preclude construction of a proposed greenway to serve this end of the county, staff finds this proffer to be unacceptable.**

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. Additionally, a recent national trend, associated with the aging population, has become the lack of medical doctors willing to take on new Medicare patients. **Staff has suggested ways to mitigate these impacts to the applicant since the last PC Meeting. However, the applicant has not included measures in their proposal to mitigate Community Services issues.**

Emergency Services:

Police: Staff feels that the increased number of residents in the development would guarantee significant demands 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. **Staff has suggested ways to mitigate these impacts to the applicant since the last PC Meeting. However, the applicant's proffers do not address 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 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. An Automated External Defibrillator Program has also been proffered. **Under the current proffers this program will install a defibrillator in all public building greater than 2,000 square feet. Staff finds these proffers to be acceptable.**

Residential Cluster Zoning Ordinance Requirements

Since the density of this project is greater than one unit per acre, the proposal is expected by staff (not required by ordinance) to adhere to the residential cluster section of the Zoning Ordinance.

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, staff expects it to address many similar issues. The Comprehensive Plan calls for development proposals to be consistent with their land use designations. This application should be expected to follow one of the JCC residential zoning designations to achieve its desired density (2.7 dwelling units per acre) through Cluster Development Standards and density bonuses. The project should 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 should also implement the County's Archaeological Policy. A cluster with this density should also 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 and the Archaeological Policy. **An alternate sidewalk plan has been proffered which would allow for sidewalks on one side of the street for two-family and multifamily dwelling units and along one side of the street for single family dwellings. This proffer includes special provisions for crossovers such as increased signage and textured crosswalks. Staff finds this proffer to be acceptable due to the application substantially exceeding County recreational standards for biking and pedestrian trails and recreational facilities in general, and due to the provision of crossover improvements.**

A cluster development with this density is required to 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. **Staff finds that the current proffers exceed the requirements of the Parks and Recreation Master Plan.**

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. Pedestrian and/ or bicycle trails and curb and gutter on residential streets have been proffered. **The applicant has proffered an alternative to the Natural Resource Policy. Staff finds that the alternative adequately addresses the intent of the Natural Resource Policy given the physical characteristics of the site..**

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 finds that the application meets staff's expectations and mitigates issues that arise with an increased density. Staff believes that the applicant's proffers and master plan adequately meet the intent of 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.

Previously, it was 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 has

revised the traffic analysis study to determine/demonstrate the ability of Richmond Road to accommodate revised land use assumptions. **The applicant has determined, and staff concurred, that expanding the current forty acre commercial area (as shown on the previous master plan) to fifty acres would still maintain traffic levels at an acceptable level of service “C” while becoming more consistent with the Comprehensive Plan. This portion of the master plan has been revised since the last Planning Commission meeting and staff finds these revision to be more consistent with the intent of the Comprehensive plan.**

Additionally, the Comprehensive plan calls for a clear 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 provided a revised proffer to address this issue and require specific design criteria for review and approval by the County. The proposed commercial/ office design proffer would provide County review in a manner very similar to a commercial special use permit. **This proffer adequately addresses this issue.**

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.

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 does not assist in addressing the need for ore affordable housing in the county.

At the previous meeting, the Planning Commission raised issues regarding the preservation of scenic vistas. While the site contributes significantly to the rural character of the County,

it is not depicted for any specific aesthetic treatment by formal County policy nor is the section of Richmond Road a Community Character Corridor.

Planning Commission Questions

The Planning Commission raised several additional concerns during the last meeting about the amount of physicians accepting Medicare patients. The Commission also asked that information be provided regarding watershed impacts. These questions have been posed to the applicant for their review and response at the Planning Commission's next meeting.

RECOMMENDATION

Staff finds this master plan and rezoning application consistent with the Comprehensive Plan and compatible with surrounding land uses and zoning. Due to this and reasons stated in the following staff report, staff recommends approval of the rezoning application.

Ben Thompson

Attachments:

Signed Proffers dated 6/21/01 (separate attachments)

PROFFERS

COLONIAL HERITAGE AT WILLIAMSBURG

THESE PROFFERS are made this 18th day of June, 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. U.S. Home is the contract purchaser of the Property.

R-7. The Massies, Massie Corp., Sink, U.S. Home and their collective successors and assigns who own record title to all of the Property and subsequent purchasers of Residential Units (as hereinafter defined) and non-residential areas are referred to collectively herein as the "Owners".

R-8. The Owners 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. 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 15.2-2296 of the Virginia Code and Section 24-16 of the Zoning Ordinance, the Owners 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. Binding 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, and revised April 2, 2001, and May 29, 2001, which is incorporated by reference (the "Master Plan"). The Master Plan provides only for the general location of proposed streets, the general location of proposed areas of open space, buffer areas, recreation facilities, densities, and types of land use, and the general location of proposed areas for golf fairways, greens, drainage facilities, pedestrian connectivity and other amenities. Development plans may deviate from the Master Plan if the Planning Commission concludes after reviewing written comments from the

Planning Director that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of the rezoning. 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. Prior to or concurrent with submission of development plans for each land bay within the Property, the Owners shall receive approval from the County's Director of Planning of an additional master plan for each land bay describing the dwelling unit commercial land use types and layout for each land bay.

2. Archaeological Study. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as 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, 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 shall be adhered to during the clearing, grading and construction activities thereon.

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. (1) The East Crossover and West Crossover improvements cited above may 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.

(2) After approval of the first phase of road improvements identified above and within 30 days of a request from VDOT, the Owners shall pay to VDOT a pro rata share (pro rata share based on the number of signals provided by the Owner divided by the total number of signals included) of any VDOT U.S. Route 60 (Richmond Road) signal coordination project that includes either or both of the East and West Crossovers committed for construction by the earlier of December 31, 2020 or the date completion of development of the Property (defined below).

(3) For purposes of this paragraph, the date of completion of development of the Property shall be defined as such date on which final site plan approval has been granted by the County for all portions of the Property devoted to both residential and commercial use.

(4) The cost for a signal coordination project may include traffic signal equipment at intersections on Richmond Road and may include any necessary utility relocation within available right of way and easements to accommodate traffic signal equipment, but will not include any right of way acquisition expense(s) or road construction changes.

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. (1) The entrance and road improvements described in subparagraphs B, C, and D above shall be completed prior to approval of any final subdivision plat or final site plan for any lot, section or phase within the Property.

(2) The plantings described in paragraph G above shall be completed or bonded in accordance with Section 19-72 of the County Code prior to approval of any building permit for any lot, section or phase within the Property.

I. The road improvements to Centerville Road described in subparagraph F above shall be completed or bonded prior to approval of any subdivision plat or final site plan for any lot, section or phase within Land Bay V as shown on the Master Plan. The entrance and road improvements for Centerville Road described in subparagraph F above and the connection of the main road shown on the Master Plan connecting State Route 614 (Centerville Road) to U.S. Route 60 (Richmond Road) shall be completed or bonded prior to approval of any final subdivision plat or site plan for any lot, section or phase creating a cumulative total of 1,200 Residential Units within the Property. No Residential Units beyond 1200 shall be approved by the County until said improvements and connection have been completed or bonded. If said improvements and connection to Centerville Road have not then been completed, then the Owner shall provide an additional traffic impact analysis to include:

(1) A count of actual traffic using the U.S. Route 60 (Richmond Road) access during the AM and PM peak hours.

(2) A determination of the actual trip generation rates of the existing Residential Units during the AM and PM peak hours.

(3) A forecast for the then remaining Residential Units on the Property to be built to determine if the sum of the traffic from said remaining Residential Units at actual trip generation rates without the State Route 614 (Centerville Road) connection added to the actual trips exiting and entering the Property at U.S. Route 60 (Richmond Road) is less than or greater than the Residential Unit traffic assigned to U.S. Route 60 (Richmond Road) in the Traffic Study.

(4) If it is determined that the sum of said remaining Residential Unit traffic at actual trip generation rates without the State Route 614 (Centerville Road) connection added to the actual trips exiting and entering the Property at U.S. Route 60 (Richmond Road) is greater than the Residential Unit traffic assigned to U.S. Route 60 (Richmond Road) in the Traffic Study, then the additional traffic impact analysis will determine either:

(a.) That the traffic from said remaining Residential Units based on actual trip generation rates will not change the levels of service (letter grade) presented in the Traffic Study in which event subdivision and/or final site plan approval may proceed beyond the 1,200 units described above, or

(b.) Additional road improvements identified by the Traffic Study and needed on U.S. Route 60 (Richmond Road) to provide the levels of service (letter grade) presented in the Traffic Study for the remaining Residential Units at actual trip generation rates will be provided by the Owner.

(5) The improvements identified in I(4)(b) above shall be installed or bonded as described below prior to final site plan or subdivision approval for any Residential Units beyond 1200. Except as provided to the contrary above, the Owner may obtain final plat or site plan 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 Administrator.

6. Natural Resources. Notwithstanding the fact that all of the Property lies outside the Yarmouth Creek Natural Area, as mapped and described in the document entitled *Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia*, the Owners shall commission a natural resource inventory of the Property which will map and describe unique and sensitive habitats for any known threatened and/or endangered species, as well as any

rare species of concern ("Natural Heritage Resources") which are listed by the Virginia Department of Conservation and Recreation's Division of Natural Heritage ("DCR/DNH"). These investigations will be conducted by personnel who are qualified to conduct such studies and be submitted to and approved by the County Director of Planning prior to issuance of a land disturbing permit for any portion of the development of the Property occupied by any Natural Heritage Resource. If the natural resource inventory confirms that a Natural Heritage Resource exists on the Property, a conservation management plan will be prepared, submitted, and approved by the County Director of Planning, as well as any other agency responsible for the protection/conservation of the specific species inventoried. All inventories and conservation management plans shall meet or exceed DCR/DNH standards. All approved conservation management plans shall be incorporated into the development plan of the Property and if unavoidable impacts will occur as a result of clearing, grading or construction, an appropriate mitigation plan will be developed by the Owners and approved by the County Director of Planning and/or the appropriate regulatory agency prior to issuance of a land disturbing permit for any portion of the development of the Property occupied by any Natural Heritage Resource.

7. Sidewalks. Sidewalks shall be constructed on one side of the road along those portions of Richmond Road and Centerville Road which abut the Property.

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 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. Each Residential Unit within the Property shall have a master bedroom and bath on the main floor of such unit and 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 Va. Code §36-96.1 *et seq.*; 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. A contribution shall be made to the County in the amount 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 either development of water supply alternatives, or in the discretion of the Board of Supervisors of the County, any other project in the County's capital improvement plan, the need for which is deemed by the County to be generated by the development of the Property. Such contributions shall be payable for each of the Residential Units developed within the Property at the time of final subdivision plat or final site plan 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, 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 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. An indoor and an outdoor swimming pool 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. The golf course, clubhouse and swimming pool(s) and tennis courts shall be completed before issuance of the Certificate of Occupancy for the 450th Residential Unit within the Property.

E. An area for a public greenway shall be dedicated to the County as shown on the Master Plan immediately adjacent to that portion of the western boundary line of the Property adjacent to the property now or formerly owned by the Colonial Virginia Council of the Boy Scouts of America. The greenway shall be comprised of all land within the Resource Protection Area ("RPA") located on the Property in the area of the greenway shown on the Master Plan, as such RPA is defined on the date hereof. Conveyance of such greenway shall be subject to restrictions providing that no public building or structure shall be constructed within the greenway, and no trail, sidewalk, road or other walkway shall be established within the greenway which is open to or accessible by the general public or by any vehicle. Such dedication shall be made at the time of final subdivision plat or final site plan approval for any parcel or lot within the land bay(s) containing such greenway as shown on the Master Plan. The general location of greenways within the Property shall be described in advertising and promotional materials circulated by the Owners.

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 partly on both, but no portion of said landscape area shall be part of any individual lot designated for a Residential Unit.

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 paragraph 5 may with the approval of the Planning Director include entrance roads, directional signage, underground utilities, underground and above ground drainage facilities, bus stops, curbs, gutters, sidewalks, fences and signs.

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. Any changes to drought tolerant grasses,

plantings, water conservation plans and drought management plans shall be approved by the Chesapeake Bay Administrator or the County Director of Planning.

7. Property Owners Association. A residential property owners' association ("Association") shall be established in accordance with the Virginia Property Owners' Association Act, §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 approved 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 shall 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. Curb and gutter shall be constructed on any streets on which a Residential Unit fronts.

9. Water Conservation. The Owners and the Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority. The Association shall be responsible 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 the Owners shall contain reference to the age restriction provisions of Section II, paragraph 1 above.

11. Streetscapes. Any and all residential development within the Property shall be in conformity with the County Streetscape Guidelines Policy as in effect on the date hereof. No Residential Unit(s) shall front on any portion of the main arterial street shown on the Master Plan running from U.S. Route 60 (Richmond Road) to State Route 614 (Centerville Road).

12. Sidewalks/Pedestrian and Bicycle Trails.

A. (1) Sidewalks shall be constructed on at least one (1) side of every internal street or road constructed within the Property, and sidewalk construction shall be completed at the same time as the adjacent road is constructed.

(2) Sidewalks (or a combination of sidewalks and the pedestrian trails described in subparagraph B below) shall be constructed on both sides of any internal street on which multiple family or two-family (as defined in the County Code) Residential Units front.

(3) At any point where sidewalks or pedestrian trails described herein cross the main arterial street shown on the Master Plan connecting U.S. Route 60 (Richmond Road) with State Route 614 (Centerville Road), striping, signage, and pavement texturing shall be designed and implemented to assure the visibility of such crossing. ~~All such measures shall~~ be subject to the approval of the County Director of Planning.

B. A system of pedestrian and bicycle trails shall be constructed 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 pedestrian trails shall be not less than four (4) feet in width and all bicycle trails shall be not less than eight (8) feet in width.

(2) Access to abutting land bays shown on the Master Plan and connection of cul-de-sacs shall be established where practical as determined by the County Planning Director.

(3) Trails shall avoid lands with greater than twenty-five percent (25%) slopes, environmentally sensitive areas and areas designated as resource protection areas where practical as determined by the County Chesapeake Bay Administrator.

(4) Paved surfaces shall be provided, except as limited by environmentally sensitive areas, wherein pervious, soft surfaces underlaid with filter cloth shall be employed, as determined by the County Director of Planning.

(5) One and one-half (1.5) miles of trail shall be provided for each 590 Residential Units constructed within the Property and all construction of such trails shall be assured by agreement with the County and by furnishing to the County a certified check, bond with surety or letter of credit satisfactory to the County as set forth in ~~Section 19-72 of the~~ County Code.

(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”).

(7) Pedestrian and bicycle trails may, but shall not be required to be located within the buffers established pursuant to Section II, paragraphs 5(A), (B) and (C).

C. All sidewalks constructed within the Property shall meet or exceed the standards of Section 24-35 of the County Code.

13. EMS Equipment/Signalization: Cash Contribution. A contribution shall be made to the County in the amount 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 Residential Unit for the first one thousand (1,000) Residential Units within the Property, and shall be payable upon the earlier of the time of subdivision plat or site plan approval of each said Residential Unit or grouping, phase or section of Residential Units or, in the case of signal preemption equipment, when said equipment is installed.

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 per building to be used as a part of the AED program shall be supplied by the Owner for use in this AED program for every building constructed for public occupancy on the Property of the

Association (exclusive of golf course maintenance buildings, equipment sheds, pump houses, storage buildings, Residential Units and other outbuildings of less than 2,000 square feet. The existence of such AED program and an implementation schedule shall be confirmed by the County Fire Chief prior to any final site plan or subdivision plat approval.

15. Limitation On Land Disturbance Permit Issuance.

A. No land disturbance permit shall be issued by the County for any development of any portion of the Property containing Residential Units until either a draft groundwater withdrawal permit for a desalinization plant has been issued by the Department of Environmental Quality to the County or another suitable source of water has been identified by the County. The existence and adequacy of any such other suitable source of water shall be subject to approval by the County Board of Supervisors prior to issuance of land disturbance permit(s) for the Property absent the draft groundwater withdrawal permit described above.

B. Notwithstanding the aforesaid, the Owner may file with the County all necessary site plans, subdivision plans, building plans, etc.; however, the approval of such plans by the County shall not result in the issuance of any permits for construction unless and until the said draft groundwater withdrawal permit has been issued or another suitable source of water has been identified by the County.

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 the Owner(s) 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) location and uses of buildings,
- (b) building orientation,
- (c) landscaping, open space and buffers,
- (d) location and number of entrances,
- (e) pedestrian and vehicular connections,
- (f) building height,
- (g) architectural design,

- (h) setbacks from adjacent properties or roadways,
- (i) signs.

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 in Land Bay VI that consists of a row or line of building fronts or separately occupied businesses which are one (1) unit deep, parallel or principally oriented to Richmond Road. A majority of the parking spaces provided shall not be located between the buildings and Richmond Road but shall instead be located beside and/or behind the buildings. Street frontage along Richmond Road shall primarily consist of buildings and open space. At least two pedestrian connections shall be provided from U.S. Route 60 (Richmond Road), one shall be provided from the main spine road, and one from Land Bay I. All pedestrian connections shall be paved and be at least four feet wide. All commercial uses within Land Bay VI shall be interconnected for both pedestrian and motor vehicular access. It is the intent of this proffer to prohibit development commonly known as "strip commercial development." Development plans for Land Bay VI shall be approved by the Planning Director as to their compliance with these proffers.

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, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Zoning Appeals and the Courts as otherwise provided by law.

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.

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.

6 Signature by County. The County has executed this Agreement below solely for purposes of confirming the filings and submissions described in the Recitals section above.

#6010116 v24 - U.S. HOME/PROFFERS

U.S. HOME CORPORATION, a Delaware corporation

By: William P. Gerald Jr
Name: William P. Gerald Jr
Title: Regional Vice President

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 18th day of JUNE, 2001, by William P. Gerald Jr, Reg VP of U.S. Home Corporation, a Delaware corporation, in its behalf.

Jean Oliver Randlett
Notary Public

My commission expires: March 6, 2004

Jack L. Massie (SEAL)

JACK L. MASSIE

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 21 day of
June, 2001, by Jack L. Massie.

Latter M. Gossett

Notary Public

My commission expires: July 31, 2002

Virginia M. Massie (SEAL)

VIRGINIA M. MASSIE

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 21 day of June, 2001, by Virginia M. Massie.

Laverne M. Gossett

Notary Public

My commission expires: July 31, 2002

MASSIE CORPORATION, a
Virginia
corporation

By: Jack L. Massie

Name: JACK L. MASSIE

Title: PRES.

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 21 day of
June, 2001, by Jack L. Massie, President, of Massie
Corporation, a Virginia corporation, in its behalf.

Laverne M. Gossett

Notary Public

My commission expires: July 31, 2002

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

STATE OF NC
CITY/COUNTY OF Brunswick

The foregoing instrument was acknowledged before me this 20 day of June,
2001, by L. Wallace Sink, Trustee, of the Marital Trust under the Will of David W. Ware,
deceased.

Crystal Babson
Notary Public

My commission expires: 2/23/05

THE COUNTY OF JAMES CITY,
VIRGINIA

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

County Attorney

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 Farmville 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, at page 97, in the Clerk's Office of James City County, Virginia.

#6010116 v24 - U.S. HOME/PROFFERS

Rezoning 2-01/Master Plan 2-01/Design Guidelines. Virginia United Methodist Homes, Inc.
Staff Report for the July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS Building C Board Room; County Government Complex
Planning Commission: July 2, 2001, 6:00 p.m.
Board of Supervisors: August 14, 2001 (tentative), 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Alvin Anderson

Land Owner: C. C. Casey Limited company

Proposed Use: Continuing care retirement community (300 dwelling units and 119 continuing care beds)

Location: 4692, 4694, 4740, 4710, 4704 and 4700 Old News Road and 144 Jesters Lane; Berkeley District

Tax Map and Parcel No.: (1-34), (1-7), (1-2), (1-5), (1-6), (1-8) and (2-18) on Tax Map (38-3); (1-8) on Tax Map (38-1)

Primary Service Area: Inside

Parcel Size: 111 acres

Existing Zoning: R-8, Rural Residential District

Proposed Zoning: MU, Mixed Use

Comprehensive Plan: Mixed Use

Surrounding Zoning: North: R-4, Residential Planned Community (Ford's Colony)
East: R-8, Rural Residential (undeveloped portion of New Town)
South: R-8 (undeveloped portion of New Town)
West: R-8 (Jester's Lane); R-4 (Monticello Marketplace)

Staff Contact: Jill E. Schmidle - Phone: 253-6685

STAFF RECOMMENDATION:

Staff has concerns that the project contains numerous outstanding issues, such as water supply, entrance road location, pedestrian connections, proffer language, guarantee of public town square, stormwater management and wetlands, and archaeology. Additionally, staff has not received comments from the Virginia Department of Transportation regarding the traffic study or from the Department of Financial and Management Services regarding the Fiscal Impact Study. Staff recommends the Planning Commission defer this case until these issues are resolved. It is staff's intention to have a recommendation of approval or denial at the August Planning Commission meeting based on the most current signed proffers and master plan.

Project Description

Mr. Alvin Anderson has applied on behalf of C. C. Casey Limited Company to rezone approximately 9 acres from R-8 Rural Residential and approximately 102 acres from R-8 with proffers to MU, Mixed Use for a continuing care retirement community consisting of 300 dwelling units and 119 continuing care beds. Under both the zoning ordinance and adopted proffers applicable to the property, the Planning Commission must review a Master Plan for the property. Also under the adopted proffers, the Planning Commission must review Design Guidelines for the property. The project is located within portions of Section 12 and 13 in the West Sector of New Town.

This project will be Virginia United Methodist Homes' seventh continuing care retirement community, where the average age of the residents is 80. The proposal consists of a gated community for 300 independent living units, consisting of a mixture of one and two-bedroom apartments, detached cottages, and attached duplex cottages. Specifically the 300 units will consist of 125 cottages and duplex units and 175 apartments. In addition, the proposal contains 47 assisted living units, 56 nursing or health care beds and 16 beds for residents with Alzheimer's related diseases. Overall density on site would be 2.83 dwelling units per acre.

Proffers

The applicant has submitted proffers as part of this project. The proffers address the following issues:

- owner's association;
- development criteria;
- traffic;
- pedestrian connections;
- water conservation;
- age restriction; and
- archaeology.

Staff has noted significant concerns with several proffers. The outstanding proffer issues will be discussed throughout the report.

Surrounding Zoning and Land Use

The property is generally bounded by Route 199 to the east, Monticello Avenue to the south, Olde News Road and Jester's Lane to the west and Ford's Colony to the north. A majority of the site (102 acres) is zoned R-8, Rural Residential with proffers as part of the New Town Master Plan, which was approved in 1997. The New Town rezoning in 1997 consisted of a mixed use master plan for the entire Casey New Town site (approximately 622 acres) including binding proffers. However, each section of New Town requires a rezoning to Mixed Use. The project also includes a 9-acre parcel known as the Berry property, which is not part of the New Town Master Plan, but is contiguous to New Town.

To the north of the site is property owned by Ford's Colony, zoned R-4, Residential Planned Community. Please note that a portion of this property was originally part of New Town but purchased by Ford's Colony and rezoned to R-4 in 1998. To the east of the site across Route 199 is the East Sector of New Town, which is currently undeveloped. To the south of the site are Sections 11 and 12 of the West Sector of New Town, which are designated for commercial and high-density residential uses. To the west of the site are several single-family residences zoned R-8 located off of Jesters Lane. Also to the west of the site is Monticello Marketplace shopping

center, which is zoned R-4 as part of the Powhatan Secondary master planned community. Since the property is predominantly surrounded by master planned communities, and has a binding master plan which permits this development, staff finds the proposal to be consistent with surrounding zoning and land use.

Topography and Physical Features

Currently the property is heavily wooded and has been forested in the past. Moderate slopes exist on-site. Topography consists of level ridgelines and sloping valleys as well as a tributary to Powhatan Creek running through the property and wetlands. Wetland areas within a ravine divide the property into three distinct developable areas. The project has been designed to minimize impacts on the wetlands on the site by locating the one-story cottage and duplex units on the eastern portion of the site and the apartment units in four-story buildings on the western portion. A conceptual stormwater management plan has been developed which utilizes structural BMPs and open space to meet current County requirements.

Staff has informed the applicant that there are significant wetlands issues on site. The U. S. Army Corps of Engineers had previously provided a Jurisdictional Determination of wetlands on the site. However, the statute of limitations on the Jurisdictional Determination of the wetlands has expired. The surveyed wetland limits as provided are no longer valid. Staff requests the applicant reconfirm the Jurisdictional Determination of the wetlands on site and provide written confirmation by the Corps of Engineers. The applicant has stated this has been done, although written confirmation has not been provided.

The draft Powhatan Creek stormwater management plan recommends that the majority of the site only meet the County's current stormwater criteria. However, a portion of the site, the western most area closest to Jester's Lane generally in the area of the continuing care facility, is in an area where special stormwater criteria is recommended for use. Additional stormwater facilities, probably the filtering type, may need to be provided in this area to further reduce the site's impact on receiving waters. Staff also recommends that as much stormwater from this area as possible be diverted to the proposed regional BMP.

The Powhatan Creek study may also recommend an expansion of the Resource Protection Area (RPA) buffer to protect the existing wetlands present on the site. At this time, it is unclear where the boundaries of the future expansion would be located or whether an expansion would be supported by the county. This extension would more likely have an impact on any future expansion of the facility rather than the existing proposal. Please note that the recommendations of the Powhatan Creek study have not been adopted by the county; however, the Environmental Division recommends the implementation of the additional stormwater criteria.

As part of the submission, the applicant completed a Phase I Environmental Site Assessment. In May 2000 a portion of the Berry property contained chemicals, gasoline, oil and other substances as well as construction vehicles and other equipment on the property. In December 2000, the substances, vehicles and equipment had been removed, and environmental consultants determined that there were no areas of environmental concern.

Additionally, small whorled pogonia has been identified within the project area. Because of the potential for small whorled pogonia habitat to occur on site, staff recommends a detailed survey for this species by a qualified professional. Staff recommends that the applicant provide additional information addressing the issues of wetlands, stormwater management improvements and small whorled pogonia.

Utilities

The site is located within the Primary Service Area (PSA), and public water and sewer are available. The project's internal water distribution system will connect to existing James City Service Authority (JCSA) infrastructure at the existing 20-inch water transmission main along Monticello Avenue. An additional connection is proposed to the existing water main in Ford's Colony Section 30. However, the proposal states the water main connection to Ford's Colony will be to a 12-inch pipe. In actuality, the pipe is proposed to be only eight inches. Additionally, the applicant needs to acquire an easement from Ford's Colony to allow the future water main connection. Staff is aware the easement is being pursued, but has not been acquired at this time.

The applicant states that the recent purchase of between 1.1 and 1.8 million gallons of water per day from Newport News Waterworks coupled with the desalinization plant will ensure adequate water capacity. Staff has concerns that no measures have been proffered to assist with the County's water supply issue.

Regarding sanitary sewer, wastewater will be collected in on-site sanitary sewer gravity mains, which will be conveyed to and owned and operated by JCSA. JCSA staff has requested documentation showing the owners of New Town have entered into an agreement with Ford's colony to upgrade the section of 8-inch sanitary sewer which will ultimately become inadequate prior to build out of this project. Staff has concerns that outstanding issues regarding water and sewer still remain, specifically regarding necessary upgrades and water supply.

Water Conservation

The applicant proposes to utilize an on-site pond to provide the main irrigation supply for this development. While the on-site pond would handle demand in a normal year, the needed volume to meet demands in a drought year would not be sufficient. Groundwater withdrawal, municipal water and effluent are three options that were pursued as alternatives but ultimately deemed not viable. A proffer has been submitted that prohibits groundwater for irrigation purposes. The proffer states that design features, such as drought tolerant grasses and planting, a water conservation plan and a drought management plan shall be implemented to reduce the total irrigated area of the property and limit the use of public water and groundwater. Additionally, the proffer states that water saving fixtures will be provided throughout the development. Staff supports the water conservation methods provided in the proffer.

Transportation and Access

As required by the existing New Town proffers, the applicant submitted a traffic study that addresses the impacts this proposal will have on all intersections surrounding the New Town development area. The site will be accessed off of Monticello Avenue between Old News Road and Route 199. An entrance road will be constructed to provide access to Windsor Meade and also additional development on the West Sector of New Town. There also will be a gate-controlled emergency service entrance provided off of Jester's Lane.

The traffic study determined that full build-out of Windsor Meade will entail 1771 vehicle trips per day, with an average of 126 vehicle trips during the p.m. peak hour. The traffic study states that no additional lanes are needed on any of the roads surrounding New Town as a result of this development. The Virginia Department of Transportation currently is reviewing the findings of the traffic study and has not offered formal comments. Staff is unable to confirm the results of the traffic study until such time.

Previously there was discussion that the location of the entrance road to the West Sector at Monticello Avenue would be relocated. Staff has requested information from the applicant to confirm the location of the entrance road, or to show the new location on the Master Plan.

Staff has concerns that the traffic study proffer lacks specifics on what traffic improvements will be constructed or installed as part of this proposal. As currently written, the traffic study proffer is not a proffer and is not consistent with the existing New Town traffic study proffer. Additionally, the New Town Design Review Board (DRB) recommended that the entrance road from Monticello Avenue to the entrance of this site be constructed to contain specific streetscape improvements, such as a median of sufficient width, large trees, sidewalks and parking design. This has not been provided. Regarding pedestrian connections, staff also has concerns with the proffer language. Staff requests more specific language regarding location and design of pedestrian connections. Staff has concerns that outstanding traffic issues remain, specifically regarding the proffers.

Adequate Public School Facilities Test Policy

The applicant has offered a proffer assuring that all residents will be 18 years and older. Since there will be no additional school children as a result of this project and no additional impacts on the school system, this project passes the adequate public school facilities test.

Fire Protection and Emergency Medical Services

Staff has concerns that an elderly population will add significant demands on fire protection and emergency medical services. Items that may mitigate the increase in these demands include traffic signal pre-emption devices and on-site automatic external defibrillators (AED), although they have not been proffered.

Archaeology

A Phase I archaeological study was completed in 1990 and a prehistoric procurement camp was identified. As part of this proposal, the applicant submitted a Phase II archaeological study for review. However, staff has concerns that the proffer language does not follow the County's adopted policy. As written, the proffer does not address approval of a Phase II study by the Planning Director, any requirement to do a Phase III study if recommended by the Phase II study, or the possibility of a treatment plan. Staff has recommended the proffer be revised in accordance with County policy.

Fiscal Impact

The Fiscal Impact Study shows the development to have a positive fiscal impact on James City County. Staff from Financial and Management Services (FMS) currently are reviewing the study and have not provided comments on the fiscal assumptions. At this time, staff is unable to confirm whether the fiscal impact of this project is positive.

New Town Master Plan/Design Guidelines

The New Town Master Plan designates the portion of New Town for this proposal as part of Sections 12 and 13. The following uses are permitted: single-family, two/three/four family, two-story townhouses and apartments, three-story townhouses and apartments, institutional and public, and common open space. Three hundred dwelling units is higher than what is currently shown on the New Town Master Plan for these sections. However, the intent of the New Town Master Plan is to allow flexibility within the various sections. The additional density will be transferred from

Section 11 of the West Sector, meaning there will be no overall increase to the number of approved dwelling units for New Town as a result of this project.

Additionally, property in the New Town area is required to adhere to an approved set of Design Guidelines. The Design Guidelines outline issues such as street layout, building design, and architectural materials. The proffers and Design Guidelines require design approval from the New Town Design Review Board (DRB) prior to submission of a rezoning application. The DRB has approved the design of this proposal on January 18, 2001, and a subsequent amendment on May 17, 2001. The Design Guidelines also require approval by the Planning Commission and the Board of Supervisors, and have been proffered.

As recommended in the Design Guidelines, the proposal has incorporated an urban design, with the creation of a distinct village character, a cohesive architectural style, grid street pattern with alleys, open space and pedestrian-friendly development. Various open spaces have been provided throughout the development, including an entry park, a major community open space with gazebo at the entrance, a clock tower park linking the cottage and apartment neighborhoods, and an additional community open space within the cottage neighborhood. Open courtyard spaces are provided in the apartment and continuing care neighborhood.

In the cottage neighborhood, street and blocks have been designed to link open spaces. Cottages and duplexes are located on either side of a divided boulevard and also have rear alleys for garage access. As recommended in the New Town Design Guidelines, the alleys are intended to reduce the visual impact of garages, parked cars and curb cuts along the divided boulevard, to link the clock tower and community open space, and to encourage pedestrian movement along the boulevard. Additionally, sidewalks, landscaping and tree planting, pedestrian lighting and off-street parking will incorporate recommendations in the Design Guidelines.

Streets and blocks contain no cul-de-sacs to encourage connectivity and to provide clear pedestrian movement among residents. Parking for guests and visitors will be provided in both on-street and off-street areas. The project proposes two parking terraces near the continuing care facility.

Regarding architecture, the project will incorporate a traditional architectural style reminiscent of the historic buildings within the Williamsburg area. Building massing and architectural elements will exhibit simple massing, traditional roof shapes, dormers, projecting balconies and bays, and porches that contribute to human scale and architectural interest. Brick is the predominant exterior wall material with siding as a secondary material. Roof materials will consist of fiberglass shingles. The architecture of this project is consistent with the adopted New Town Design Guidelines.

One inconsistency with the New Town Design Guidelines is the gated nature of the project. In two locations the Design Guidelines state, "enclave developments or walled communities do not reinforce a village character and are not encouraged." To mitigate this inconsistency and provide some public benefit from this project, the applicant has shown a town square at the end of the entrance road at Windsor Meade's entrance gate. The Windsor Meade design guidelines state "to acknowledge the New Town design objective of avoiding the appearance of enclaves or walled communities while still providing a secure environment for a particularly vulnerable population, the main entrance and gateway to the retirement could be designed as part of a town square terminus to the divided entry road." The New Town DRB approved this as an acceptable approach to satisfy the Design Guideline's restriction on walled communities. However, this town square is not being proffered as part of this proposal. "Final implementation of this design concept will be dependent upon acceptance by the developer of this open parcel." Since there is no guarantee that this public town square will in fact be provided, staff finds this aspect of the proposal to be inconsistent with

the New Town Design Guidelines and not within the spirit of the DRB's approval. Staff is concerned about the lack of any current guarantees that the town square at the entrance will be developed, resulting in a project becoming an isolated development not connected to any other part of New Town. This feature was a critical element in the previous design review of the conceptual plan by the DRB because of the private nature of most of the development. Staff strongly recommends the applicant address this issue.

Additionally, staff has concerns with the proffer language regarding amendments to the Master Plan and Design Guidelines. The proposed proffer states that the DRB may approve all amendments which it deems generally consistent with the Master Plan and/or Design Guidelines, without any requirement that the Planning Commission or the Board of Supervisors approve any amendments. As written, the proffer is inconsistent with Section 24-518 of the Mixed Use zoning ordinance which states that the Planning Commission shall determine if plans are consistent with the master plan. Staff has requested the applicant revise the proffer.

Comprehensive Plan

The Comprehensive Plan designates this site as Mixed Use. Mixed Use areas are centers within the PSA where higher density development, redevelopment, and/or a broader spectrum of land uses are encouraged. Mixed Use areas are located at or near state interchanges and the intersections of major thoroughfares are intended to maximize the economic development potential of these areas by providing areas primarily for more intensive commercial, office and limited industrial purposes. Mixed Use areas are intended to provide flexibility in design and land uses in order to protect and enhance the character of the area. Moderate to high density residential uses could be encouraged in mixed use areas where such development would complement and be harmonious with existing and potential development.

Mixed use developments require nearby police and fire protection, arterial road access, access to public utilities, large sties, environmental features such as soils and topography suitable for intense development, and proximity or easy access to large population centers. Master Plans are encouraged to assist in the consideration of mixed use development proposals. The consideration of development proposals in mixed use areas should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of land uses and their development impacts.

The New Town area is listed in the Comprehensive Plan as "Casey Fields Area." For the area in the vicinity of Route 199/Monticello Avenue, the principal suggested uses are a mixture of commercial, office and limited industrial with residential uses as secondary uses. The development in this area should be governed by a detailed Master Plan which provides guidelines for street, building, and open space design and construction which complements the scale, architecture, and urban pattern found in the City of Williamsburg.

Staff finds this proposal to be consistent with the Mixed Use designation of the Comprehensive Plan, as it conforms to the approved New Town Master Plan.

RECOMMENDATION:

Staff has concerns that the project contains numerous outstanding issues, such as water supply, entrance road location, pedestrian connections, proffer language, guarantee of public town square, stormwater management and wetlands, and archaeology. Additionally, staff has not received comments from the Virginia Department of Transportation regarding the traffic study or the Department of Financial and Management Services regarding the Fiscal Impact Study. Staff

recommends the Planning Commission defer this case until these issues are resolved. It is staff's intention to have a recommendation of approval or denial at the August Planning Commission meeting based on the most current signed proffers and master plan.

Jill E. Schmidle

Attachments:

1. Site location map
2. Development plans (separate attachment)
3. Design Guidelines (2) (separate attachment)
4. Proffers

WINDSORMEADE PROFFERS

THESE PROFFERS are made as of this 8th day of June, 2001, by **VIRGINIA UNITED METHODIST HOMES, INC.**, a Virginia corporation (together with its successors and assigns, the "VUMH") (index as a "grantor"); **C. C. CASEY LIMITED COMPANY**, a Virginia limited liability company (the "Owner") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property (the "Property") in James City County, Virginia, more particularly described on EXHIBIT A attached hereto and made a part hereof.

R-2. Owner has contracted to sell the Property to VUMH for a continuing care retirement community (the "Project").

R-3. The portion of the Property designated on EXHIBIT A as "Parcel 1" is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no. 980001284.

R-4. A nine (9) acre portion of the Property (the "Berry Property") designated on EXHIBIT A as "Parcel 2" is not subject to the New Town Proffers.

R-5. The New Town Proffers provide for development of that portion of the Property which is subject to the New Town Proffers in accordance with a conceptual master land use plan

Prepared by:
Kaufman & Canoles, P.C.
1200 Old Colony Lane
Williamsburg, VA 23185

entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Master Plan").

R-6. The New Town Proffers further provide for development of that portion of the Property which is subject to the Proffers in accordance with design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines").

R-7. In furtherance of the vision embodied in the New Town Master Plan, VUMH, as the contract purchaser of the Property from the Owner, has applied for a rezoning of the Property from R-8, Rural Residential, to MU, Mixed Use, with proffers. The rezoning of the Property to MU is consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County's Zoning Ordinance (the "Zoning Ordinance").

R-8. Owner has submitted a Community Impact Statement which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance, which Community Impact Statement includes, without limitation, a Fiscal Impact Study which has been reviewed and approved by the County in connection with the rezoning request referenced above. The Community Impact Statement is on file with the County's Director of Planning.

R-9. The New Town Proffers specifically provide that it was the expectation of the Owner and the Board of Supervisors of the County that, so long as future rezonings and accompanying master plans comply with applicable ordinance requirements and the New Town Proffers, as amended, and the master plans submitted therewith are generally consistent with the New Town Master Plan and the New Town Design Guidelines, such rezonings will be approved.

R-10. Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

R-11. Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County's Planning Commission and to the County's Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed Master Plans and Guidelines in future rezonings of the property subject to the New Town Proffers.

R-12. VUMH submitted to the DRB, and the DRB approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a master plan (the "VUMH Master Plan") and design guidelines (the "VUMH Guidelines") for the Property, copies of which VUMH Master Plan and VUMH Guidelines are on file with the County's Planning Department.

R-13. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner and VUMH, in furtherance of their application for rezoning, desire to proffer certain conditions 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-14. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the VUMH Master Plan, the VUMH Guidelines and related documents, submitted herewith, and pursuant to Section 15.2-2296 et seq. of the Virginia Code, and Section 24-16 of the Zoning Ordinance, VUMH agrees that it shall meet and comply with all of the following conditions in developing the Property. In the event the requested rezoning is not granted by the County, these Proffers shall thereupon be null and void.

CONDITIONS

PROFFERS APPLICABLE TO ALL THE PROPERTY

1. Application of New Town Proffers. These Proffers shall supercede and amend and restate in their entirety the New Town Proffers, but only as to the Property.
2. Owner's Association. Owner shall cause a supplemental declaration (the "Supplemental Declaration") to be executed and recorded in the Clerk's Office to submit the Property to the applicable property owners association(s) for New Town (the "Association") and to the applicable Master Declaration of Covenants, Easements and Restrictions for such property in New Town, and the articles of incorporation and the bylaws governing the Association. Owner may organize, in addition to the Association, a separate owner's association for the Property and impose supplemental restrictive covenants on the Property. The Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with a separate owner's association for the Property, if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer.

3. Development Criteria and Land Use.

(a) Development. The Owner agrees that all the Property (including, without limitation, the Berry Property) shall be developed generally in accordance with the VUMH Master Plan and VUMH Design Guidelines, including, but not limited to, the land uses, densities and design set forth therein

(b) Authority, Duties and Powers. After the rezoning of the Property, the DRB shall review all subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for the Property for general consistency with the applicable VUMH Master Plan and VUMH Design Guidelines and shall render an approval of such plans prior to their submission to the County Department of Development Management. The procedures for the design review process, including submission requirements and time frames, are set forth in rules adopted by the DRB from time to time. The County shall not be required to review any subsequent development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the VUMH Master Plan and/or VUMH Design Guidelines. The DRB may approve development plans that do not strictly comply with the VUMH Master Plan and/or VUMH Guidelines if circumstances, including, but not limited to, topography, natural obstructions, hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures and improvements on the Property shall be constructed in accordance with the approved plans and specifications.

(c) Procedures for Amendments to VUMH Master Plan and VUMH Design Guidelines. The Owner may apply to the DRB or the Board of Supervisors, as appropriate, to amend the VUMH Master Plan and/or the VUMH Design Guidelines as hereinafter provided.

The DRB may approve all of such amendments which it deems generally consistent

with the VUMH Master Plan and/or the VUMH Design Guidelines, without any requirement that the Planning Commission or the Board of Supervisors approve any such amendments.

No amendment of the VUMH Master Plan and/or VUMH Design Guidelines which is materially inconsistent with either the VUMH Master Plan or the VUMH Design Guidelines as determined by the DRB shall be effective unless approved by the County Board of Supervisors. In considering applications for such amendments, the DRB and the County Board of Supervisors shall consider all appropriate factors, including, but not limited to, changes in circumstances that may have occurred.

Any amendment shall apply after its effective date but shall not require removal or modification of any previously approved plans or approved construction. The procedures for amendments to the VUMH Master Plan and the VUMH Design Guidelines, including submission requirements and time frames are set forth in rules adopted by the DRB.

The Owner will be advised by the DRB of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which were deemed by the DRB to be materially inconsistent with the applicable VUMH Design Guidelines and VUMH Master Plan and the reasons for such finding and suggestions for curing the inconsistencies.

(d) Limitation of Liability. Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, or ordinances or regulations. Neither the Owner, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

(e) Land Use. As a result of the rezoning sought in connection with these Proffers, the chart shown on page 2 of the New Town Master Plan is hereby amended with respect to the Property to reflect the densities and land uses specified in EXHIBIT B attached hereto.

4. Traffic Study/Road Improvements. In accordance with the requirements of Section 4 of the New Town Proffers, VUMH has submitted to the County a traffic study entitled "Traffic Study for WindsorMeade of Williamsburg (Casey Property), James City County, Virginia", dated July 24, 2000, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"). The Traffic Study has determined that the level of service criteria as established by the New Town Proffers will be maintained after the development of the Property in accordance with the VUMH Master Plan.

5. Pedestrian Connections. Upon VUMH's development of the Property, VUMH shall install pedestrian connections on the Property along main roads adjoining the Property substantially as shown on the VUMH Master Plan.

6. Water Conservation and Usage. Unless otherwise specifically agreed to 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 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 Property in order to accomplish the limitation on use of public water and groundwater contained within this paragraph. Further, VUMH agrees to institute and maintain water conservation measures in the use of water saving fixtures to promote water conservation.

7. Age Restrictions. Prior to issuance of a building permit for improvements to be constructed on the Property, Owner shall submit to the County a copy of restrictions to be recorded against title to the Property restricting permanent residency on the Property to residents over the age of eighteen (18) (or such higher age as determined by VUMH in accordance with applicable law); provided, however, this age restriction may be amended from time to time or otherwise qualified to ensure compliance with applicable local, state and federal laws and regulations governing age restricted housing and the Federal Fair Housing Act, as amended from time to time.

8. Archaeological Study. A Phase I Archaeological Study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning. A further Phase II study, entitled "Phase II Archaeological Excavations of Site 44JC621 at Windsor Meade, James City County, Virginia", dated July 2000, prepared by Archaeological and Cultural Solutions, Inc., was conducted for all sites at the Property that were recommended in the Phase I study referenced above for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places, the results of which Phase II study have been submitted to the Director of Planning. Based upon the Phase I and Phase II studies, no treatment plan for the Property is recommended and no further work or studies are recommended by the qualified archaeologist. All Phase I and Phase II studies referenced in these Proffers meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interiors Standard and Guidelines for Archaeological Documentation, as applicable, and were

conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interiors Professional Qualification Standards.

9. Owner Consent. Owner joins in these Proffers only to evidence their consent thereto.

MISCELLANEOUS PROVISIONS

10. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

11. 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.

12. Conflicts. In the event there is a conflict between these Proffers, the New Town Proffers, the New Town Master Plan or the New Town Guidelines, these Proffers shall govern. In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Zoning Appeals and the Courts or as otherwise provided by law.

13. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligations of VUMH hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

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

WITNESS the following signatures, thereunto duly authorized:

VIRGINIA UNITED METHODIST HOMES, INC.

By: _____
Its: _____

C.C. CASEY LIMITED COMPANY

By: Robert I. Casey
Its: SECRETARY

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

County Attorney

STATE OF VIRGINIA

CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 11th day of June, 2001 by Robert J. Casey as Secretary of C. C. Casey Limited Company.

Jean Babcock Surins
NOTARY PUBLIC

My commission expires: 2/29/2004

STATE OF VIRGINIA

CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by _____ as _____ of Virginia United Methodist Homes, Inc.

NOTARY PUBLIC

My commission expires:

STATE OF VIRGINIA

CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by _____ as _____ for the County of James City, Virginia.

NOTARY PUBLIC

My commission expires:

13. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns. Any obligations of VUMH hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

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

WITNESS the following signatures, thereunto duly authorized:

VIRGINIA UNITED METHODIST HOMES, INC.

By: Wm. David Finch
Its: President

C.C. CASEY LIMITED COMPANY

By: _____
Its: _____

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

County Attorney

STATE OF VIRGINIA
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by _____ as _____ of C. C. Casey Limited Company.

NOTARY PUBLIC

My commission expires:

STATE OF VIRGINIA
CITY/COUNTY OF Henrico, to wit:

The foregoing instrument was acknowledged before me this 8th day of June, 2001 by Wm. J. Fink as President of Virginia United Methodist Homes, Inc.

Judy M. Walker
NOTARY PUBLIC

My commission expires: 9-30-04

STATE OF VIRGINIA
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by _____ as _____ for the County of James City, Virginia.

NOTARY PUBLIC

My commission expires:

EXHIBIT A

PARCEL 1

All those certain lots, pieces or parcels of land located in the County of James City, Virginia, and being designated as "PARCEL A 4,164,051 S.F. 95.6 Ac. ±", "PARCEL A-1 455,013 S.F. 10.4 Ac. ±" and "PROPOSED RIGHT-OF-WAY 240,896 S.F. 5.53 Ac. ±" on that plat entitled "CASEY PROPERTY PROPOSED WEST SIDE SUBDIVISION BERKELEY DISTRICT JAMES CITY COUNTY VIRGINIA", dated 2/2/98, last revised 1/19/01, prepared by AES Consulting Engineers, a copy of which plat is on file with the James City County Director of Planning;

LESS, SAVE AND EXCEPT, all that certain lot, piece or parcel of land as more particularly described as "PARCEL 2" below.

PARCEL 2

All that certain lot, piece or parcel of land, lying and being in James City County, Virginia, shown and set forth as Parcel A on that certain plat of survey entitled, "BOUNDARY LINE AGREEMENT BETWEEN THE PROPERTIES OF ROBERT E. BERRY (PARCEL A) AND SHIRLEY H. CASEY (PARCEL B) AND JOE E. & DOROTHY R. WILSON (PARCEL C), JAMES CITY COUNTY, VIRGINIA", dated June 8, 1998 and made by Walters Land Surveying, Ltd., which plat of survey has been recorded prior hereto and is made a part hereof by reference. (PB 72, Pg 40).

Special Use Permit 14-01, JCSA Greensprings Plantation Drive Force Main
Staff Report for the July 2, 2001, Planning Commission Public Hearing

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.

PUBLIC HEARINGS

County Government Complex

Planning Commission: July 2, 2001 6:00 p.m. Building C Board Room
Board of Supervisors: July 24, 2000, 7:00 p.m. Building C Board Room (Pre-advertised)

SUMMARY FACTS

Applicant: Mr. Danny Poe, on behalf of James City Service Authority

Land Owner: James City Service Authority and Mr. Matthew Broderick

Proposed Use: Installation of a 30" force main from Powhatan Secondary area to Greensprings Plantation Drive along Monticello Extension and a connecting 20" force main from the Monticello Extension Road along Greensprings Plantation Drive. In both of these sections the force main will be installed within VDOT right-of-way. From Greensprings Plantation Road the force main will enter private property owned by Greensprings Associates and connect into a previously approved lift station.

Location: The proposed force main would be located along Monticello Avenue Extension along VDOT right-of way running to the Greensprings Plantation Drive Intersection. The force Main would then continue down Greensprings Plantation Drive and enter private property owned by Greensprings Associates.

Tax Map/Parcel: (37-3 & 4) VDOT right-of-way and (37-3)(1-5) and (46-1)(1-1) private property owned by Greensprings Associates

Primary Service Area: Inside

Existing Zoning: PUD-R; Planned Unit Development Residential

Comprehensive Plan: Low-Density Residential

Staff Contact: Ben Thompson - Phone: 253-6685

STAFF RECOMMENDATION

Staff finds this proposal to be consistent with the Comprehensive Plan and consistent with . Staff recommends that the planning Commission approve the special use permit with the conditions listed in the staff report.

History

This special use permit request is to realign the layout for a future force main which was approved with a former special use permit. The motivation for the realignment and amendment to the previous special use permit is to decrease potential environmental impacts when crossing Powhatan Creek and to increase accessibility to the force main for installation and maintenance. A large portion of the previous alignment would have been installed on private property which is owned by Greensprings Associates and run parallel to Powhatan Creek.

Description of Project

This application proposes the installation of a 30" force main from the Powhatan Secondary area to Greensprings Plantation Drive along Monticello Extension and a connecting 20" force main from the Monticello Extension Road along Greensprings Plantation Drive. In both of these sections the proposed force main would be installed within VDOT right-of-way. From Greensprings Plantation Road the proposed force main would enter private property owned by Greensprings Associates and connect into a previously approved lift station. Force mains and associated facilities, including transmissions mains, which are intended to serve a number of customers and which are not accessory to an existing or proposed development, require a special use permit.

Surrounding Zoning and Development

One zoning classification, PUD-R, Planned Unit Development Residential, covers the entirety of this proposal. Adjacent parcels are primarily undeveloped but are zoned to be Planned Communities. These developments include Powhatan Secondary, Greensprings Plantation, and the Hiden tract.

Physical Features & Environmental Considerations

The majority of the proposed force main is to be located within the Virginia Department of Transportation right of way. However, on the south end of Greensprings Plantation Drive the proposed force main would cut across private property (owned by Greenspring Associates) to reach a previously approved lift station. The property owner has agreed to this cut across private property. While the roadway portion of Monticello Avenue Extended/ Alternate Route 5 is still under construction, Greensprings Plantation Drive is completed. Most of Greensprings Plantation Drive is improved with Small clusters of pines and a few single cedars, maples, and hollies are scattered along the road, but they are largely outside the proposed construction area of 4 to 8 feet from the edge of pavement. JCSA does not expect to remove any of the trees, although a few may be impacted by the construction. In the event any tree, bush, or shrub is damaged during construction, staff has drafted a special use permit condition that would require the applicant to replace the vegetation with one of equal type as approved by the Planning Director.

The force main installation would cross Powhatan Creek on Alternate Route 5 and be attached to a VDOT constructed bridge. The proposed crossing and realignment/ route would significantly decrease potential impacts to the Powhatan Creek and Watershed.

Traffic Impacts

No specific schedule has been set for the construction of the proposed water main. During

construction, traffic along both east and westbound lanes along Monticello Avenue/ Alternate Route 5 (after completion) and north and southbound lanes along Greensprings Plantation Drive would be affected. Traffic will be slowed by an alternating direction signal lane adjacent to the area under construction along the corridor. All construction will occur during off peak hours between 9:00 a.m. and 4:00 p.m. to minimize the impact on the surrounding community.

Public Utilities

The property is within the Primary Service Area (PSA). The Comprehensive Plan defines the Primary Service Area as areas presently provided with public water and sewer, and high levels of other public services, as well as areas expected to receive such services over the next 20 years. Promoting efficiency in the delivery of public services is an important concept in the Comprehensive Plan. The PSA concept encourages efficient utilization of public facilities and services and promotes public health and safety through improved emergency response time. The proposed water main would connect on an existing water line, and would improve fire flow as well as provide connections to public water.

Comprehensive Plan Considerations

Land Use Designation

The Comprehensive Plan Land Use Map designates this area as Low Density Residential. Low Density Residential areas are located inside the Primary Service Areas where public utilities and services exist or are expected to be expanded to serve the area over the next twenty years.

Aesthetics

No drainage structures will need to be relocated as a result of this proposed project. However, as stated previously, any unanticipated damage that occurs to the minimal vegetation in this area will be mitigated with vegetation of an equal type as approved by the Director of Planning. This project will be attached to the a

Historical and Archaeological Impact

There are no known archaeological or historic sites on the property as indicated by the James City County Archaeological Assessment. Because the project is within an area previously disturbed by road construction, the probability of any significant finds is minimal.

RECOMMENDATION:

Staff finds this proposal to be consistent with the Comprehensive Plan and consistent with previous actions taken by the Board of Supervisors. Staff recommends that the Planning Commission approve the special use permit with the following conditions.

1. Construction, operation, and maintenance of the water transmission main shall comply with all local, state, and Federal requirements.
2. The project shall comply with all State erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook.
3. All required permits and easements shall be acquired prior to the commencement of

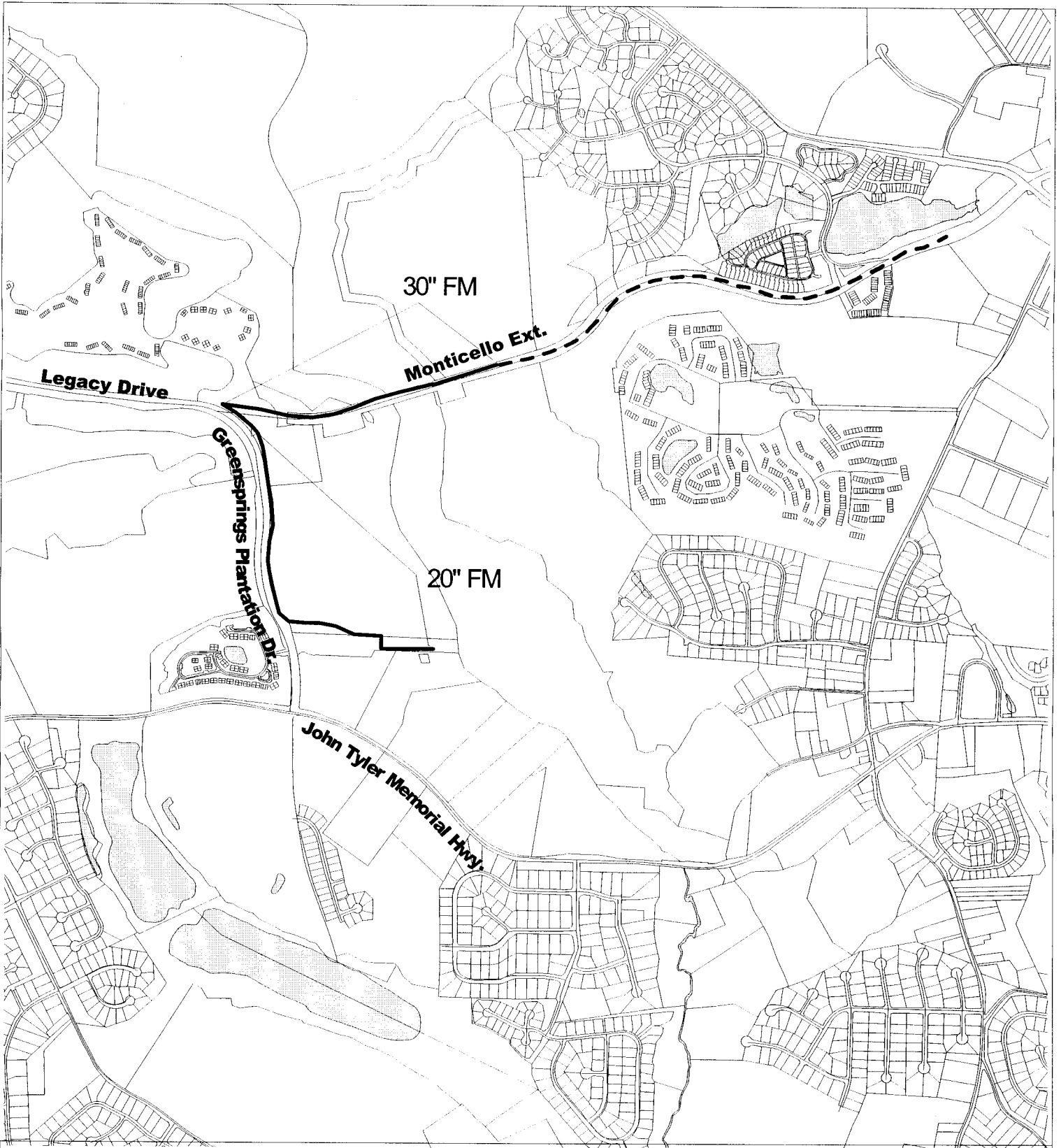
construction.

4. If construction has not commenced on the project within twenty-four (24) months from the date of issuance of the special use permit, the permit shall become void. Construction shall be defined as clearing, grading, and excavation of trenches necessary for the water main.
5. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed water transmission main do not create adverse effects on the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.
6. All bridge attachments shall be approved by the Virginia Department of Transportation.
7. The applicant shall avoid removing trees, bushes and shrubs along the water main corridor. Trees, bushes, and shrubs damaged during construction that are not designated on the site plan to be removed will be replaced with a tree, bush, or shrub of equal type as approved by the planning director.
8. Construction vehicles and/or equipment shall be parked or stored on Greensprings Plantation Road or Monticello Extended/ Alternate Route 5 between the hours of 5p.m. and 7a.m.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

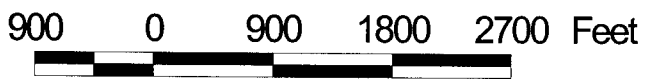
Benjamin A. Thompson

Attachment:

1. Location Map
2. Letter of Agreement from Private Property Owner



Case No. SUP-14-01
JCSA- Greensprings Plantation Drive Force Main





JAMES CITY SERVICE AUTHORITY

101-E MOUNTS BAY ROAD, P.O. BOX 8784, WILLIAMSBURG, VIRGINIA 23187-8784
(757) 253-6805

E-MAIL: jcsa@james-city.va.us
FAX: (757) 253-6850

May 18, 2001

Mr. Matthew Broderick
VP Eastern Region
Sunterra Resorts
6000 Easter Circle
Williamsburg, VA 23188

Re: JCSA Lift Station 1-2 Force Main Alignment

Dear Mr. Broderick,

Thank you for taking time from your busy schedule to meet with us to discuss a potential alignment for the proposed twenty (20) inch force main associated with the referenced project. As we discussed, the JCSA agrees to establish an alignment across the Sunterra property (with your input) to minimize impact on the sales operation. We will also strive to complete construction of the portion of the force main in the immediate vicinity of the sales office in January or February of 2002.

As we mentioned, the JCSA must apply for a Special Use Permit (SUP) to progress with design of the force main. The County Planning Department requires the SUP application to be signed by impacted property owners. In lieu of signing the application, you may indicate your willingness to work with the JCSA to develop a force main alignment across the Sunterra property that is mutually agreeable, by signing in the space provided below. I am attaching a copy of the SUP application for your review and files.

Should you have any questions or require additional information please contact me at (757)253-6806.

Sincerely,

Larry M. Foster
General Manager - JCSA

Property Owner Parcels 3730100005 and 4610100001, Greensprings Associates, C/O Sunterra Resorts

Signature

Mailing Address 6000 Easter Circle, Williamsburg, VA 23188

Telephone No. 757 220 2999

PLANNING DIRECTOR'S REPORT

JULY, 2001

This report summarizes the status of selected Planning Division activities during the last 30 days.

1. Master Greenways Plan. The Greenways Advisory Committee (including Planning Commissioner Peggy Wildman) held its third meeting on June 5, 2001. The committee is currently engaged in an overall education process and learning more about potential greenways opportunities. The next meeting will be held on July 3, 2001.
2. Purchase of Development Rights. The Board of Supervisors approved staff's seeking broader public input on the proposed program and returning to the Board with recommendations on a final program. A PDR community interest meeting was held on June 11, 2001, in the library on Croaker Road.
3. RPOD Ordinance. A meeting was held on May 29th with Newport News Waterworks to discuss the proposed James City County RPOD. Staff is researching information for a second meeting.
4. Architectural Survey. The consultant has completed the field work for this project and is in the process of preparing the final report and drafting recommendations for staff review. A public meeting will be scheduled for the end of July to present the survey findings.
5. Norge Depot Grant. The Commonwealth Transportation Board awarded a \$75,000 enhancement grant to the Historical Commission to assist with the relocation and restoration of the Norge Depot.
6. Casey New Town. At the June DRB meeting, the group reviewed revised conceptual schematics and design guidelines for development of Sections 2 & 4 across from the Courthouse. The area includes non-residential and residential.
7. Comprehensive Plan Update/Chesapeake Bay Requirements. Staff sent amendments to the Comprehensive Plan that are required by the Chesapeake Bay program to the Chesapeake Bay Local Assistance Department for review. The Planning Commission will be afforded an opportunity to review these in the future.
8. Citizens Survey. Staff received several responses to the Request for Proposals. Staff is evaluating the proposals, interviewing consultants, and will select a consultant in early July. In addition, staff is developing a preliminary communications plan to be finalized after the consultant is chosen.
9. U.S. Census. The Census Bureau continues to release data. An intern has been hired for the summer to incorporate 2000 Census Data into the Comprehensive Plan Technical Manual.
10. Jamestown/Greensprings Projects. Staff continues to be involved in general projects involving the Jamestown and Greensprings historic areas. The National Park Service has released draft General Management Plans for both Jamestown Island and the Greensprings property on Rt. 5, both of which staff is reviewing. One of the Greensprings Plan recommendations is to close Centerville Road between Rt. 5 and Monticello Avenue. The Jamestown Settlement is also working with staff and others on the relocation of Rt. 359

and parking expansion.

11. Other Board Action. On June 12th the Board of Supervisors approved Case No. SUP-7-01. Jolin Kennels and Case No. AFD-8-86. Casey Agricultural and Forestal District, Casey Withdrawal. On June 26th the Board approved SUP-11-01. Carrot Tree Bakery @ Jamestown Island, Case No. SUP-9-01. Mt. Gilead Baptist Church, Case No. ZO-3-01. Planned Unit Development - PUD Zoning Ordinance Amendment and deferred Case No. SUP-12-01. Annette Haden Manufactured Home.
12. Upcoming Cases. There are currently no new cases scheduled for the August 6, 2001, Planning Commission meeting.

O. Marvin Sowers, Jr.