

Planning Commission Agenda

August 6, 2001 - 7:00 p.m.

1. Roll Call

2. Minutes: Meeting of July 2, 2001

3. DEVELOPMENT REVIEW COMMITTEE REPORT (Separate Attachment)

4. Public Hearings

A. Case No. SUP-16-01. JCSEA: New Town Water Storage Facility

Mr. Gil Granger have applied to construct a 1.0 million-gallon water storage facility at 4007 Ironbound Road. The property is zoned R-8, Rural Residential, and M-1, Limited Business/Industrial, and is located on a portion of property more specifically identified as Parcel Nos. (1-3E), (1-50), (1-2A), and (1-53) on the James City County Real Estate Tax Map No. (38-4).

B. Case No. Z-2-01/MP-2-01. VA United Methodist Homes - Windsormeade

Mr. Alvin P. Anderson, on behalf of Kaufman and Canoles, has applied to rezone approximately nine 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 Real Estate Tax Map No. (38-3) and Parcel No. (1-8) on James City County Real Estate Tax Map No. (38-1).

5. Planning Director's Report

6. Adjournment

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SECOND DAY OF JULY, TWO-THOUSAND AND ONE, AT 6:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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| 1. <u>ROLL CALL</u>
Martin Garrett
John Hagee
Don Hunt
Wilford Kale
Joe McCleary
Joe Poole
Peggy Wildman | <u>ALSO PRESENT</u>
John Horne, Development Manager
Marvin Sowers, Director of Planning
Leo Rogers, Deputy County Attorney
Greg Dohrman, Assistant County Attorney
Paul Holt, Senior Planner
Jill Schmidle, Senior Planner
Benjamin Thompson, Planner |
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At Martin Garrett's request, Joe Poole agreed to serve as Chairman for the meeting.

2. MINUTES

Upon a motion by Joe McCleary, seconded by John Hagee, the minutes of the June 4, 2001, meeting were approved by unanimous voice vote, as corrected.

3. DEVELOPMENT REVIEW COMMITTEE

John Hagee gave the DRC report stating they had three cases noting that two cases were withdrawn. They reviewed the Old Colony Professional Building stating it was the last parcel in the complex and the developer requested a modification to the frontage sidewalk requirement. He said since there were no sidewalks in the existing complex, the developer offered a cash proffer to be used in the general sidewalk fund. He said the DRC recommended approval.

There being no questions, motion for approval was made by Martin Garrett and seconded by Peggy Wildman. In a unanimous voice vote, motion passed.

4. POLICY COMMITTEE REPORT

Wilford Kale stated the Policy Committee met on June 22, 2001, to examine the situation of home day cares and stated a copy of the policy was included in the Planning Commissioners packets. He stated it was the understanding of the Policy Committee that County staff would continue to recommend denial of home day cares that were located within residential communities on interior lots. He stated the Policy Committee understood and recommends that the current threshold of 5 children as the cut-off for the County in determining the need for a special use permit would stand as is and that all cases would be handled on a case-by-case basis and if recommended for approval by the Planning Commission, they should contain a three-year time limit on the special use permit, with no signage, and no additional external lighting on the property. He concluded by saying those were the three items that the Policy Committee recommend that the Planning Commission consider when making a decision on future home day care facilities on interior lots of a residential community. He made a motion to accept the Policy Committee's report as the standing policy for the Commission.

Joe McCleary seconded the motion.

Joe Poole asked if there were any questions for Wilford Kale or members of the Policy

Committee.

John Hagee stated the concern was not the time limit on the special use permit but how they determined the number of children allowed when the day care was on an interior lot within a subdivision. He said if it was done on a case-by-case basis, and there was not a definite number, what criteria would the Commission use in order to decide whether a home day care would or would not be allowed. He added that the current requirement for the number of children was for arterial roadways and not an interior roadways. He stated that what he was looking for was to work with the numbers that were given from the State and develop a criteria based on those numbers.

Wilford Kale stated the numbers were already deemed by the State and the County could not be more restrictive than the State. He said the State had determined that after eight children, there needed to be a second full-time employee and that the maximum limit of children was twelve for a home day care.

John Hagee said he was looking for a number that would create a sense of reasonableness for an interior lot within a residential community and felt that number should be anchored and not done on a case-by-case basis. He said he would be in favor of amending the policy to read no more than eight children in terms of what the County was looking for. He asked if they wanted to leave it as tight as five or advance it to eight before a special use permit would be needed. He made a motion to change the County's requirement to eight children.

Don Hunt seconded the motion.

Wilford Kale asked if the County could be more restrictive than the State as far as the number of children.

Leo Rogers said if the State had a specific number of children that would be needed for licensing requirements, the County could not regulate over what the State required. He felt what John Hagee was suggesting was to raise the number of children to eight as a policy.

Wilford Kale could not accept the number being changed to eight and believed that the County should conform with the State requirements.

Leo Rogers commented that the number of five was currently in the Zoning Ordinance and raising the number to eight would require an ordinance amendment.

John Hagee withdrew his motion but said he still had a problem in determining whether a home day care was doable or not within an interior lot and believed a designated number was necessary.

Joe McCleary suggested that another solution would be for the homeowner applying for a special use permit to possibly proffer the number of children or a number of other things in order for the Commission to look at it more favorably.

Joe Poole concurred with the suggestion of Joe McCleary and was comfortable with the policy provided by the Policy Committee.

Joe Poole stated there was a motion and a second to accept the policy as stated. In a roll call vote, motion passed 7-0. AYE: Hagee, Wildman, Hunt, McCleary, Kale, Garrett, Poole (7);

NAY: (0).

5. CASE NO. SUP-3-01. COLONIAL VIRGINIA COUNCIL (BOY SCOUTS IF AMERICA)

Paul Holt presented the staff report stating that staff had been working with the applicant and the applicant had requested an indefinite deferral. Staff concurred with this request and noted that when the case is brought back to the Commission, it would again be advertised and adjacent property owners would be notified.

There being no questions from the Commission or speakers from the audience, Joe Poole closed the public hearing.

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

Paul Holt stated this case was linked to the previous SUP case (Colonial Virginia Council) and, therefore, staff requested that this case also be indefinitely deferred so the two cases could move forward in public hearings.

There being no questions from the Commission or speakers from the audience, Joe Poole closed the public hearing.

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

Ben Thompson presented the staff report stating this application had been deferred from the June 4, 2001 Planning Commission meeting to allow the Policy Committee to study the issue of home day care facilities located in the interior of residential areas. The applicant was requesting the expansion of her day care to eight children located within an interior lot of the Kristiansand Subdivision. Staff found the proposal inconsistent with the surrounding zoning and development and the Comprehensive Plan. Staff stated that this application exceeded the scope of home occupations that were generally permitted in residential districts and would set a precedent for similar requests. Staff continued to recommend denial of this proposal. Staff had provided a list of conditions for this special use permit if the Commission chose to recommend approval.

Joe Poole opened the public hearing.

John Hogan, representing the applicant, stated that this application was part of the reason that the Commission adopted a policy on home day care. He handed out a letter of support from the Kristiansand Homeowners Association and an amended petition which now listed the addresses of the residents in the neighborhood that signed it. He gave brief review of the goals of the Hogan Homestead and how they eventually wanted to expand the day care to a facility outside of the home. He stated that at this time, it was not financially feasible to move the day care to a larger facility. He addressed several concerns that were brought up at the last meeting such as the fact that the special use permit went with the property and said they would have no problem with setting a time limit on the SUP and they also reduced the number of children from ten to eight, which was consistent with the State recommendation. He said they were very agreeable to the conditions that staff had recommended. He stated the hours of operation were 8:30 a.m. to 1:30 p.m. and the drop off time was usually 8:30 a.m. to 9:30 a.m., noting that school buses were gone by 7:30 a.m. and the majority of people who worked left by 8:00 a.m. He commented on public opinion and the Comprehensive Plan stating they went hand in hand and

that the Comprehensive Plan is there to have a good community and he believed that their service was complimentary to the community. He concluded by stating the State established a system with strict guidelines and felt that a simple requirement that would met the needs, regarding the number of children, the adequacy of the facility, etc., would be for the County to make sure the applicant obtained a State license.

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

Martin Garrett said his concern was that this was a business within a residential area and could not support an application of more than five children.

Don Hunt suggested changing the time limit of the SUP to 24 months instead of 36 months. He said it was apparent to him that this was a case in which the applicant would be using the home as a temporary location and since there was no opposition from the neighborhood, he fully supported the application.

Joe McCleary agreed with Martin Garrett and was concerned because of the small size of the lot and the fact that it was a full mile from the main road. He said he had to separate between the requirements of the State regarding the health and safety within a home for children being cared for and what the infringement on the neighborhood would be even for neighbors outside the immediate vicinity of the home. He also felt that the Commission could differentiate on a case-by-case basis and, in this instance, he could not support this application.

Peggy Wildman echoed Martin Garrett's statement in that she did not believe the issue was whether the Hogans could establish a good and workable day care but whether this was a good land use. She did not think that a residential area was a place to have a day care center and could not support this application. She commented that she would like to see the local churches partner with people who want to give this loving atmosphere.

John Hagee said he could not find a solution to his particular issue of setting a criteria for a certain number of children in order to allow people to do what they want to do as long it did not violate the health, safety, and general welfare of the community. He said as long as the number of children was five, he could not support this application.

Joe Poole commented that he fully supported the intended use and the applicant's remarkable abilities and flexibility with guidelines but he believed that the location in the R-2 zoned neighborhood was the issue. He stated that if they allowed this use, someone may come along and ask to do something else and before they know it, they would have allowed more aggressive commercial uses in residential areas.

Wilford Kale stated that if this was the first situation in the County, he could understand and appreciate the comments from the Commission members. He felt what the Commission would be doing was to tell homeowners not to come before the Commission but to just stay at home, be quiet and run their business. He stated there were possibly 12 to 16 facilities existing in the County at this time without a SUP. He said the Hogans had done everything they could do and felt that the half days made a complete difference between heavy traffic and non-traffic. He said he did not agree with the other Commission members and fully supported this application.

Martin Garrett made a motion to support staff's recommendation of denial, seconded by

Peggy Wildman. In a roll call vote, motion for denial passed (5-2). AYE: Hagee, Wildman, McCleary, Garrett, Poole (5); NAY: Hunt, Kale (2).

8. CASE NO. SUP-10-01. MISS VICKIE'S CLUBHOUSE DAY CARE

Jill Schmidle presented the staff report stating this application had been deferred from the June 4, 2001, meeting to allow the Policy Committee the opportunity to study the issue of child day care facilities located in the interior of residential subdivisions. She stated the applicant proposed to renovate her existing two-car garage into space for the day care center for eight to ten children. Staff found the proposal to be inconsistent with the surrounding zoning and development and the Comprehensive Plan. Staff believed that this application exceeded the scope of home occupations that were generally permitted in residential districts and would set a precedent for similar requests. Staff continued to recommend denial of this proposal and recommended the Planning Commission recommend denial of this application but if they 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 she read the staff report and reviewed it with the applicant and had a few comments to make. She stated it was the intention the applicant to start with eight children and go up to ten children. She said that when dealing with a special use permit, what may be reasonable in one neighborhood may not be reasonable in another. She felt these were very special circumstances that County allows for in the zoning ordinance as it states, child day care is one thing that may happen in residential districts if you have a special use permit. She said this was not a business that would attract clients that would be coming in and out of the subdivision at all hours of the day or night. She asked that the Commission consider that the noise of playing children was not an offensive noise, such as grinding machines or kennels. She commented that when neighbors are in opposition of a special use permit they usually come out in droves and in this application they are in full support. She felt that should be a good guideline for a special use permit since the Commission was trying to fashion a permission to do something in a neighborhood that would be satisfactory to the occupants. She commented on the concern of setting a precedent and pointed out that the special use permit for day cares, as it appears in the zoning ordinance, has a name of its own and is a very specific thing and felt the Commission did have control over special use permits. She stated there would be no change in the appearance of the neighborhood or in the facility, which already had two play areas in a fenced in yard on a three-quarter-acre lot. She concluded by stating that the only environmental impact would be the voices of young children for one-hour a day and requested that the Commission support this application.

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

Joe McCleary stated that in this particular case he would reverse his vote. He said he visited this site and viewed this as a different site from the previous case. He understood the concerns of the Commission about commercial activities within a neighborhood. He said the home was very close to Route 5 with easy-in and easy-out access and due to the size of the yard could easily handle eight children. He stated that both families seemed ideal for this type of facility but between the two places this was more suited in making a land use decision and supported this application.

Don Hunt realized that there were differences between the two applications but since there

was no opposition in the neighborhood, he supported this one as well.

Martin Garrett agreed with Joe McCleary stating this decision was based on a case-by-case basis and there were at least three or four egresses/ingress into Indigo Park and the lot size was much greater and said he would support this application.

John Hagee asked if two neighbors had a problem with this type of facility, was the Commission going to solely base their land use decisions on what neighbors thought. He said he did not see much difference between this application and the one previously and could not support it.

Joe Poole agreed and said he was not ready to support this application due to the fact that the facility was on an interior road of a neighborhood.

Peggy Wildman also agreed with John Hagee and Joe Poole and felt it was the wrong land use in a residential neighborhood.

Martin Garrett felt the Commission should not get involved politically and that this was a matter of a land use decision and agreed with the other Commission members and changed his original decision and now would not support this application.

Martin Garrett made a motion, seconded by Peggy Wildman, to accept staff's recommendation and deny this application. In a roll call vote, motion passed (4-3). AYE: Hagee, Wildman, Garrett, Poole (4); NAY: Hunt, McCleary, Kale (3).

9. CASE NO. SUP-14-01. JCSA GREENSPRINGS PLANTATION DRIVE FORCE MAIN.

Ben Thompson presented the staff report stating the applicant applied for a special use permit in order to realign the layout for the future force main which was approved with a former special use permit. The reason for the alignment and amendment was to decrease potential environmental impacts when crossing Powhatan Creek and to increase accessibility to the force main for installation and maintenance. He noted that condition #8 should read: "Construction vehicles and/or equipment shall *not* be parked or stored . . . " Staff found the proposal to be consistent with the Comprehensive Plan and previous actions taken by the Board. Staff recommended that the Commission recommend approval with the conditions as outlined in the staff report.

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

Wilford Kale made a motion, seconded by Joe McCleary, to recommend approval as corrected. In a roll call vote, motion passed (7-0). AYE: Hagee, Wildman, Hunt, McCleary, Kale, Garrett, Poole, (7); NAY: (0).

10. CASE NO. Z-4-00/MP-1-01. COLONIAL HERITAGE AT WILLIAMSBURG
CASE NO. AFD-6-86. CRANSTON'S POND AGRICULTURAL AND FORESTAL DISTRICT
- WARE WITHDRAWAL

Ben Thompson stated that staff recommended that the Planning Commission consider these two cases, Z-4-00/MP-1-01 and AFD-6-86, together since they were related, and then presented the staff report for the rezoning and master plan stating this case had been deferred from the June 4, 2001, meeting to allow the applicant and staff to resolve several issues. He

outlined the issues that were previously undecided or were still under review by staff and stated staff was ready to formulate a recommendation. Staff found that the master plan and rezoning application were consistent with the Comprehensive Plan and compatible with the surrounding uses and zoning. Staff recommended that the Commission recommend approval of this application.

Ben Thompson then presented the staff report for the withdrawal of approximately 90.79 acres from the Agricultural and Forestal District. He stated the application met all three criteria of the adopted Board policy regarding withdrawal of lands within the PSA. He stated at its April 20, 2001, meeting the Agricultural and Forestal District Committee voted unanimously to recommend approval. Staff found the proposed withdrawal consistent with the surrounding zoning and development and Comprehensive Plan and recommended that the Planning Commission recommend approval of this application.

Alvin Anderson, representing U.S. Home Corporation, the Massie family, and the Ware family, thanked staff for the 7-1/2 months of review of this application that has finally come to this stage for the Commission's consideration. He gave a brief history of the property and commented that the Comprehensive Plan was an expectation on the part of government and suggested that the Plan was also an expectation on the part of families who own farms such as those before the Commission tonight. He stated that these property owners expect that if their property was proposed for development and if the proposal met the requirements of the Comprehensive Plan, that they should reasonably be able to expect that their property would be favorably considered for a rezoning. He stated that the property owners whole heartedly endorsed the staff's recommendation on this proposal and based on the public proceedings and the volumes of information provided to the Commission, he asked that they favorably consider this proposal and forward it to the Board of Supervisors. He said that all of the consultants were present and if any one had any remaining questions or concerns, they would be happy to answer them. He thanked the Commission for their consideration during the last few months.

Martin Garrett asked Alvin Anderson what the difficulty was with the proffer on the greenway.

Alvin Anderson stated the greenway was initially suggested to go down the VEPCO right-of-way which goes through the middle of the property. He stated that the single most important element to U.S. Home was the idea of security within the community and with the potential of a public path through the middle of the property, that would be a conflict of the goal of the development to have a secured type of community.

Jim Tucker of 106 Blackheath Road and a member of the James City County Greenway Steering Committee and Regional Issues Committee spoke in support of this application and urged the Commission to recommend approval.

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

Martin Garrett commented that he knew for some time this property would be developed and noted that several years ago a large shopping center almost became a reality. He felt the County had the infrastructure for this facility but not a large shopping center and supported this application.

Wilford Kale stated he did not have the opportunity to visit the facility at Heritage Hunt in northern Virginia but felt he had reviewed enough information in order to come to the conclusion that he had no problems with this project. He believed the proposal before them tonight was a much better application than what was first proposed and he felt that the work of the staff and the

due diligence done on this project had developed a much better, stronger application and one he could support.

Peggy Wildman concurred with the comments made by the previous speakers. She stated that she had read every word in both notebooks supplied by the applicant and at the end asked herself if this was the best use for the land and for the community. She said her answer was overwhelmingly yes and fully supported this application.

Joe McCleary congratulated all parties on the review and planning on this project over a significant period of time. He congratulated staff for their professional skill and patient tenacity to secure the best possible product for the community. He commented that the applicant and their representatives had been sensitive to the unique local conditions and concerns of the community and felt this was a situation in which the citizens, owners, future residents, and developer all come out as winners. He stated that his two main issues were water and the size of the project. He said that due to the proffers of the required age-restricted development and collection of rain water run-off to irrigate the golf course, he could support this project.

John Hagee concurred with comments made by Joe McCleary and other members of the Commission.

Don Hunt commented that these will be his neighbors and he welcomed the project and felt it would be a positive addition to the community.

Joe Poole commented that this was a most difficult case for him and stated that since there were so many well respected opinions on this issue, it made it harder for him. He stated that there was clearly a significant financial gain to the County, the development was very impressive, and he saw a lot of merit in this application, but his caution was timing. He said he would prefer not to proceed with an application of this magnitude until the desalination plant was in place and operating so the Commission would not be burdening tomorrow's resources and infrastructures with today's applications. He did not feel that there was sufficient water and there were other items of concern and he could not support this application.

Martin Garrett made a motion, seconded by Peggy Wildman, to recommend approval of Case No. AFD-6-86. In a roll call vote, motion passed (6-1). AYE: Hagee; Wildman; Hunt; McCleary, Kale, Garrett, (6); NAY: Poole, (1).

Martin Garrett made a motion, seconded by Don Hunt, to recommend approval of Case No. Z-4-00/MP-1-01. In a roll call vote, motion passed (6-1). AYE: Hagee; Wildman; Hunt, McCleary, Kale, Garrett, (6); NAY: Poole, (1).

11. CASE NO. Z-2-01/MP-2-01. VIRGINIA UNITED METHODIST HOMES.

Jill Schmidle presented the staff report stating the applicant had applied 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, gated-retirement community consisting of 300 dwelling units and 119 continuing care beds. She stated that under both the zoning ordinance and adopted proffers the Planning Commission must review a Mater Plan and the Design Guidelines for the property. She stated staff had concerns that the project contained numerous outstanding issues, such as water supply, entrance road location, pedestrian connections, proffer language, the guarantee of a public town square, storm water management, wetlands, and archaeology. Staff also had not received comments from VDOT regarding the traffic study or from FMS regarding the Fiscal Impact Study. Staff recommended that the Commission defer this case

until these issues were resolved. She stated staff intended to have a recommendation of approval or denial at the August Planning Commission meeting based on the most current signed proffers and master plan.

John Hagee asked about the RPA buffer area and the protection of the existing wetlands on the site commenting that the County was governed by the Chesapeake Bay Act and the RPA was designated in the ordinance as to how deep the buffer needed to be. He asked if there was an expansion of the RPA in the area, did the Commission have justification to accept it and would they have to go through some type of ordinance change.

John Horne said it was not the intent of the County to apply any expansion of the RPA to the property as proposed at this time. If there was a subsequent decision to accept that recommendation in the draft study being reviewed, then it might affect future expansions on the site but that was yet to be debated at the County level as to which RPA areas may or may not be expanded. He stated if there was an expansion of the RPA, it would not be applied to the design that was presented tonight to the Commission.

Wilford Kale stated that VDOT changed the location of Route 199 due to the location of the small world begonia and if VDOT would not disturb the area, he questioned whether staff and Planning Commission should not be strongly concerned about the area and not disturb it.

Don Hunt asked if anyone had tried to propagate the small world begonia saying that in order to mitigate an impact, relocating these plants might be necessary.

Marvin Sowers said that if a treatment plant is done in line with the County Natural Resources Policy, it would contain recommendations whether one can, if fact, relocate plants.

Joe Poole asked if staff knew the depth of the buffers along Route 199 and adjacent to residential areas.

Jill Schmidle stated the buffer along Route 199 would be 150 feet and said she would have to check the master plan to see what was indicated for adjacent residential areas.

John Hagee asked if staff was concerned about not having a mixed use in this area since it had been designated as mixed use on the New Town Master Plan.

Jill Schmidle stated staff had no problem with the type of use being proposed for this development but had other concerns about the project.

John Horne stated that the site plan map in the Planning Commission packet showed the entire west sector and that the development proposed tonight was on only a portion of that section.

Joe Poole opened the public hearing.

Alvin Anderson of Kaufman and Canoles and representing Virginia United Methodist Homes, Inc. requested that Jerry Fink, President of Virginia United Methodist Homes, and Jay Stewart of Freeman, White Architects, join him at the podium and have them participate briefly in an information presentation. He stated that the comments raised by staff as a result of this filing of this application in late May were things that they were ready, willing, able, and anxious to sit down and address, but felt that given the nature, size, and scope of the project, a brief

presentation should be made to the Commission.

Jerry Fink gave a brief presentation on Virginia United Methodist Homes, Inc. and their purpose in providing quality care to senior citizens and enable them to live at the highest level of independence as possible. He spoke of their Statement of Values and said there were things that were key to them and one was a caring atmosphere through a sense of community. He felt that what was proposed here in Casey New Town was a community in which they wanted to take a segment and build walls around it that people could call home.

Alvin Anderson asked the Commission to note how dedicated this project was to Williamsburg and Williamsburg architecture, pointing out the many pictures of the development that were influenced by local architecture. He gave a brief history of the New Town property speaking of the Comprehensive Plan of 1997, the Crossroads Steering Committee, and the design competition for the Courthouse and the surrounding area including the master plan for the Virginia United Methodist Homes, Inc. development. Concluding his presentation, Alvin Anderson introduced Jay Stewart.

Jay Stewart spoke on the project and how it was going to be consistent with the DRB design review guidelines and the original master plan for New Town. He discussed the plan for the development with a consistency of village greens and squares with an overall village concept which was part of the development of the whole New Town area. He commented on the concern of the small world begonia noting that the plans originally had the buildings spread out a little more but were later brought in and a courtyard affect was created for residents to view. He stated that this development, by adhering to the guidelines of New Town, would strengthen the sense of place and community.

Joe McCleary stated he drove around the area and noted that it was heavily wooded with many old trees and asked if there was a plan to preserve as many of those trees as practical.

Jay Stewart stated that this was a large project and would require removing a good bit of dirt. He said they were going to try to save everything they could during the development of the project.

James Etchberger of 101 Jesters Lane spoke of his concern that with a 50 foot buffer, the development would encroach on the neighborhood and had a major concern that Jesters Lane would be used as a construction entrance for the development. He said when he reviewed the plans he was told that the entrance off of Jesters Lane was to be used strictly as an emergency access gate. He said he would rather not see any access but if there was going to be one he hoped it would be a locked entrance. Another concern he had was how the development would maintain its green space. He noted that the Powhatan Apartment Complex, which was directly behind him, was preparing to put in a large irrigation well to feed the sediment pond for irrigation and said if this new development produced another irrigation well to handle their maintenance at some point, that would affect the wells of the homeowners on Jesters Lane. He also noted that JCSA had no plans to run a water line or sewer line down Jesters Lane. He said that Colonial Heritage was going to use rain water and no ground water to irrigate their subdivision and felt that might be a consideration for this development. His final concern was lighting stating that only the parking lot lighting was addressed and there was nothing about building mounted lights. He said since these commercial developments were being blended with residential areas he felt that the quality of life for those residential neighborhoods needed to be taken into consideration.

There being no further speakers, the public hearing continued to the August 6, 2001, meeting. Joe Poole requested that the Commission forward all comments or thoughts to staff on

this application.

12. PLANNING DIRECTOR'S REPORT

Marvin Sowers said he would answer any questions of the Commission about the report.

13. ADJOURNMENT

There being no further business, the July 2, 2001, meeting adjourned at approximately 8:55 p.m.

Joe Poole, Acting Chair

Marvin Sowers, Secretary

Special Use Permit 16-01**JCSA: New Town Water Storage Facility**

Staff Report for the August 6, 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:

August 6, 2001 7:00 p.m.

Board of Supervisors:

This case has been pre-advertised for the August 14 BOS meeting

SUMMARY FACTS**Applicant:**

Mr. Larry Foster of the James City Service Authority
Mr. Gil Granger of G-Square Inc.

Proposal:

Construct a 1.0 million gallon water storage facility

Land Owner:

JCSA and G-Square Inc.

Location:

At the intersection of Monticello Ave and Ironbound Road

Tax Map ID:

A portion of parcel (1-3E), (1-50), (1-2A) and (1-53) on the James City County Real Estate Tax Map No. (38-4)

Primary Service Area:

Inside

Existing Zoning:

R-8, Rural Residential and M-1, Limited Business/Industrial

Comprehensive Plan:

Mixed Use

Surrounding Zoning:

North: across Monticello, are undeveloped parcels zoned R-8.
West: the Route 199/Monticello interchange.
East: the New Quarter Industrial/Office Park and other mostly vacant parcels zoned M-1.
South: the Mount Pleasant Church (zoned R8), a vacant parcel, and the Ironbound Road mini-storage, which are on property zoned B-1, General Business.

Staff Contact:

Paul D. Holt, III

Phone: 253-6685

STAFF RECOMMENDATION

With the attached conditions, staff finds the proposal compatible with surrounding zoning and uses. Staff also finds the building architecture and site layout consistent with the Comprehensive Plan recommendations. Therefore, staff recommends approval of the application with the attached conditions.

Description of the Project

The James City Service Authority's Master Infrastructure Plan recommends a 1.0 million gallon water storage facility by 2005 to serve the long range water storage needs of the entire JCSA water system.

The location of a water storage facility is determined both by site elevation and proximity to other storage facilities and water distribution lines. The proposed site is ideally located to serve the entire JCSA water system. The site is located at a high point topographically, reasonably removed from other storage facilities, and is adjacent to major water transmission lines located in Rt. 199 and Monticello Ave.

The proposed facility includes two storage tanks connected by a pumping facility and control building. A two tank configuration is used to keep the facility in operation during maintenance of the second tank. It also allows more flexibility in the architectural treatment of the facility. The tanks are approximately 35 feet high and 50 feet in diameter. The overall length of the facility is 140-150 feet. Significant effort is being made to architecturally blend the facility into the surrounding area.

Water facilities (public or private), including storage facilities, are specially permitted uses in both the R-8 and M-1 Zoning Districts.

As can be seen in the attached drawings, the visual impacts of this facility are being mitigated in more of an architectural form, rather than by substantial wooded buffers. As noted below in the discussion on the Comprehensive Plan, this corridor is the entry way to New Town, a neo-traditional development that does not include any suburban or rural elements. Although this property is not formally part of New Town, also discussed below, the site layout and architecture of this facility attempts to reflect New Town design principles, as adopted by the BOS.

As mentioned, the tanks are designed to serve the long range water storage needs of the entire JCSA system. However, the tanks will serve an important role in the short range as well. More specifically, the JCSA intends to purchase water from the Newport News Waterworks until the planned Groundwater Treatment Facility is completed in 2005/2006. The water purchase requires the temporary isolation of approximately 1/3 of the JCSA water system into a separate system that will be served by Newport News water. This area generally consists of the Rt 199 corridor from Kingsmill to Rt. 5 and west along the Rt. 5/Jamestown Road corridor to Governors Land. The division of the water system reduces the water storage capacity in the remaining 2/3 of the water system. Before the supplemental water from Newport News can be used, the additional capacity from the proposed storage facility is necessary for the JCSA system.

Traffic Generation

Proposed access is from a service drive which connects to Ironbound Road. The JCSA expects 1-2 vehicles a day will visit the site. Other than during initial construction, very seldom, if ever, would there be more than 3 vehicles at one time at the site. Staff does not find that any negative traffic impacts would be generated from the development.

Surrounding Zoning and Development

To the north of the site, across Monticello, are undeveloped parcels zoned R-8. West of the site is the Route 199/Monticello interchange. East of the site is the New Quarter Industrial/Office Park and other mostly vacant parcels zoned M-1. To the south of the site is the Mount Pleasant Church (zoned R-8) and a vacant parcel and the Ironbound Road mini-storage, which are on property zoned B-1, General Business. The facility is self contained and internally operating. Staff believes the facility will not generate any negative impacts to adjacent property owners and, with the proposed conditions, believes the proposal is compatible with surrounding zoning and uses.

As mentioned above, the visual impacts of this facility are being mitigated in more of an architectural form, rather than by substantial wooded buffers. As is represented on the attached schematic, basic landscaping would be added in accordance with requirements of the Zoning Ordinance. However, to be more consistent with New Town Design Guidelines, trees provided may take the form of street trees, some deciduous in variety. In addition, the County will be seeking permission from the Virginia Department of Transportation to locate some of the vegetation in the right of way, as site size and tank access constraints prohibit placing all needed landscaping on site.

Some landscaping is already located within the right of way. As part of the Route 199 construction and Monticello Avenue construction, VDOT placed a 6 foot high chain link fence along Monticello Avenue across the frontage of this property. For roadway aesthetic purposes, the County recently planted evergreen vines along the entire length of the fence. Once mature, this vine will create an effective screen for some of the development on this parcel.

Comprehensive Plan

This area is designated Mixed Use on the Comprehensive Plan Land Use Map. For this particular Mixed Use Designation (i.e., the "Casey" Mixed Use Area), the Plan states that for undeveloped land in the vicinity of and including the Route 199/Monticello Avenue corridor, the principal suggested uses are a mixture of commercial, office, and limited industrial with some residential uses as secondary uses. Future development in this area

will be primarily conditioned on the construction of Route 199 and the extension of Monticello Avenue. 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.

Also designated by the Plan are Monticello Avenue and Ironbound Road as Community Character Corridors (CCC's). These constantly traveled areas give visual clues about the values and experiences of the community - its commitment to aesthetics and overall good design, its attitude toward development, and its reaction to changing times. CCC roads include not only "greenbelts," those roads with adjacent natural or vegetated areas, but also entrance corridors, historic roads, and roads which have traditional or unique features of the County. Both Monticello Ave. and Ironbound Road would be characterized as "urban" CCC's.

Urban CCC's have moderate to high traffic volumes near major street intersections, moderate to high levels of existing or planned commercial or moderate density residential uses, and may contain some wooded buffers. The objective of these CCC's is to ensure that JCC retains a unique character and does not become simply another example of standard development. In urban CCC's, landscaping should be more formal and the built environment and pedestrian amenities more dominant. Off-street parking should be a minor part of the street scape. Development along these CCC's should not replicate standardized designs commonly found in other communities, but rather reflect nearby historic structures, a sensitivity to the history of the County in general, and an emphasis on innovative design solutions.

Finally, this mixed use area is also designated a Community Character Area (CCA). As part of the Casey/New Town CCA, the Plan recommends:

- development that is carefully planned;
- the use of complimentary architecture, scale, materials and colors;
- the use of new landscaping which compliments and enhances the building and site design; and
- the planting of large, deciduous street trees along roads to help shade and enclose the street.

As a utility, staff finds the proposed facility a vital component necessary to support the recommended uses and development contained in the Comprehensive Plan. Staff believes the architectural treatment of the facility is compatible with the CCA recommendations as well. More specifically, the visual impacts of the facility have been reduced and greatly mitigated by the fact that these are ground mounted tanks (rather than elevated), masonry has been used as a primary building material (instead of steel), large deciduous trees will be used along the roadway and finally, for added screening purposes, evergreen vines

have been planted on the existing VDOT fence along Monticello Avenue. With the attached conditions, staff finds the building architecture and site layout consistent with the Comprehensive Plan recommendations.

The Commission should note that this property lies within the area encompassed by the BOS approved New Town Master Plan and the adopted Design Guidelines.

The attached schematics have been approved by the New Town Design Review Board (DRB) as being complimentary and compatible with the New Town Design Guidelines.

Finding of Consistency

Section 15.2-2232 of the Virginia State Code states, in part, that no public facility/utility shall be allowed to be constructed unless the Planning Commission first finds the location of the facility “substantially” consistent with the adopted Comprehensive Plan.

Staff finds this proposal substantially consistent with the Comprehensive Plan, for the reasons listed above.

Recommendation

With the attached conditions, staff finds the proposal compatible with surrounding zoning and uses. Staff also finds the building architecture and site layout consistent with the Comprehensive Plan recommendations. Therefore, staff recommends approval of the application with the attached conditions. Staff also recommends the Planning Commission find this proposal in substantial accord with the 1997 Comprehensive Plan.

Also enclosed with the packets is a plan entitled “Conceptual Layout Plan Showing Possible Future Development.” The improvements shown on this plan are not part of this SUP. However, for the Commissions information, there is another applicant interested in developing the remainder of the site. Therefore, a separate application will be brought forward to public hearing in the next month or two to rezone the property from R-8 and M-1 to another zoning district to allow for this future office development. As such, a separate public hearing will take place.

Paul D. Holt, III

Attachments:

1. Location Map
2. Street View of the Front Elevation of the Proposed Facility, including landscaping

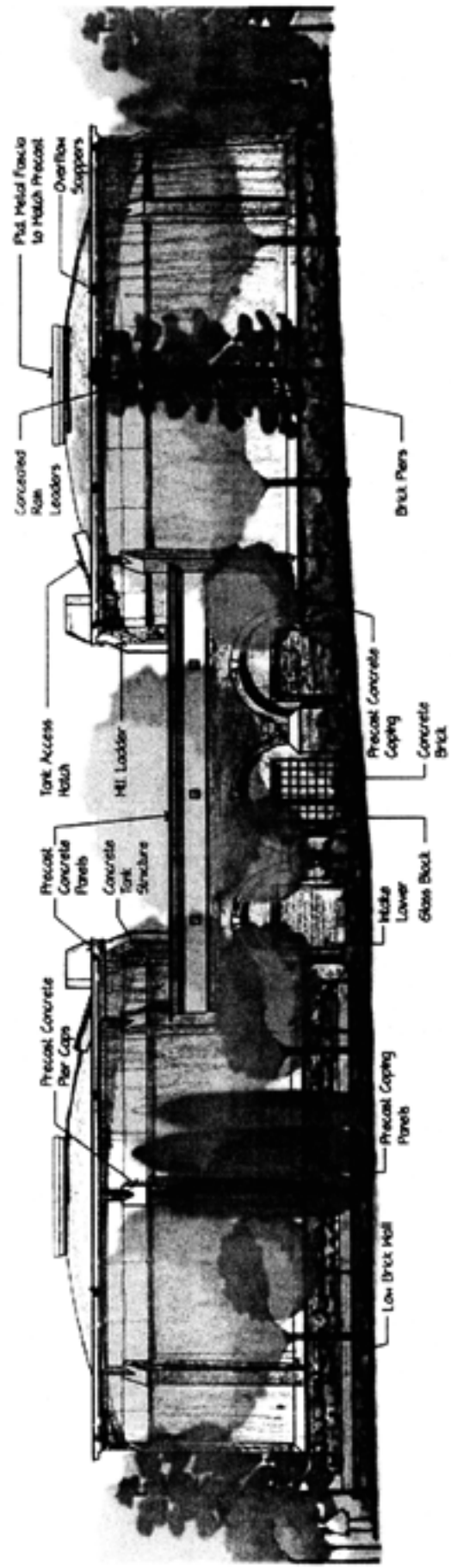
3. Street Elevation of the Facility (without landscaping)
4. Master Plan (separate)
5. Conceptual Layout Plan Showing Possible Future Development (separate)
6. Proposed SUP Conditions

Proposed Conditions of Approval
SUP-16-01. JCSA: New Town Water Storage Facility

1. Start of Construction on the Water Storage Facility, as defined in the Zoning Ordinance, shall commence within 24 months of approval of this special use permit, or the permit shall become void.
2. Prior to final site plan approval, a lighting plan shall be submitted to the Director of Planning for review and approval. All luminaries used shall be of the type with recessed fixtures with no bulb, lens or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side.
3. Landscaping for the Water Storage Facility shall be in accordance with Article II, Division 4 of the James City County Zoning Ordinance and shall be consistent, as determined by the Director of Planning, with the plan labeled as "Street View - Front Elevation" submitted with the SUP application and included with the staff report.
4. The architecture, materials, and colors for the Water Storage Facility shall be consistent, as determined by the Director of Planning, with the rendering titled "Street Elevation" submitted with the SUP application and included with the staff report.
5. Any necessary re-subdivision of the property in order to accommodate the Water Storage Facility shall be approved and recorded prior to the issuance of preliminary site plan approval.
6. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

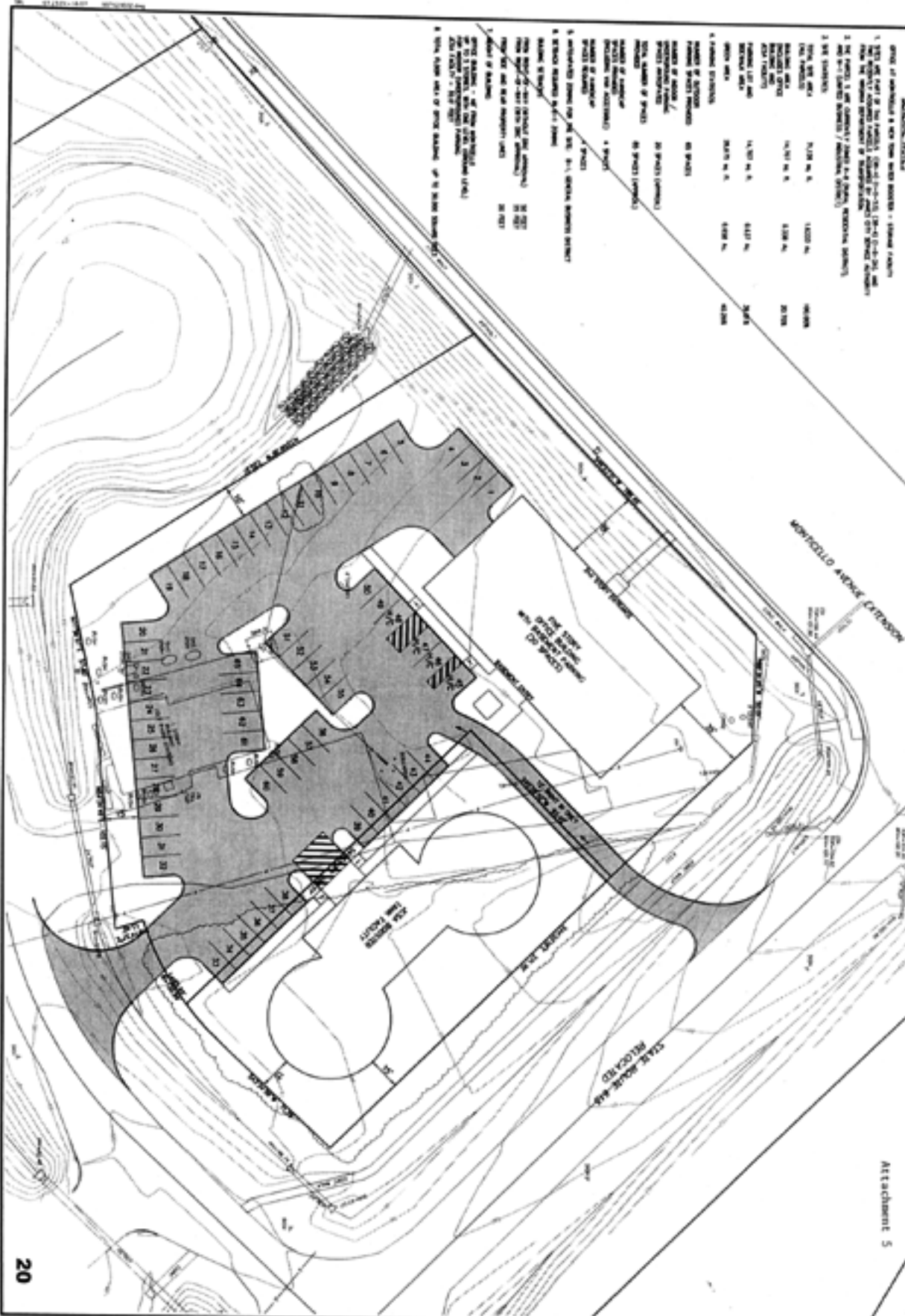
SUP-16-01

STREET VIEW - FRONT ELEVATION



GENERAL NOTES

1. THIS PLAN IS A PRELIMINARY DESIGN. IT IS NOT TO BE USED FOR CONSTRUCTION. THE FINAL DESIGN SHALL BE BASED ON THE RESULTS OF THE FINAL DESIGN AND THE RESULTS OF THE FINAL DESIGN SHALL BE BASED ON THE RESULTS OF THE FINAL DESIGN.
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Attachment 5

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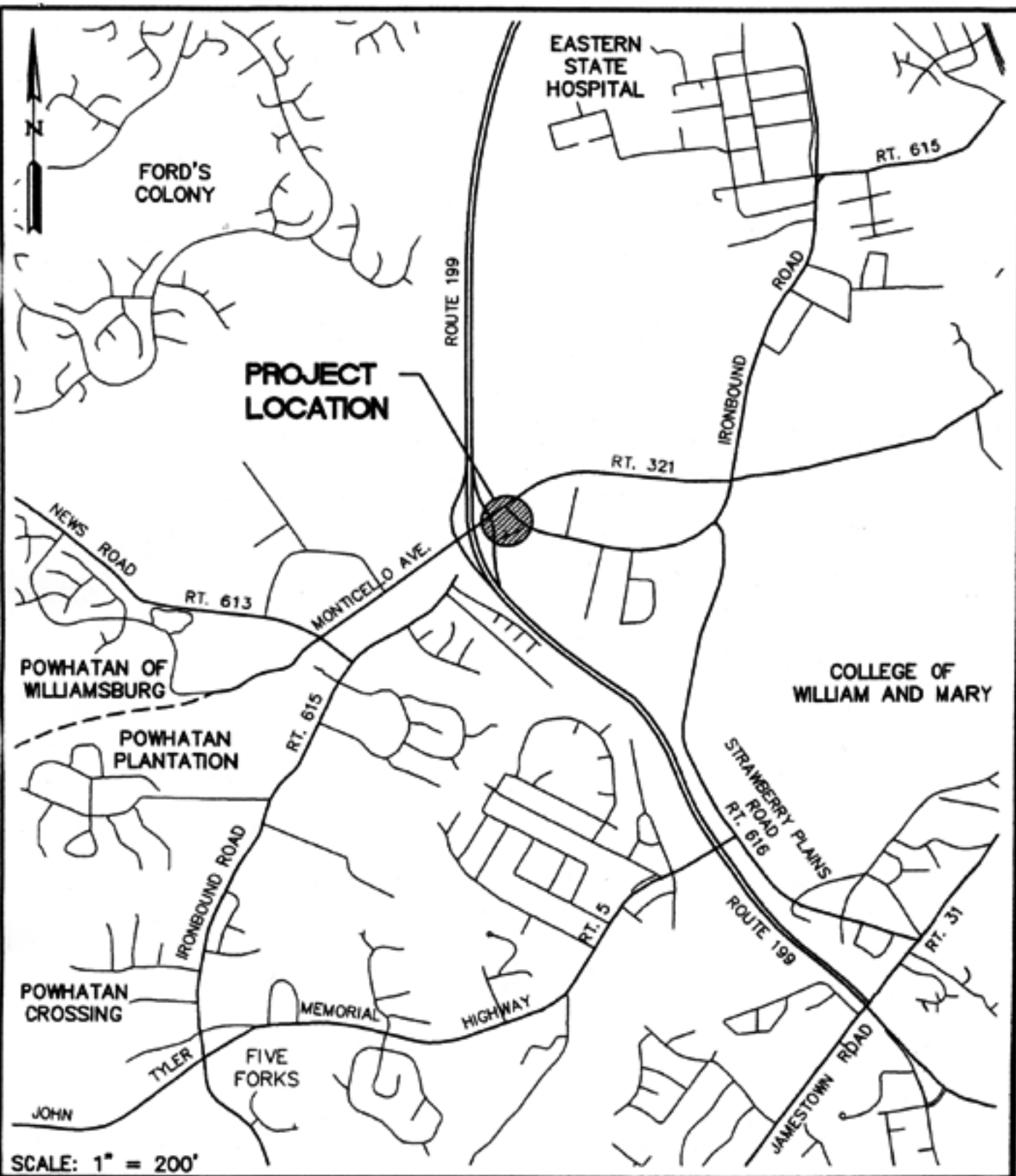
1/2" = 1'	1/4" = 1'	1/8" = 1'	1/16" = 1'
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ILLUSTRATIVE PLAN
OFFICE AT MONTICELLO & NEWTOWN
WATER BOOSTER - STORAGE FACILITY

AES
CONSULTING ENGINEERS

3348 Old Town Road, Suite 1
Williamsburg, Virginia 23185
(757) 353-0040
Fax (757) 353-0044

1/2" = 1'	1/4" = 1'	1/8" = 1'	1/16" = 1'
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Consulting Engineers

Engineers, Surveyors, Planners

Williamsburg, Virginia

EXHIBIT 1
NEWTOWN WATER BOOSTER / STORAGE FACILITY

JAMES CITY COUNTY, VIRGINIA

Attachment 1 **17**

Rezoning 2-01/Master Plan 2-01/Design Guidelines. Virginia United Methodist Homes, Inc.
Staff Report for the August 6, 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. (PC deferred)
August 6, 2001, 7:00 p.m.
Board of Supervisors: September 11, 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:

This project was deferred at the July 2, 2001 Planning Commission meeting in order to resolve outstanding proffer issues. Since that time, the applicant has submitted additional information and revised proffers which address a majority of the outstanding issues. While considerable progress has been made, staff has concerns that the proffers submitted at the time of this report do not adequately address water supply, specifically regarding the cash amount toward a desalinization plant and the sunset clause limiting construction until permits for alternate water sources have

been received. While the applicant continues to work with staff and its client to resolve these issues, they have not been resolved to staff's satisfaction. For these reasons, staff recommends the Planning Commission recommend denial of this project.

Project Update

Since the July 2, 2001 Planning Commission meeting, the applicant has submitted additional information and revised proffers that address the outstanding issues staff had. The proffers contain revisions to previous proffers as well as new proffers. The new information and proffer revisions will be described in pertinent sections throughout the report and reflect considerable effort by the applicant and staff.

Topography and Physical Features

Previously staff had requested wetlands documentation as well as additional improvements for stormwater criteria and protection of small whorled pogonia. Staff had requested the applicant provide written confirmation from the U. S. Army Corps of Engineers of Jurisdictional Determination of the wetlands on site. The applicant has since provided the requested documentation from the Corps of Engineers. Additionally, staff had recommended special stormwater criteria be implemented for the western most area closest to Jester's Lane and that stormwater from this area be diverted to the proposed regional BMP. The applicant has submitted a new proffer which guarantees run-off from this area will be collected and treated in the regional BMP. Staff supports this proffer that implements recommendations based upon the draft Powhatan Creek stormwater management plan.

Based upon the recommendations of the Community Impact Statement, staff previously recommended a detailed survey of the small whorled pogonia on site. The applicant has submitted a new proffer offering a survey of small whorled pogonia, including a conservation plan. Staff supports the new proffer as it will provide protection for any small whorled pogonia found on site.

Utilities/Water Supply

Previously staff had concerns that the water and sewer upgrades relied upon easements with Ford's Colony that had not been acquired. The applicant has provided satisfactory documentation showing that water main and sanitary sewer easements have been acquired.

Regarding the county's water supply issue, the applicant has submitted a new proffer for a cash contribution to water supply alternatives, such as a desalinization plant. The proffers submitted do not contain a specific cash amount. James City Service Authority (JCSA) staff used the formula that was used for the U.S. Home project that figured gallons per day per unit and incorporated a per gallon figure for the cost of the desalinization facility. JCSA estimates this amount at \$308,000 for WindsorMeade. The applicant has verbally agreed to a cash contribution of \$500 per unit. Staff finds the verbal proposal of \$500 per unit does not adequately mitigate demands placed on the water supply as a result of this development.

The applicant also submitted a proffer that states no land disturbing permits will be issued prior to the county receiving the necessary groundwater withdrawal permit for a desalinization plant or another suitable source of water has been identified by the County. A similar proffer has been offered in the U.S. Home project. However, the proffer for this project contains a sunset clause of August 31, 2002. As with the U.S. Home 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 desalinization plant and the groundwater withdrawal permit will be received. Staff finds the sunset clause to be unacceptable as it provides an opportunity for construction to occur and further impact the county's water supply before an alternate source of water has been secured. The applicant has stated that the sunset clause is necessary for financing purposes. Staff has continually conveyed its concern regarding the sunset clause and the applicant continues to work with its client to find an acceptable solution. However, staff cannot support this proffer with the sunset clause.

Water Conservation

The water conservation proffer has been revised to include water conservation measures. The proffer also has been revised to state that no groundwater or water supplied by a public water system shall be used for irrigation, unless approved by the James City Service Authority. Staff finds this proffer acceptable since no public water will be utilized for irrigation and additional efforts will be made to conserve water.

Transportation and Access

Previously there was concern with the emergency service entrance located off of Jester's Lane and the impact this would have on Jester's Lane. Due to concerns from nearby residents of Jester's Lane, the applicant submitted a proffer which states that the Jester's Lane access will be used as emergency access only and will not be used as a construction entrance. Staff supports this proffer.

At the time of the July Planning Commission meeting, staff had not received comments or approval from the Virginia Department of Transportation (VDOT) on the traffic study. Since that time, VDOT has reviewed the findings of the traffic study and concurs with both the trip generation and trip distribution figures and that the proposed improvements will adequately handle traffic generated by this site. VDOT staff will require the entrance road, WindsorMeade Way, be constructed to VDOT standards if it will be public. Staff concurs with VDOT's recommendation.

The Master Plan has been revised to show a broader area for the location of the entrance road, as the details of the specific location are currently being discussed. A new proffer has been submitted which outlines the specific road design requirements for the entrance road until the adjacent property along Monticello Avenue (the remaining sections in the West Sector of New Town, Section 11 and the remainder of Section 12) is rezoned. The specific improvements are described on the Windsor Meade Way road plans, which were approved by the Design Review Board (DRB), and include specific streetscape improvements, such as median, trees, sidewalks and parking design. Since the DRB made specific recommendations about the design of the road, including road widths, median widths and size of street trees, the applicant has revised the WindsorMeade Way plan to state "variable width" right-of-way and median width to remain consistent with the DRB's recommendation and also to allow VDOT approval. One of the purposes of the variable width medians and right-of-way is to ensure there is enough land area in the median and along both sides of the road to meet VDOT requirements pertaining to the planting of large street trees. The DRB's approval of the WindsorMeade Way plan was conditioned on the planting of these large trees. Additionally, the proffer for pedestrian connections has been revised to include pedestrian connections internal to the project as well as along WindsorMeade Way. Staff finds these proffers to be acceptable.

Traffic Signal Pre-Emption and Emergency Medical Services

The applicant submitted a new proffer for traffic signal pre-emption devices for the future traffic signals at Monticello Avenue and the entrance road Windsor Meade Way. Please note that traffic generated by this development will not trigger the installation of the traffic signal. Future development of the remaining sections on the West Sector of New Town likely will warrant the installation of a traffic signal. Future developers will be expected to pay for these signals. The applicant has provided a cash proffer of \$10,000 to pay for traffic signal pre-emption device upon installation of the traffic signal.

No Automated External Defibrillators have been proffered by the applicant. The applicant submitted information stating that WindsorMeade will have licensed nursing staff on duty 24 hours a day, seven days a week. The nursing staff and security personnel will be trained in CPR. Residents also will have an emergency call system to reach nursing or security staff in the event of an emergency.

Library Services

Staff had requested the applicant provide information on the impact this development will have on community services such as the library. The applicant provided information that there will be on-site library services for residents which will contain space for approximately 2000 books and periodicals, books on tape, vision enhancing machines and large print books. Most materials provided in the library will be donated or loaned by WindsorMeade residents, and the library will be staffed by volunteers. While this development may place additional demands on the existing library system, staff finds the on-site library services will alleviate some of those pressures.

Archaeology

Previously staff had concerns that the language for the archaeology proffer was inconsistent with adopted county policy. The applicant has submitted a revised proffer which is consistent with the county's archaeology policy. Staff supports the revised proffer.

Fiscal Impact

The project's Fiscal Impact Study shows the development to have a positive fiscal impact on James City County. When the New Town Master Plan was approved in 1997, the overall project site was assigned a maximum residential development and maximum non-residential development level. The original New Town Fiscal Impact Study determined the overall build-out of New Town would have a positive fiscal impact for James City County. Regarding the West Sector (Sections 11, 12 and 13), the New Town Fiscal Impact Study analyzed a development potential with a mix of single-family residences, offices and retail square footage.

The WindsorMeade proposal utilizes 300 out of a maximum 650 residential dwelling units for the West Sector. Additionally 94 dwelling units have been utilized as part of the 1998 Ford's Colony rezoning, leaving a maximum of 256 additional dwelling units. The WindsorMeade proposal shows a more positive fiscal impact for the site than the original New Town Fiscal Impact Study with respect to residential development, since WindsorMeade will not generate any of the anticipated school children.

Regarding non-residential density, the West Sector has been allocated a maximum of 183,000 square feet square footage, envisioned as office and retail. The 119 nursing bed continuing care facility is not considered residential and does not use up residential density. However, the

continuing care facility is considered non-residential square footage and does utilize 55,000 square feet of non-residential square footage originally envisioned for office space within Sections 12 and 13. Staff from Financial and Management Services has determined that the continuing care facility would have a fiscal impact similar to office square footage. The fiscal impact of this proposal on the remaining non-residential or retail square footage envisioned for Section 11, approximately 128,000 square feet, is uncertain and will be addressed at the time rezoning plans are submitted for Section 11. It is staff's intention to ensure a positive fiscal impact from the total West Sector and from New Town as a whole.

New Town Master Plan/Design Guidelines

Previously staff had concerns with construction of the public square shown at the entrance of the Windsor Meade gate. Since this feature was a critical element in the previous design approval of the conceptual plan by the DRB because of the gated nature of the community, staff recommended the applicant provide assurances that the public square would be constructed. The applicant has submitted a new proffer which states the public square will be constructed or bonded in the amount of \$100,000 by the owner of the property immediately adjacent to the entrance to the project. The adjacent property owner agrees to this and has signed the proffers. Since the DRB has not approved the detailed design of the public square and the specific design of the public square is not part of this proposal, the actual size and cost of the public square is not known at this time. Any additional costs above \$100,000 for the public square will be the obligation of the property owner or rezoning applicant for that section. Staff supports this proffer as it provides assurances that there will be a public element of this private development.

Staff also had concerns with the previous proffer language regarding amendments to the Master Plan and Design Guidelines. The proffer has been revised to be consistent with the zoning ordinance, which states that the Planning Commission shall determine if plans are consistent with the master plan. Staff supports this proffer revision.

Enhanced Landscaping/Lighting

The applicant also provided several additional proffers that address enhanced landscaping along the Jester's Lane property line as well as enhanced landscaping and/or a berm along the Route 199 buffer. The applicant also included a proffer that restricts the lighting for buildings, parking areas and drive aisles along the area adjacent to Jester's Lane to ensure that adjacent properties are not impacted by site lighting. Staff supports these additional proffers as they will provide protection to surrounding areas, including residents of Jester's Lane and citizens traveling along Route 199.

RECOMMENDATION:

This project was deferred at the July 2, 2001 Planning Commission meeting in order to resolve outstanding proffer issues. Since that time, the applicant has submitted additional information and revised proffers which address a majority of the outstanding issues. While considerable progress has been made, staff has concerns that the proffers submitted at the time of this report do not adequately address water supply, specifically regarding the cash amount toward a desalinization plant and the sunset clause limiting construction until permits for alternate water sources have been received. While the applicant continues to work with staff and its client to resolve these issues, they have not been resolved to staff's satisfaction. For these reasons, staff recommends the Planning Commission recommend denial of this project.

Attachments:

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

WINDSORMEADE PROFFERS

THESE PROFFERS are made as of this 10th day of July, 2001, by **VIRGINIA UNITED METHODIST HOMES, INC.**, a Virginia corporation (together with its successors and assigns, "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 parcels of real property in James City County, Virginia, portions of which parcels are more particularly described as "Parcel 1" and "Parcel 2" on EXHIBIT A attached hereto and made a part hereof "the Property".

R-2. Owner has contracted to sell certain interests in and to the Property to VUMH for development of a continuing care retirement community ("the Project") all of the buildings of which are planned to be located on Parcels "A" and "A-1" of Parcel 1 of the Property (the "Project Property").

R-3. A portion of "Parcel 1" of the Property designated on EXHIBIT A is currently subject to 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 ("the New Town Proffers").

R-4. None of "Parcel 2" of the Property designated on EXHIBIT A is currently 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 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 New Town 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 and the New Town Design Guidelines, VUMH has applied for a rezoning of the Property from R-8 Rural Residential and R-8 Rural Residential with proffers, to MU, Mixed Use, with proffers. The rezoning of the Property to MU is in fact 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. VUMH has submitted an updated Community Impact Statement which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and approved by the County in connection with the rezoning request referenced above. The updated Community Impact Statement is on file with the County's Director of Planning.

R-9. 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-10. 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-11. VUMH has previously submitted to the DRB, and the DRB has previously approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines: (1) a plan for variable width roadway improvements from Monticello Avenue to the Project entitled "PRELIMINARY LAYOUT WINDSORMEADE WAY, WINDSORMEADE OF WILLIAMSBURG, VIRGINIA UNITED METHODIST HOMES DATED DECEMBER 1, 2000" ("the WindsorMeade Way Plans"), (2) a master plan entitled "WINDSORMEADE OF WILLIAMSBURG, CONTINUING CARE RETIREMENT COMMUNITY, WILLIAMSBURG, VIRGINIA DATED JANUARY 19, 2001, REVISED APRIL 20, 2001 and July 19, 2001 (the "VUMH Master Plan"); and, (3) design guidelines entitled "WINDSORMEADE OF WILLIAMSBURG, A CONTINUING CARE RETIREMENT COMMUNITY BY VIRGINIA UNITED METHODIST HOMES, INC., MU MASTER PLAN AND DESIGN GUIDELINES DATED NOVEMBER 6, 2000", with amendments thereto dated May 3, 2001 (the "VUMH Guidelines"), copies of which WindsorMeade Way Plans, the VUMH Master Plan and the VUMH Guidelines are on file with the County's Director of Planning.

R-12. The provisions of the Zoning Ordinance may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, VUMH, in furtherance of its application for rezoning, desires 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"), Section 24-16 of the Zoning Ordinance and the New Town Proffers.

R-13. 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 approval of the WindsorMeade Way Plans, the VUMH Master Plan, the VUMH Guidelines and all related documents described herein, and pursuant to Section 15.2-2296 et seq. of the Virginia Code, Section 24-16 of the Zoning Ordinance, and the New Town Proffers, it is agreed that unless otherwise noted herein, all of the following conditions shall be met and satisfied 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

1. Application of New Town Proffers, Master Plan and Design Guidelines. Unless otherwise specifically noted herein, these Proffers shall supercede and amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines but only as to the Property.

2. Owner's Association. A supplemental declaration (the "Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit the Project 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. In addition to the Association, a separate owner's association for the Project Property may be organized to impose supplemental restrictive covenants on the Project Property. The Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with a separate owner's association for the Project Property, if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer.

3. Development, Process and Land Use.

(a) Development. All the Property (including, without limitation, Parcel 2) shall be developed in one or more phases generally in accordance with the WindsorMeade Way Plans, the VUMH Master Plan and the VUMH Design Guidelines, including, but not limited to, the land uses, densities and design set forth therein; however, all of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

(b) DRB Authority, Duties and Powers. 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 WindsorMeade Way Plans, the VUMH Master Plan and the 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, shall be 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 WindsorMeade Way Plans, the VUMH Master Plan and/or the VUMH Design Guidelines. The DRB may approve development plans that do not strictly comply with the WindsorMeade Way Plans, the VUMH Master Plan and/or the 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 generally in accordance with the approved plans and specifications as finally approved by the DRB.

(c) Procedures for Changes to the WindsorMeade Way Plans, the VUMH Master Plan and the VUMH Design Guidelines. Applications may be made to the Planning Commission or the Board of Supervisors, as appropriate, to change the WindsorMeade Way Plans, the VUMH Master Plan and/or the VUMH Design Guidelines as hereinafter provided.

The County Planning Commission may approve all of such amendments after receiving written confirmation from the County's Director of Planning that the changes do not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of the rezoning, without any requirement that the Board of Supervisors approve any such changes.

No amendment of the WindsorMeade Way Plan, the VUMH Master Plan and/or the VUMH Design Guidelines which significantly alters the character of land uses or other features or conflicts with any conditions placed on approval of the rezoning as determined by the County's Director of Planning shall be effective unless approved by the County Board of Supervisors. In considering applications for such amendments, the County's Director of Planning,

and the County Board of Supervisors shall consider all appropriate factors, including, but not limited to, changes in circumstances that may have occurred.

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

The DRB shall advise of either (i) the DRB's recommendation of approval of the submission, or (ii) the areas or features of the submission which are deemed by the DRB to be materially inconsistent with the applicable WindsorMeade Way Plans, the VUMH Design Guidelines and/or the 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 VUMH, 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, "Table 1, Land Use and Density Tabulation: Residential, West Side" shown on page 2 of the New Town Master Plan is hereby amended to reflect the densities and land uses specified in EXHIBIT B attached hereto. Except as hereby amended, the Tables and Charts on page 2 of the New Town Master Plan shall remain unchanged.

4. Limitation of Use of Proposed Right of Way of the Property. Subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over the same, the "Proposed Right of Way" area of the Property shall be limited in use to development of a roadway, parking, sidewalks, drainage, utilities, median, landscaping, lighting, signage and like improvements generally as depicted on the WindsorMeade Way Plans until the adjacent property is rezoned by the County at which time any remaining property within said "Proposed Right of Way" area not developed as aforesaid may be utilized for such uses as permitted by and shall be otherwise governed by the subsequent rezoning of the adjacent property.

5. Traffic Study and Signal Improvements. In accordance with the requirements of Section 4 of the New Town Proffers, VUMH has submitted to the County an updated 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"), which is on file with the County's Director of Planning. Notwithstanding the fact that 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 Project Property in accordance with the WindsorMeade Way Plans, the VUMH Master Plan and the VUMH Design Guidelines, without further offsite road improvements, the owner of the Project Property shall pay to the County up to the sum of \$10,000.00 upon the installation of a traffic signal to be installed later by others at the intersection of WindsorMeade Way and Monticello Avenue which said sum shall be used by the County toward the installation of traffic signal pre-emption equipment on said signal. In the event the monies are not used by the County for the purposes designated within ten years from the date of

receipt by the County, the amounts not used shall be returned to the then owner of the Project Property, without interest.

6. Pedestrian Connections. The owner of the Project Property shall install pedestrian connections on the Property both within the Project Property and along WindsorMeade Way accessing the Project Property substantially as shown on the WindsorMeade Way Plans, the VUMH Master Plan and the VUMH Guidelines

7. Public Square at Entrance to Project. The WindsorMeade Way Plans and the VUMH Guidelines set forth a "Town Square" open for the use and enjoyment of the general public at the main entrance to the Project Property "to be developed and constructed by others." To assure the subsequent construction of the same, no residential development of the property immediately adjacent to the entrance of the Project Property shall occur unless said "Town Square" is first constructed or, the owner of the property immediately adjacent to the entrance to the Project Property shall enter into an agreement with the County and furnish to and maintain with the County a certified check, bond with surety or letter of credit in the amount of One Hundred Thousand and No/100 Dollars in form satisfactory to the County, along with such other 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. Notwithstanding the aforesaid, the configuration, composition and location of the design of the "Town Square" may be modified as provided by the provisions of paragraph 3(c) hereof and shall be further expressly subject to such other changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over said area.

8. Entrance to Property from Jester's Lane. The entrance/exit to/from the Project Property from/to Jester's Lane shall be limited to emergency uses only and shall not be used for construction purposes.

9. Enhanced Landscaping Adjacent to Jester's Lane. Within the setback for the Project Property immediately adjacent to existing improved lots which front on Jester's Lane as shown on the VUMH Master Plan, enhanced landscaping shall be provided so that when counted, the landscaping retained plus additional landscaping provided shall equal up to 133% of the number of plantings otherwise required. Such landscaping plan and materials shall be approved by the County's Director of Planning..

10. Lighting Limitations Adjacent to Jester's Lane. All parking area, drive isle and building lighting within the area designated on the VUMH Master plan as "Proffered Area of Lighting Restrictions" adjacent to the existing improved lots which front on Jester's Lane shall be limited to fifteen (15) feet in height above finished elevation. All such lighting fixtures within said areas shall be horizontally mounted recessed fixtures with no lens, bulb or globe extending below the casing unless otherwise shielded by the case so that the light source is not directly visible from the side of the fixture.

11. Enhanced Buffer of Project From Route 199. Within the area one hundred fifty feet (150') in width adjacent to Route 199, and along the eastern portion of the Project Property, the owner of the Project Property shall provide additional landscaping and/or berms to provide an enhanced visual and sound buffer between the Project and Route 199. The plan and materials shall be approved by the County's Director of Planning as a part of the site plan approval for the independent dwelling units adjacent to Route 199 as shown on the VUMH Master Plan.

12. Water Conservation. The owner of the Project Property and the Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority ("the JCSA"). The Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use, if any, 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. Generally, unless approved by the JCSEA, no groundwater or water supplied by a public water system as defined in the Zoning Ordinance shall be used for irrigation of the Project Property. All such standards shall be approved by the JCSEA prior to the approval of the first site plan for the Project Property.

13. Water Source: Cash Contribution. A contribution shall be made to the County by the owner of the Project Property in the amount of _____ Dollars (\$_____.00) for each independent dwelling unit developed within the Project Property (the "Per Unit Contribution"). 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 Project Property. In the event the monies are not used by the County for the purposes designated within ten years from the date of receipt by the County, the amounts not used shall be returned to the then owner of the Project Property, without interest.

A. Such contributions shall be payable for each of the independent dwelling units developed within the Project Property at the time of final site plan approval by the County for the particular independent dwelling unit or grouping, phase or section of independent dwelling units.

B. The Per Unit Contribution(s) paid in each year shall be adjusted annually beginning January 1, 2003 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the

United States Department of Labor. In no event shall the Per Unit Contribution be adjusted to a sum less than _____ (\$____) per independent dwelling unit. The adjustment shall be made by multiplying the Per Unit Contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Per Unit Contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI shall be relied upon in establishing an inflationary factor for purposes of increasing the Per Unit Contribution to approximate the rate of annual inflation in the County.

14. Age Restrictions. Prior to issuance of a building permit for the Project Property, there shall be submitted to the County restrictions to be recorded against title to the Project Property restricting permanent residency within the Project Property to residents over the age of eighteen (18) (or such higher age as determined by the owner of the Project Property 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.

15. Archaeological Study. A Phase I Archaeological Study for the Property site shall be submitted by the owner of the Project Property 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.

16. Small Whorled Pogonias. The owner of the Project Property shall cause surveys to be conducted of the Project Property for small whorled pogonias. The location of any small whorled pogonias located on the Project Property shall be shown on all subdivision or other development plans of the Project Property and the owner of the Project Property shall submit to the Director of Planning with any subdivision or development plan a conservation plan for such plants. The conservation plan shall provide for the conservation of such plants either through transplanting the plants to other suitable habitat within the Project Property or by preserving a 20 foot buffer around the plants and, if necessary planting additional overstory to shade the plants, all

as determined by the owner of the Project Property. The conservation plan shall be approved by the Director of Planning before any land disturbing activity is allowed in the vicinity of the small whorled pogonias identified on the Project Property.

17. Drainage. All run-off from the impervious areas within the hatch-marked area of the Project Property shown on the Stormwater Management Master Plan section of the VUMH Master Plan shall be collected and treated within the area designated on said plan as "Proposed Stormwater/Irrigation Pond, Drainage Area = 156.9 Acres."

18. 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 Project Property until the earlier of August 31, 2002 or a draft groundwater withdrawal permit for a desalinization plant previously applied for by the County 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 Project Property absent the draft groundwater withdrawal permit described above.

B. Notwithstanding the aforesaid, the owner of the Project Property may file with the County for approval 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 building permits for the Project Property until the earlier of August 31, 2002 or a draft groundwater withdrawal permit for a desalinization plant previously applied for by the County has been issued or another suitable source of water has been identified by the County as aforesaid.

MISCELLANEOUS PROVISIONS

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

20. 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.

21. Conflicts. In the event there is a conflict between: (1) these Proffers, the WindsorMeade Way Plan, the VUMH Master Plan and the VUMH Guidelines; and (2) the New Town Proffers, the New Town Master Plan and the New Town Guidelines, then these Proffers, the WindsorMeade Way Plan, the VUMH Master Plan and the VUMH Guidelines 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 Supervisors and the Courts or as otherwise provided by law.

22. Conditions Applicable Only To The Project Property. Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Project Property shall not affect the rights of the Owner and its successors

in interest to develop its other property in accordance with the other applicable provisions of the County Zoning Ordinances.

23. 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 Project Property or any portion thereof.

24. Owner Consent. Owner joins in these Proffers to evidence its consent thereto.

25. Signature by County. The County's Director of Planning has executed these Proffers solely for purpose of confirming the filings and submissions described herein and confirming approval by the Board of Supervisors of the rezoning of the Property with these Proffers by Resolution dated _____, 2001.

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

WITNESS the following signatures, thereunto duly authorized:

VIRGINIA UNITED METHODIST HOMES, INC.

By: Wm. J. Fink
Its: President

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

The foregoing instrument was acknowledged before me this 27th day of July, 2001 by Wm. J. Fink as President of Virginia United Methodist Homes, Inc.

Judy M. Walker
NOTARY PUBLIC

My commission expires: 9-30-04

C.C. CASEY LIMITED COMPANY

By:

Its:

Robert T. Casey
Secretary

STATE OF VIRGINIA

CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 27th day of July, 2001 by Robert T. Casey as Secretary of C. C. Casey Limited Company.

Sara Rosenberg
NOTARY PUBLIC

My commission expires: 3-31-2004

THE COUNTY OF JAMES CITY, VIRGINIA

By: _____
Name: _____
Title: _____

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:

APPROVED AS TO FORM:

County Attorney

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 4,159,372 S.F. 95.49 Ac. ±", "PARCEL A-1 454,992 S.F. 10.45 Ac. ±" and "PROPOSED RIGHT-OF-WAY 471,733 S.F. 10.83 Ac. ±" on that plat entitled "CASEY PROPERTY, NEW TOWN, PROPOSED WEST SIDE SUBDIVISION OWNER/DEVELOPER: C.C. CASEY LIMITED COMPANY, 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.

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 6, 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).

EXHIBIT B

CASEY NEW TOWN WEST SIDE REVISED RESIDENTIAL LAND USE AND DENSITY TABULATION (INCLUDES BERRY PROPERTY – PARCEL 2 OF THE PROPERTY)

SECTION	PERMITTED USE	SECTION AREA IN ACRES	DEVELOPABLE AREA	MAXIMUM DWELLING UNITS (D.U.)	DENSITY D.U./ACRE
11	E, G, C, D, M (CE) (CG) (GI), I, J	19.1	19.1	82	4.3
12	A, B, C, D, I, J	59.6	50.5	174	2.9
VUMH	A, B, C, D, M, (I D C E), E, I, J	106	85.2	300	2.8
F.C.	A	71.5	56.9	94	1.3
Subtotal		256.2	211.7	650	

#6009756 v13 - VUMH Proffers



Case No. Z-2-01 / MP-2-01
VA United Methodist Homes - Windsor Meade

800 0 800 1600 Feet



PLANNING DIRECTOR'S REPORT

AUGUST, 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 fourth meeting on July 3, 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 August 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. Staff met with the Americas Farmland Trust and Williamsburg Land Conservancy in July to discuss their roles in a PDR program. A meeting with the James City County Board of Agriculture is tentatively scheduled in August to discuss the program.
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 to present the survey findings once staff has reviewed the draft report.
5. Casey New Town. There was no meeting held by the DRB for the month of July. A rezoning application for development of Sections 2 & 4 across from the Courthouse was submitted to the Planning Department on July 13, 2001.
6. 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.
7. Citizens Survey. Staff selected Virginia Tech to conduct the citizen survey and is in the process of scheduling a kickoff meeting and finalizing the communications plan.
8. 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. Information has been posted on the demographics section of the Development Management page of the James City County website at: www.james-city.va.us.
9. Jamestown/Greensprings Projects. Staff continues to be involved in several projects involving the Jamestown and Greensprings historic areas. Staff has provided comments to the National Park Service on its draft General Management Plans for both Jamestown Island and the Greensprings property on Rt. 5. One of the Greensprings Plan recommendations to close Centerville Road between Rt. 5 and Monticello Avenue is a significant County concern. The Jamestown Settlement is also working with staff and others on the relocation of Rt. 359 and parking expansion. Staff is reviewing proposals

from consultants to assist with Jamestown 2007 and the Jamestown Sub-Area Study. The consultant selection process should be finalized in August.

10. Colonial Parkway Connections. This joint project by the National Park Service, VDOT and the County is now under construction. It includes the construction of multi-use paths connecting Treasure Island Road and Neck O'Land Road to the Colonial Parkway. The project is funded by a federal and state grant which was obtained by the Planning Division.
11. Rt. 199/Jamestown Road Intersection. VDOT has prepared engineering drawings of the locally preferred alternative endorsed by the Board of Supervisors and the Williamsburg City Council. Staff is reviewing the drawings and will be sending comments to VDOT, and VDOT is expected to hold a public input meeting in the future.
12. Cash Proffers. The Board of Supervisors held a work session on cash proffers on June 27, 2001, and requested that staff draft the appropriate documents that would allow them to adopt a cash proffer policy. The target date for Board consideration is in September.
13. Other Board Action. On July 10th the Board of Supervisors approved Case No. SUP-8-01. Hogan Day Care, Case No. SUP-10-01 Miss Vickie's Clubhouse, Case No. Z-6-00/SUP-28-00 Loulynn Acres (Chesapeake Park), Case No. MP-3-01 Greensprings Plantation Master Plan Sign Amendment, and Case No. SUP-18-99 Olde Towne Road Timeshares. The Board denied Case No. Z-8-00/SUP-29-00 Williamsburg Christian Retreat. At its July 24th meeting, the Board deferred Case No. SUP-12-01 Annette Haden Manufactured Home and approved Case No. SUP-14-01 JCSA Water Main Alignment.
14. Bottoms Bridge Weigh Station Relocation. The Virginia Department of Transportation has completed Phase One of a study to analyze the relocation of the vehicle weighing station located on Interstate 64 at Bottoms Bridge. In the first phase of this project, potential sites along the corridor have been identified by a study commissioned by VDOT. One such site has been identified in James City County. The site is located in the northern portion of the County, just west of Interchange 227 between Barnes Road and Ropers Church Road. County staff has reviewed the Phase I portion of this project and are relaying our comments to the Board of Supervisors. A formal letter will be forwarded to VDOT containing these comments.
15. Route 359 Relocation. Staff has been reviewing plans for the relocation of Route 359. This road is currently located in front of the Visitors Center at Jamestown Settlement and connects Jamestown Road with the Colonial Parkway. In anticipation of the 2007 Celebration, the Jamestown/Yorktown Foundation feels the road should be relocated to provide for enhanced pedestrian access between the parking lot and the Visitors Center. On Wednesday, July 18th, VDOT held a design and location public meeting. The meeting was well attended by residents and interested parties. Staff has sent a comment and position letter to the Williamsburg Residency of VDOT. A copy of this letter was also forwarded to the Board of Supervisors.
16. Upcoming Cases. New cases that are tentatively scheduled for the September 5, 2001, Planning Commission meeting.

CASE NO. Z-3-01 NEW TOWN SECTIONS 2 AND 4. An application to rezone Sections 2 and 4 has been submitted to staff. The project area consists of approximately 82.8

acres of mixed uses and includes the heart of the New Town Community, the Village Square and Civic Green spaces. The uses anticipated include commercial, office and multi-family residential.

CASE NO. SUP-15-01 WILLIAMSBURG POTTERY FACTORY, BUILDING 7 REPLACEMENT. Mr. Rich Costello has applied on behalf of Williamsburg Pottery Factory Inc. to allow the construction of a new retail sales building of 6,750 square feet to replace an existing 5,750 square foot structure known as Building 7 or the "Haitian Building." The site is zoned M-1, Limited Business/Industrial and is located at 6692 Richmond Road. The property is further identified as Parcel No. (1-24) on JCC Real Estate Tax Map No. (24-3).

CASE NO. Z-4-01/SUP-17-01. PRESTONWOOD AT WILLIAMSBURG CROSSING. Mr. James Bradford has applied on behalf of University Square Associates to rezone approximately 11 acres behind the existing retail stores at Williamsburg Crossing Shopping Center to a mixed use designation and construct 170 townhouse units.

O. Marvin Sowers, Jr.