

Planning Commission Agenda

November 5, 2001, 5:00 p.m.

1. Roll Call

2. Minutes - October 1, 2001

3. Development Review Committee Report (Separate Attachment)

4. Planning Commission Consideration

A. Six-Year-Secondary Road Plan

B. Initiation of Consideration of Amendments to the Zoning Ordinance - Resolution

5. Public Hearings

A. Case No. Z-05-01. Ford's Colony Amendment to the Proffers

B. Case No. Z-5-00. New Town Office Building

C. Case No. SUP-20-01. James City Energy Park - Electrical Generator Plant

D. Case No. SUP-21-01. Johnston Dental/Medical Clinic

E. Case No. SUP-19-01. Williamsburg Landing Property Expansion

F. Case No. Z-4-01/SUP-17-01/MP-4-01. Prestonwood at Williamsburg

G. Case No. SUP-18-01. Waltrip Cellular Tower

H. Case No. SUP-22-01. JCSA - Desalinization Plant

I. Case No. Z-3-01/SUP-19-01. New Town - Sections 2 & 4

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 FIRST DAY OF OCTOBER, TWO-THOUSAND AND ONE **AND** A JOINT MEETING WITH THE BOARD OF SUPERVISORS WAS HELD ON THE SECOND DAY OF OCTOBER, TWO-THOUSAND AND ONE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

- | | |
|---|---|
| 1. <u>ROLL CALL</u>
Martin Garrett
Don Hunt
Wilford Kale
Joe McCleary
Joe Poole
Peggy Wildman | <u>ALSO PRESENT</u>
Leo Rogers, Deputy County Attorney
Greg Dohrman, Assistant County Attorney
Marvin Sowers, Planning Director
Paul Holt, Senior Planner
Benjamin Thompson, Planner |
|---|---|

2. MINUTES

 Upon a motion by Joe Poole, seconded by Wilford Kale, the minutes of the September 5, 2001, meeting were approved by unanimous voice vote.

3. DEVELOPMENT REVIEW COMMITTEE (DRC)

 Joe Poole gave the report stating that the DRC reviewed one case prior to tonight's meeting for a conceptual plan for 7 residential lots in the Stonehouse Development. He stated the DRC voted to recommend preliminary approval of this case.

4. CASE NO. Z-5-00. NEW TOWN OFFICE BUILDING

 Paul Holt presented the staff report stating that the applicant had been working with the New Town Design Review Board to finalize design detail of the project and that the applicant had requested a deferral of this case until the November 5, 2001, meeting. Staff concurred with this request and recommended deferral.

 Martin Garrett opened the public hearing. There being no speakers, this case was deferred and the public hearing remained open.

5. CASE NO. Z-4-01/SUP-17-01. PRESTONWOOD AT WILLIAMSBURG CROSSING.

 Paul Holt presented the staff report stating that the applicant had requested a 30-day deferral of this project. Staff concurred with this request and recommended deferral.

 Peggy Wildman asked if the main issue of concern of staff was the proposed use.

 Paul Holt stated the proposed use was a concern and deferred to Marvin Sowers for additional comment.

 Marvin Sowers stated there were a number of issues from proffers to basic submittal requirements.

 Joe McCleary said that he met with Karen Drake, the planner assigned to this case, and encouraged other members to meet with her. He added that this application was not an uncomplex issue.

 Martin Garrett opened the public hearing. There being no speakers, the public hearing

remained open and this case deferred to the November 5th meeting.

6. CASE NO. Z-5-01. FORD'S COLONY.

Ben Thompson presented the staff report stating the applicant had requested deferral of this application. Staff concurred with the applicant's request for deferral.

Martin Garrett opened the public hearing. There being no speakers, the public hearing remained open and this case deferred to the November 5th meeting.

7. CASE NO. SUP-2-01. JCSA: ROUTE 5 WATER MAIN INSTALLATION.

Ben Thompson presented the staff report stating the applicant requested the special use permit for the installation of a 12" water main and two pressure release valves to begin along the Seventh Day Adventist Church's east property line and extend to Route 5 within the VDOT right-of-way to St. George's Hundred's eastern property line. Staff found the proposal to be consistent with the Comprehensive Plan and with previous actions taken by the Board. Staff recommended the Commission approve this special use permit with the conditions as outlined in the staff report.

Joe Poole asked if the new line would be installed south of the pavement of Route 5 and what would happen to the existing 8" line.

Chris Dawson stated the portion of the water line that was within the right-of-way within St. George's Hundred would remain in service and that the Service Authority would be abandoning the area that ran between Route 5 and Robertson Street between the houses.

Martin Garrett opened the public hearing.

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

Wilford Kale made a motion to approve this application with the conditions as outlined in the staff report. His motion was seconded by Peggy Wildman. In a roll call vote, motion passed (6-0). AYE: Poole, Wildman, Hunt, McCleary, Kale, Garrett (6); NAY: (0).

8. CASE NO. Z-3-01/SUP-19-01. NEW TOWN - SECTIONS 2 & 4.

Paul Holt presented a brief overview of this project and its current status. He stated staff recommended deferral of any action until the November 5, 2001, meeting with tonight serving as an introduction and the beginning of the public hearing. He stated the application before them was to rezone approximately 80 acres from R-8, Rural Residential, with proffers to Mixed Use, with proffers. He stated that Sections 2 & 4 were two of 13 Sections identified on the overall master plan for New Town and approved by the Board of Supervisors in 1997. He gave a brief history of the process which had brought these Sections to the Commission tonight. He also summarized the current outstanding issues that the applicant was working on which included: final adjustments to the master sewer and stormwater management plans; final proffers to mitigate recreation, library, transit, and school and water impacts; finalize design plans and right-of-way issues for Ironbound Road; consideration of housing diversities; final update to the Fiscal Impact Study; and determining ownership and basic design elements of the Civic Green and other open spaces. He stated that at the November 5th meeting, staff would be providing updated project proposal information, proffers as submitted as well as an evaluation of those proffers, and an evaluation of the traffic study and the fiscal impact study.

Martin Garrett opened the public hearing.

Alvin Anderson of Kaufman and Canoles, together with his partner Paul Gerheart, and representing New Town Associates, a combination of the Endowment Association of the College of William and Mary and C.C. Casey Limited Company gave a history of how the New Town development progressed since its beginnings in 1995 into the proposal being presented tonight. He spoke of the development of Monticello Avenue Extension, the archeological digs that were a subject of great interest, great study, and great expenditure of funds, all in accordance with the James City County archeological policies. He continued by speaking on the 1997 rezoning that resulted in the Courthouse portion being zoned MU and the remainder being zoned R-8, with proffers. He stated at that time, a master plan was approved with particular densities and uses and said that the densities and uses proposed for Sections 2 and 4 of New Town were identical to those previously approved in the original master plan. He continued his presentation speaking on the Net Fiscal Impact projections to the County and how the master plan of this proposed project dealt with a more urban and humanistic approach to design and how it was practical from an economic and infrastructure standpoint and it was environmentally responsible. He concluded by introducing Paul Milano, a partner with Cooper, Robertson and Partners in New York and the winner of the design competition that resulted in the adoption of the current New Town plan.

Paul Milano gave an overall history on the vision of the design from its beginning, during the design competition, to where it was today. He spoke on the Civic Green that served as a setting for the new Courthouse, the natural wetlands that gave shape to the development in defining the neighborhoods, the civic use area, the village square as the focal community meeting place, and the mixed use Town Center. He continued his presentation with a history of how this type of development, known as "New Urbanism," began in the early eighties primarily on the fame of a town called Seaside, FL, developed in 1979. He also noted historic localities, such as, Savannah, GA; Charleston, SC; Alexandria, Richmond, and Williamsburg, VA, that have this type of design development. He concluded by saying that the purpose of all the aspects of this development was to inspire and encourage a sense of community in which everyone knows and supports one another and feels safe within the community.

Martin Garrett stated that from the beginning he liked the concept and the vision but he had some concern. He commented on Paul Milano's presentation and felt they were being presented a picture where people could walk to commercial interests, but did not believe there would be enough of a population to substantiate the commercial interests and asked how were they going to generate the demand for them to be there in the first place.

Paul Milano stated that clearly the commercial interests at New Town would have a regional draw because of its location with Monticello and Ironbound Roads. He said there would be sufficient parking for people to come and walk from shop to shop, as well as the people who live within New Town. He believed that the success of the commercial interests would depend on a regional draw.

Martin Garrett stated that much of the commercial interests in Savannah, Charleston, and Williamsburg were not self-contained but came from tourism. He asked Paul Milano to speak about Celebration in FL.

Paul Milano said that Celebration gets a fair amount of traffic from curious observers but by and large, the market that has supported Celebration was the local market. He stated that certainly, the local home buyers, working families, and retirees support the area.

Martin Garrett asked what the population was at Celebration.

Paul Milano said he did not know the total population and that it was much larger than the area he showed on the slide. He stated there were three villages and it's population range was

four to five thousand people, at this time.

Don Hunt asked if this was a support unit for Disney World, a place where employees live.

Paul Milano stated that some employees do live there but the market for Celebration had to compete with the Orlando housing market. He added that Celebration did not rely or depend on a specific group of people. He said there was so much interest in the beginning that they held a lottery for the first phase of development with more people than lots. He also noted that Celebration has lead the real estate market since its inception in 1994.

Martin Garrett stated his concern was that New Town would develop as something that was wanted very much but would eventually go more towards residential simply because there wouldn't be a significant demand to justify the commercial interest. He commented on the Monticello Shopping Center down the road and felt that residents of New Town would do a lot of shopping there as opposed to shopping in New Town.

Paul Milano said that was a question for the marketers and developers of New Town and that as an architect, he wanted to see this place function as best as it can, including its economic viability. He felt it was a question of choosing the right type of retail and commercial activity that would set itself apart from a more typical shopping center.

Don Hunt stated that an area like Merchant Square in Williamsburg works because it has a large captive population of the college students and faculty. He said something like New Town did not have a core population and it would need something that would cause people to gravitate to that commercial area.

Paul Milano felt that New Town would have a lasting effect if it is done right and it would be a place that would be revered as a place that people would want to come to live or visit. He said Williamsburg is attractive as a retirement community, it has a university, there is interest in developing more opportunities for research and development, and there are the tourist attractions of Colonial Williamsburg and Busch Gardens. He said he did not have all the market research and was not sure if it was fully researched but these were solid design principles that would encourage a viable community.

Martin Garrett felt Paul Milano's presentation was something that has not been presented by the proponents before in that they state that New Town was to be self-contained and Paul Milano was stating that it could not be viable unless it had outside support. He said he agreed with Paul Milano.

Joe McCleary agreed in some way with Martin Garrett but said he was also familiar with an area in northern Virginia called Reston and to a certain degree there is a mixture back and forth and some trade that comes in from the outside but, by and large, Reston feeds upon itself. He said he was impressed by the amount of commercial and retail activity that can be supported generally by the population that lives there.

Martin Garrett said his concern was that the people who market New Town would, in 10 to 20 years from now, come back to the Planning Commission and say they can't support the commercial interest and ask to go toward more residential.

Paul Milano believed that the guidelines and master plan have to be flexible enough to shift with changing time, as long as the principles in that vision can be maintained.

Joe McCleary asked if within this community there were covenants to guide them so when there is mixed use development close together there would be an assurance that everyone would be a good neighbor to everyone else.

Paul Milano stated that the guidelines were fairly general and broad in their scope and they try to set the parameters and ground rules. He said as the plans become more developed, they are fine tuned by the Design Review Board. He also said there were ways through business development initiatives, homeowner associations that occur as separate entities that can insure other rules and regulations that would foster good neighbor approaches.

Joe McCleary asked about the 1.7 persons per unit figure that the applicant had estimated since the units ranged from 1,500 sq. ft. up to 2,500 sq. ft. and felt that the population would be greater than 1.7 on average.

Alvin Anderson said the units ranged from 1,100 sq. ft. to 2,250 sq. ft. and the 1.7 per unit was from the County Parks and Recreation figures which anticipates so many people from multi-family units which this project was based upon.

Joe Poole commented that he had continued to be impressed by this project because it represented real innovation in our community and complimented the applicant and those who were involved from various sectors of the community considering what could have been there by right. He stated he was concerned about the planning and sensitivity to some of the existing residents to the northeast of the property and ask the applicant to address those issues. He also requested a graphic showing what trees would remain.

There being no further speakers, the case was deferred to the next meeting and the public hearing remained open.

9. PLANNING DIRECTOR'S REPORT

Marvin Sowers stated there would be a balloon test on October 10th from 8:00 to 9:00 a.m. at the site for a cellular tower located at the airport and encouraged Commission members to come out and view the test. He noted one had been done previously and it was quite visible from Route 199, Kingspoint, and other areas.

Marvin Sowers stated the Board had directed Development Management to develop a Cash Proffer Policy for the Board to consider on October 9th. He said copies of the report would be sent to the Commission members.

Marvin Sowers concluded by stating there would be a joint special meeting with the Commission and Board on October 2nd at 7:00 p.m. He handed out a prepared draft agenda for the meeting and asked members to notify him if they had additional items they wished to discuss.

Joe Poole informed the Commission members that he was the Commission's representative to visit an electrical generation facility in New England on October 10th and 11th and would supply any information he obtained to the members.

10. ADJOURNMENT

There being no further business, the October 1, 2001, meeting was recessed at

approximately 8:35 p.m. to the October 2, 2001, joint meeting.

11. JOINT MEETING OF BOARD OF SUPERVISORS/PLANNING COMMISSION

On October 2, 2001, the Planning Commission met in a joint meeting with the Board of Supervisors to discuss such topics as Cash Proffers and the JCSA water policy. Also presented at the meeting was the 2001 Planning Commission Annual Report.

Martin A. Garrett, Chair

Marvin Sowers, Secretary

MEMORANDUM

DATE: November 5, 2001
TO: The Planning Commission
FROM: Tamara A. M. Rosario, Senior Planner
SUBJECT: FY 2002 - 2007 Six-Year Secondary Road Plan

Overview

Each year the Virginia Department of Transportation (VDOT) requests the County to review its secondary roads (those roads with route numbers 600 and above) and to make recommendations on the priority rankings of state funding allocations to those roads with the greatest need for improvement. The County is expected to receive between \$2 and \$2.3 million each year for the next six years for secondary road improvements. The funding schedule does not assume any state revenue sharing funds that, if used by the County, could accelerate projects after 2001. If requested and matched by the County, these revenue sharing funds would be allocated by VDOT at a later time to eligible projects chosen by the County.

Ranking Process

Attachment 1 lists the roads that have been considered and their proposed priority rankings. Staff identified these roads as needing improvement based on traffic count data, road conditions, and the Comprehensive Plan. Staff further analyzed and ranked these secondary roads in terms of traffic volumes, accident data, road condition, and geometrics. Attachment 2 lists the roads that are recommended to be included in this year's FY 2002 Six-Year Secondary Road Plan. Attachment 3 is the official VDOT priority ranking and funding spreadsheet. It does not reflect the application of any future revenue sharing funds.

In ranking the projects, four-lane improvements were ranked separately from the two-lane improvements. The roads included in the four-lane improvement category are roads that are of standard two-lane design for which the only significant improvement alternative to increase level of service is to widen these roads from two to four lanes. It is very important to note that listing the roads in this category does not necessarily mean that these roads will be widened to four-lanes in the future. We will continue to monitor all of these roads and to evaluate annually their need for improvement. We remain hopeful that with the completion of Route 199 and Monticello Avenue, further four-lane improvements will not be warranted for Longhill Road (north of Olde Towne Road) and Ironbound Road (south of Mid-County Park).

The roads in the two-lane improvement category are those roads that are of substandard design and construction. These two-lane roads have traffic volumes that do not warrant an upgrade from two to four lanes; however, due to their condition many of these roads are candidates for intermediate improvements. The County's goal in the past and in this year's staff recommendation is to balance road improvement projects between costly four-lane upgrades and the intermediate two-lane improvements. To accomplish this, staff recommends a continuation of the two highest-ranking four-lane improvements from last year and the five highest-ranking two-lane improvement projects of this year to be included in this fiscal year's Six-Year Plan.

Staff has concern about making significant improvements to roads outside the County's Primary Service Area (PSA) due to the financial costs of substantial upgrades, potential negative impact on the rural character of rural roads, and the possibility of encouraging additional residential development outside the PSA. As an alternative, staff recommends that, where possible, "spot" improvements be made in an effort to address major road deficiencies. These spot improvements would allow the costs to be kept at a reasonable level and to better preserve the rural character of the road. The proposed improvements to Barnes Road and Mount Laurel Road are examples of such improvements.

Summary

Neither James City County nor VDOT staff recommend any change in the priority of projects from last year's plan. No conditions have changed to warrant new priorities; however, increasing costs have delayed the construction start date of several projects, as detailed in their descriptions below.

Description of Projects - In Priority Order

The following is a list of proposed projects for the Six-Year Secondary Road Plan. This list contains the same projects that were on last year's plan.

1. Ironbound Road – Tewning Road to Strawberry Plains Road

Ironbound Road is planned to be widened from two to four lanes from Tewning Road to the Virginia Power office on Ironbound Road. The four lanes will actually end in the vicinity of Strawberry Plains Road, but the project will include tapers that will extend down approximately to the Virginia Power office. The section of Ironbound Road between Tewning Road and Longhill Connector Road is in the City of Williamsburg. It is expected that this section will also be upgraded to four lanes to link the County's section of Ironbound Road to the four-lane improvement of Longhill Connector Road. This segment of Ironbound Road had an average traffic count of 9,117 vehicle trips per day (vtpd). It is expected that the traffic volumes on this road will continue to grow, particularly with the undeveloped Casey Property to the west, undeveloped property on the east side of Ironbound Road, and future development/redevelopment along Monticello Avenue.

The design of this road and the Longhill / Longhill Connector Road will contain extensive pedestrian, bikeway, and landscape improvements. These improvements were originally proposed by the New Town Master Plan and have since been redefined and endorsed by the Crossroads Steering Group. The very high estimated cost of the two projects reflects these design features. Staff is monitoring the costs and may recommend changes in the projects next year, if needed to maintain sufficient funding for other transportation projects. Construction is anticipated to begin in July 2004, rather than in July 2003 as projected in last year's plan.

2. Longhill Road and Longhill Connector Road

All of Longhill Connector Road and the portion of Longhill Road from Route 199 to Longhill Connector Road are planned to be widened from two to four lanes. The 2001 traffic volume on Longhill Connector Road is 5,425 vtpd. To date, VDOT has considered this four-lane project and the Ironbound Road and Longhill Road projects as one project. Without this upgrade, the level-of-service on all of Longhill Road and Ironbound Road may decrease. Staff may have a new recommendation next year. As with the Ironbound Road project, construction is expected to begin in July 2004 rather than in July 2003.

3. Croaker Road - Route 607

This planned two-lane improvement, which is outside the PSA, will occur between Woodland Farms Drive and Croaker Landing Road. This road provides access to Woodland Farms, Sycamore Landing, Ivey Dell, Ware Creek Manor, and the York River Park boat ramp at the end of Croaker Landing Drive. Citizens in this area have voiced support for this planned road improvement in general; however, the final alignment of the road has not been decided at this point. Staff is working with VDOT to identify the alignment alternatives and will evaluate them based upon their impact to surrounding property owners, potential to encourage undesired residential development and to erode rural character, and final cost. All alternatives will incorporate a bikeway. Current estimated costs are higher than those anticipated in past years, and construction is anticipated to start in July 2006, two years later than previously expected.

4. Ironbound Road - between Sandy Bay Road and Jamestown Road

This two-lane improvement would occur on the short segment of Ironbound Road between Sandy Bay Road and Jamestown Road. This segment of Ironbound Road is in poor condition and has poor geometrics (curvature, alignment, elevation, etc.). While a traffic count was not available for this portion of Ironbound Road, the 7,553 count for the portion of Ironbound Road between Hickory Signpost (Route 629) and Route 5 was used to estimate its volume. Staff estimates that roughly 40 percent of this traffic volume (3,021 vtpd) would use this short segment of Ironbound Road. The construction start date for the project has also slipped two years from May 2005 to May 2007.

5. Barnes Road - Route 601

This project, which is outside the PSA, will address portions of Barnes Road which have poor curves and failing road pavement. VDOT has recommended that this road project be included in the Six-Year Plan. These spot improvements will address the road's major deficiencies while at the same time keeping costs to a minimum, preserve much of the road's rural character, and thus not enhance the area's attractiveness for residential development.

6. Mount Laurel Road - Route 608

This project will involve improving a segment of Mount Laurel Road from Ware Creek Road (Route 606) to 0.3 miles west of Ware Creek Road. Like Barnes Road, this project will involve improving several bad curves in the road and will not constitute a full upgrading for the reasons mentioned above and because of its location outside the PSA. The expected start date is July 2006, back one year from July 2005.

7. Olde Towne Road - Route 658

Olde Towne Road was first included in the Six-Year Plan last year. This project, which is inside the PSA, will address portions of Olde Towne Road which have a poor curve and failing road pavement on several shoulders. These places are to be handled through spot improvements. Several of these improvements have already been handled with the construction of a bridge crossing Route 199. This section of Olde Towne Road was regraded and paved making a better transition and lengthy improvement. Additionally, spot improvements will continue to bring the road to more acceptable geometrics and conditions while keeping costs to a minimum.

8. Bikeway Project - Centerville Road - between Jolly Pond Road (south) and Longhill Road

This project, which has been in the County's Capital Improvements Program (CIP) for several years, will complete the last section of bikeways on Centerville Road. Bikeways on all other sections were done in conjunction with the road widening project; however, the widening in this section did not include a bikeway because the County did not have an adopted bikeway plan at the time. Like the previous bikeway projects, 80% of the cost is federally funded with the balance funded by the County. Engineering is complete, federal funding is available, and the project is ready to go to construction. County staff continues to work with VDOT and other agencies to reduce the amount of County match money needed. Therefore, it is recommended that the County Administrator be authorized to approve the addition of non-County funds to the Six-Year Secondary Road Plan in order to offset this 20% match requirement.

9 and 10. Bikeway Projects - Longhill Road and Ironbound Road

Priority projects 9 and 10 on the Six-Year Plan are two bikeway projects.

Longhill Road from Olde Towne to Longhill Connector Road
Ironbound Road from Strawberry Plains to Eastern State

Since the County has elected to go forward with the widening of Ironbound Road, a portion of the Ironbound Road bikeway will be done in conjunction with that project. These secondary road categories are essentially accounts that include all secondary road bikeways that are part of the "Regional Bikeways Program" and include bikeways on Strawberry Plains Road, Sandy Bay Road, and other sections of Ironbound Road and Longhill Road. (The Centerville Road bikeway is not included in either of these line items because VDOT has assigned it a separate project number.) The majority (80 percent) of funding for all of the bikeway projects listed was provided by the federal government's Intermodal Surface Transportation Act (ISTEA) funding. The balance of funding is provided by the state Secondary Road Fund and revenue sharing or the County's Capital Improvement Fund. The Longhill Road and Ironbound Road bikeway projects have already received some secondary road funding. As previously noted, it is recommended that the County Administrator be authorized to approve the addition of non-County funds to the Six-Year Secondary Road Plan in order to offset the 20% match requirement.

11. Monticello Avenue Extended (formerly known as Alternate Route 5)

For financing reasons, this road improvement is included in the proposed FY 2002 Six-Year Secondary Road Plan. Any secondary road funds used on the project will be replaced with federal STP funds allocated by the Hampton Roads Metropolitan Planning Organization. Monticello Avenue Extended is a new two-lane facility to be constructed on a four-lane right-of-way from Governor's Land and linking up to existing Monticello Avenue at Ironbound Road. The portion of this road from Ironbound Road to Mid-County Park was constructed as part of the Route 199 project. Staff suggests that this project continue to be placed in the Six-Year Plan to allow for future funding, if necessary.

Racefield Road - Route 622

The portion of Racefield Road from Preakness Lane (Route 1040) to 0.90 kilometers (km) west of Preakness Lane is planned to be paved. Each year a portion of the County's Six-Year Secondary Road Plan funding is specifically dedicated to improving unpaved streets. Racefield Road has been accumulating these funds over the last several years. While this project remains in the "unpaved"

road category, staff and VDOT are recommending that small amounts of secondary funds be applied to the project in an effort to accelerate its construction. The fact that this road is unpaved and serves quite a large number of homes make it a candidate for secondary road funds. Because only a relatively small amount of money will be committed to this project each year, its inclusion will not affect the funding schedule for the higher priority projects.

RECOMMENDATION:

Staff recommends approval of the attached FY 2002 – 2007 Six-Year Secondary Road priority and funding schedule (Attachment No. 3).

Tamara A. M. Rosario
Tamara A. M. Rosario

TAMR
FY02 PC Report.wpd

Attachments:

1. Roads Recommended for Inclusion in the FY 2001 Six-Year Secondary Road Plan
2. FY 2002-2007 Priority Ranking Spreadsheet
3. VDOT Priority List and Funding Spreadsheet

**ROADS RECOMMENDED FOR INCLUSION
IN THE FY 2002 - 2007 SIX-YEAR SECONDARY ROAD PLAN**

Priority	Road Project	Segment
<i>Four-Lane Projects</i>		
1.	Ironbound Road	Tewning Road to Strawberry Plains Road
2.	Longhill Road/Longhill Connector Road	Route 199 to Ironbound Road
<i>Two-Lane Projects</i>		
3.	Croaker Road	Woodland Farms Drive to Croaker Landing Road
4.	Ironbound Road	Sandy Bay Road to Jamestown Road
5.	Barnes Road	0.5 mi east of Route 60 to 0.85 mi east of Route 60
6.	Mount Laurel Road	Ware Creek Road to 0.3 mi west of Ware Creek Road
7.	Olde Towne Road	Virginia Power easement to Route 199
<i>Bikeways</i>		
8.	Centerville Road bikeway	Jolly Pond Road (south) to Longhill Road
9.	Longhill Road bikeway	Olde Towne Road to Longhill Connector Road
10.	Ironbound Road bikeway	Strawberry Plains Road to Eastern State
<i>Other</i>		
11.	Monticello Avenue	
*	Racefield Road	Preakness Lane to 0.9 km west of Preakness Lane

*Racefield Road will be included in the Six-Year Plan, but will not receive a priority listing due to its designation and placement on the VDOT Unpaved Roads Program.

**FY 2002 - 2007
Six Year Secondary Road Plan
Priority Ranking Spreadsheet**

Rank	Project Letter	Route Name	From	To	Existing # Lanes	2001 Average Daily Traffic	2000 Average Daily Traffic	Geometrics	Road Condition	PSA
4-Lane Improvements										
1	A	Ironbound Road (Rt. 615)	Tewning Road (747)	Strawberry Plains Road (616)	2	9,117	9,802	0	0	In
2	B	Longhill Road/Longhill Connector	Route 199	Ironbound Road (615)	2	5,425	10,018	0	0	In
	C	Ironbound Road (615)	Mid-County Park	Route 5	2	12,959	12,324	0	0	In
	D	Longhill Road (612)	Centerville Road (614)	Olde Towne Road (658)	2	11,086	7,070	0	0	In
	E	Croaker Road (607)	Richmond Road (60)	I-64 Interchange	2 & 4	8,303	7,986	0	1,000	In
	F	Ironbound Road (615)	Route 5	Jamestown Road (31)	2	7,553	7,227	0	0	In
2-Lane Improvements										
3	L	Croaker Road (607)	Woodland Farms Drive (1601)	Croaker Landing Road (605)	2	3,762	1,079	250	1,000	Out
4	H	Ironbound Road (615)	Sandy Bay Road (681)	Jamestown Road (31)	2	3,021	2,891	500	2,000	In
5	I	Barnes Road (601)	0.5 miles east of Route 60	0.85 miles east of Route 60	2	325	325	250	2,000	Out
6	K	Mount Laurel Road (608)	Ware Creek Road (606)	0.3 miles west of Ware Creek Road (606)	2			500	2,000	Out
7	G	Olde Towne Road (658)	Virginia Power Easement	Route 199	2	9,768	8,696	750	2,000	In
*	J	Racefield Road (622)	Preakness Lane (1040)	0.9 km west of Preakness Lane (1040)	2 unpaired			500	2,000	Out

Projects that are highlighted are recommended by staff to be placed on the FY 2002 - 2007 Six-Year Secondary Road Plan. Projects 8, 9, and 10 as noted in the "Roads Recommended for Inclusion" attachment are bikeway projects; project 11 is Monticello Avenue. *Racefield Road will not have a priority ranking due to its designation as a dirt road.

Road Geometrics	
0	Good
250	Fair
500	Poor
750	Very Poor

This sliding scale assigns a point value based on the geometrics of the road. Geometrics are the alignment and curvature of a roadway.

Road Condition	
0	Good
1000	Fair
2000	Poor
3000	Very Poor

This sliding scale assigns a point value based on the overall condition of the road. Overall condition is determined by evaluating criteria such as pavement condition, width of roadway, and drainage.

2001 Traffic Counts (vehicle trips per day)			
Project Letter	Count Station 1	Count Station 2	Average
A	9,015	9,219	9,117
D	6,572	15,599	11,086
G	9,433	10,102	9,768
H	40% of 7,553 (traffic count between 629 & 5)		

These roads had two count stations located along the segment considered for improvement. An average of the two count stations was used in determining the priority ranking for these roads.

16

Secondary System

County: James City

Construction Program

Estimated Allocations

Fiscal Year	New Surface Treatments	Federal	Other	Total
2002-03	\$25,089	\$116,482	\$1,826,392	\$2,067,943
2003-04	\$24,711	\$647,449	\$1,376,300	\$2,048,460
2004-05	\$26,373	\$742,440	\$1,401,065	\$2,169,878
2005-06	\$28,432	\$900,965	\$1,380,591	\$2,309,978
2006-07	\$28,832	\$703,155	\$1,610,032	\$2,342,019
2007-08	\$28,832	\$0	\$2,313,187	\$2,342,019
Totals	\$162,269	\$3,110,471	\$10,007,557	\$13,280,297

Board Approval Date: 12/11/2001

Quintin D Elliott
 VDOT Resident Engineer Date

Sanford B Warner
 Chairman, Clerk, Co. Administrator Date

SECONDARY SYSTEM CONSTRUCTION PROGRAM
(in dollars)

District: Suffolk
County: James City
Board Approval Date: 12/11/2001

2002-03 through 2007-08

Route PPMS ID Accomplishment Type of Funds: Priority #	Road Name Project # FROM TO Length Traffic Count	AD Date:	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS					Balance to Complete	Scope of Work FHWA # Comments
						2002-03	2003-04	2004-05	2005-06	2006-07		
Rt. 8000 ID: Contract STATE Budget Item Pri #: 0	Cedar Lane 8000-047- .N	07/01/2001	PE \$0 RW \$0 CON \$26,458 Total \$26,458	PE \$0 RW \$0 CON \$26,458 Total \$26,458	\$26,458	\$0	\$0	\$0	\$0	\$0	\$0	Dirt Street RURAL ADDITION CO PAYED \$26,458
Rt. 8000 ID: 1204002 State Forces STATE County-Wide Incidental Pri #: 0	Pipe Install./Private Entrances CWI		PE \$0 RW \$0 CON \$898,000 Total \$898,000	PE \$0 RW \$0 CON \$209,458 Total \$209,458	\$658,542	\$0	\$0	\$0	\$0	\$0	\$0	
Rt. 0622 ID: 11264 Contract STATE Unpaved Pri #: 0	RACEFIELD ROAD 0622-047-P46,M501 0.90 KM W/ RT 1040 ROUTE 1040 0.90 KM 364	06/01/2003	PE \$155,162 RW \$207,203 CON \$444,560 Total \$806,925	PE \$155,162 RW \$127,841 CON \$5,001 Total \$288,004	\$518,921	\$0	\$24,711	\$26,373	\$0	\$0	\$0	GR, DR, STAB & ST
Rt. 0615 ID: 13721 Contract STATE Regular Pri #: 0	IRONBOUND RD 0615-047-154,M501 WIMBG CITY LIMITS RTE 616 1.08 M 13875		PE \$20,000 RW \$40,000 CON \$120,000 Total \$180,000	PE \$20,000 RW \$40,000 CON \$77,000 Total \$137,000	\$43,000	\$0	\$0	\$0	\$0	\$0	\$0	CONSTR. BIKEWAYS CMAQ FUNDS TO BE USED ON THIS PROJECT. \$120,000 FY 94-95 EV. SHARING: 25,000 TRANSFERRED TO PROJ. BY M-24 TO PROJ. 0614-047-172,M501
Rt. 0612 ID: 13719 Contract STP Regular Pri #: 0	LONGHILL RD 0612-047-157,C501 RTE 658 RTE 615 0.88 9010		PE \$40,000 RW \$40,000 CON \$120,000 Total \$200,000	PE \$40,000 RW \$0 CON \$0 Total \$40,000	\$160,000	\$0	\$0	\$0	\$0	\$0	\$0	CONSTR. BIKEWAYS ALIGNMENT TO BE COORDINATED WITH THE 4 LANING OF RTE 612 CMAQ MONEY USED 20% MATCH
Rt. 0615 ID: 50057 Contract STATE Regular Pri #: 1	IRONBOUND ROAD 0615-047-169,C501 ROUTE 747 0.28 MI E RTE 616 1.15 17511	07/13/2004	PE \$1,057,650 RW \$162,827 CON \$3,162,711 Total \$4,383,188	PE \$259,003 RW \$60,174 CON \$0 Total \$319,177	\$4,064,011	\$158,571	\$640,076	\$0	\$0	\$0	\$0	4 LANE PROJECT TO CONSTRUCTED IN CONJUNCTION WITH RT 612 1.5 MILLION FROM REGIONAL STP YEAR 2001-2002

18

SECONDARY SYSTEM CONSTRUCTION PROGRAM
(In dollars)
2002-03 through 2007-08

District: Suffolk
County: James City
Board Approval Date: 12/11/2001

Route PPMS ID Accomplishment Type of Funds: Type of Project Priority #	Road Name Project # FROM TO Length Traffic Count	Estimated Cost AD Date:	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to Complete	Scope of Work FHWA # Comments
					2002-03	2003-04	2004-05	2005-06	2006-07	2007-08		
RL 0615 ID: 13718 Contract STP Regular Pri # : 2	LONGHILL RD 0615-047-164,C501 RTE 612 RTE 322 0.85 9010	PE \$1,055,142 RW \$957,100 CON \$2,989,460 Total \$4,901,702 07/13/2004	PE \$291,231 RW \$0 CON \$0 Total \$291,231	\$4,610,471	\$116,462 \$0 \$0 \$0 \$116,462	\$647,449 \$0 \$0 \$0 \$647,449	\$742,440 \$0 \$0 \$0 \$742,440	\$900,965 \$114,680 \$786,305 \$900,965	\$703,155 \$0 \$0 \$0 \$703,155	\$0 \$0 \$0 \$0 \$0	\$1,500,000	4 LANE WIDENING PROJECT TO BE CONSTRUCTED AT THE SAME TIME AS RT 615 1.0 MILLION RSTP 2001-02
RL 0607 ID: 3089 Contract STATE Regular Pri # : 3	CROAKER ROAD 0607-047-113,C502 0.085 KM S. RT. 601 0.100 KM N. RT. 605 3003.855 M	PE \$400,000 RW \$750,000 CON \$1,501,554 Total \$2,651,554 07/01/2006	PE \$400,000 RW \$750,000 CON \$173,266 Total \$1,323,266	\$1,328,288	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$238,751 \$0 \$238,751	\$0 \$0 \$177,902 \$0 \$177,902	\$0 \$0 \$512,347 \$0 \$512,347	\$0 \$0 \$401,288 \$0 \$401,288	\$0 \$0 \$0 \$0 \$0	\$0	RECONSTRUCT & PM 15003 \$10,000 TRANSFERRED TO PROJECT 47-5000-047-166-C501 FROM PREV FUNDING
RL 0615 ID: 1771 Contract STATE Regular Pri # : 4	IRONBOUND ROAD 0615-047-126, C501 ROUTE 681 ROUTE 31 0.45 MILES 0	PE \$200,000 RW \$289,450 CON \$801,222 Total \$1,270,672 05/01/2007	PE \$200,000 RW \$0 CON \$0 Total \$200,000	\$1,070,672	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$150,000 \$0 \$0 \$150,000	\$0 \$58,688 \$0 \$0 \$58,688	\$0 \$60,782 \$801,222 \$0 \$60,782	\$0	GR.DR.STAB.PLANT MIX 16003
RL 0601 ID: 52080 Contract STATE Regular Pri # : 5	BARNES ROAD 0601-047-171,C501 0.50 E RTE 60 .85 MILE RTE.60 0.35 MILES 325	PE \$228,560 RW \$228,560 CON \$423,410 Total \$880,530 05/01/2006	PE \$0 RW \$0 CON \$0 Total \$0	\$880,530	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$124,297 \$0 \$0 \$0 \$124,297	\$104,263 \$197,253 \$0 \$0 \$197,253	\$0 \$31,307 \$423,410 \$0 \$31,307	\$0	
RL 0608 ID: 52081 Contract STATE Regular Pri # : 6	MOUNT LAUREL ROAD 0608-047- ,C501 .30 M. E. RTE606 ROUTE 608 .045 MI 0	PE \$243,560 RW \$130,280 CON \$540,862 Total \$914,502 07/01/2006	PE \$0 RW \$0 CON \$0 Total \$0	\$914,502	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$243,560 \$0 \$0 \$0 \$243,560	\$0 \$130,280 \$540,862 \$0 \$130,280	\$0	
RL 0658 ID: Contract STATE Regular Pri # : 7	Olde Town 0658-047- ,C Rte 199 0.5 MW Rte 199 0.5 Miles	PE \$195,420 RW \$455,980 CON \$651,400 Total \$1,302,800 07/01/2008	PE \$0 RW \$0 CON \$0 Total \$0	\$1,302,800	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0	\$0 \$195,420 \$25,104 \$0 \$195,420	\$1,082,276	Improve Curve

Date: 10/02/2001

SECONDARY SYSTEM CONSTRUCTION PROGRAM
(In dollars)

2002-03 through 2007-08

District: Suffolk
County: James City
Board Approval Date: 12/11/2001

Route PPMS ID Accomplishment Type of Funds: Type of Project Priority #	Road Name Project # FROM TO Length Traffic Count	Estimated Cost AD Date:	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to Complete	Scope of Work FHWA # Comments
					2002-03	2003-04	2004-05	2005-06	2006-07	2007-08		
RL 5000 ID: 19202 Contract STATE Regular Pri #: 8	ALTERNATE RTE 5 5000-047-186,CS01 RT 5 MONTICELLO AVE 2.1 13000	PE \$750,000 RW \$500,000 CON \$4,000,000 Total \$5,250,000 07/01/1899	PE \$750,000 RW \$500,000 CON \$1,600,970 Total \$2,850,970	\$2,399,030	\$0 \$0 \$394,473 \$394,473	\$0 \$0 \$341,736 \$341,736	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0	COMPL CONSTR. NEW ACCRUAL OF FUNDS FROM REVENUE SHARING AND TAX DISTRICT FROM COUNTY \$10,000 TRANSFERRED FROM 47-0607-047- 113,CS01 TO BE USED FOR VDOT DI. ALL DIVISION Bikeway (paved shld)	
RL 0614 ID: 57364 Contract STP Regular Pri #: 9	Centerville 0614-047-172, N501 Rte 612 0.2 ME Rte 633	PE \$0 RW \$0 CON \$425,000 Total \$425,000 07/01/2001	PE \$0 RW \$0 CON \$125,000 Total \$125,000	\$300,000	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0	\$300,000	\$100,000 transferred from CMAQ funds Project BW003-047-101, CS01, PPMS 16462, 25,000 TO BE TRANS. BY M-24 FROM PROJ. 0615-047-154, M501	

Date: 10/02/2001

20

District: Suffolk
 County: James City

SECONDARY SYSTEM CONSTRUCTION PROGRAM

(In dollars)

2002-03 through 2007-08

	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to Complete
				2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	
County Totals	\$24,087,789	\$5,810,564	\$18,277,225	\$2,087,943	\$2,048,460	\$2,169,878	\$2,309,878	\$2,342,019	\$2,342,019	\$4,986,928
Report Totals										
PE	\$4,345,494	\$2,115,396	\$2,230,098	\$275,033	\$1,287,525	\$0	\$124,297	\$347,823	\$185,420	\$0
RW	\$3,641,400	\$1,478,015	\$2,163,385	\$25,089	\$24,711	\$871,466	\$287,848	\$255,921	\$247,473	\$470,876
CON	\$16,100,895	\$2,217,153	\$13,883,742	\$1,767,821	\$736,224	\$1,298,412	\$1,917,832	\$1,738,275	\$1,899,126	\$4,526,052
Original Allocation:				\$2,087,943	\$2,048,460	\$2,169,878	\$2,309,878	\$2,342,019	\$2,342,019	
Balance				\$0	\$0	\$0	\$0	\$0	\$0	\$0

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2223 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, on January 28, 1997, the Board of Supervisors adopted the 1997 Comprehensive Plan; and

WHEREAS, in order to make the Zoning Ordinance more consistent with the Comprehensive Plan, public review and comment of draft amendments is required, pursuant to Virginia Code §15.2-2285; and

WHEREAS, the Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to initiate review of Section 24-71 (Building Face Signs) of the Zoning Ordinance to add a provision where the Planning Director may allow a building face sign for industrial uses in the Planned Unit Development - Commercial (PUD-C) District to exceed 60 square feet. The Planning Commission shall hold at least one public hearing on the consideration of amendments of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

Martin A. Garrett
Chair, Planning Commission

ATTEST:

O. Marvin Sowers, Jr.
Secretary

Adopted by the Planning Commission of James City County, Virginia, this 5th day of November, 2001.

**REZONING 5-01. Ford's Colony Proffer Amendment
Staff Report for the November 5, 2001, Planning Commission Public Hearing**

This 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 Center

Planning Commission: October 1, 2001, (Deferred); November 5, 2001 - 5:00 p.m.
Board of Supervisors: January 8, 2002 - 7:00 p.m. (Tentative)

SUMMARY FACTS

Applicant/Landowner: Vernon M. Geddy III, on behalf of Realtec, Incorporated

Proposed Use: Delete Proffer No. 4 of the Amended and Restated Ford's Colony Proffers dated September 29, 1995 made by Realtec Inc. Proffer No. 4 states, "No Access. Owner shall not provide access from Ford's Colony onto Lexington Drive or Country Club Drive."

Location: Beginning at the intersection of Longhill Road and Country Club Drive and following the extent of Country Club Drive and the adjoining Lexington Drive; Powhatan District

Tax Map and Parcel No.: (32-3)(1-11)

Primary Service Area: Inside

Existing Zoning: R-4, Residential Planned Community, with proffers

Proposed Zoning: R-4, Residential Planned Community, with amended proffers

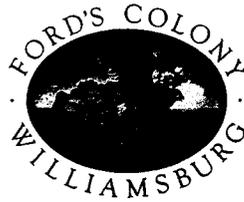
Comprehensive Plan: Low Density Residential

Surrounding Zoning: North: R-2: Williamsburg Plantation; R-5: Regency at Longhill
South: R-8: Casey / New Town
East: R-2: Eastern State Hospital
West: R-2: Windsor Forest

Staff Contact: Christopher M. Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

The applicant has requested that the application be deferred indefinitely pending discussions with representatives of the Williamsburg West Civic Association and adjacent property owners concerning the Proffers and design proposals for Ford's Colony Section Twelve. Staff concurs with the applicant's request and recommends that the application be deferred indefinitely.



October 12, 2001

James City County Planning Department
P.O. Box 8784
Williamsburg, Virginia 23187-8784



ATTN: Mr. Ben Thompson
Mr. Chris Johnson

Re: Ford's Colony Z-5-01

Dear Mr. Thompson:

On behalf of Realtec Incorporated, I request that the above case be deferred indefinitely pending discussions with representatives of the Williamsburg West Civic Association and adjacent property owners concerning the Proffers and design proposals for Ford's Colony Section XII.

Sincerely,

Drew R. Mulhare
Vice President Operations
Realtec Incorporated

cc: Vernon Geddy, III



Williamsburg West
Civic Association
October 10, 2001

PETITION AGAINST THE DELETION OF PROFFERS

Realtec Incorporated is requesting that the Board of Supervisors/Architectural Review Board allow them to delete all of their proffers to which they agreed to in 1994. If we allow this to happen, Lexington and Country Club Drives will be used to access Ford's Colony, thus creating more vehicular traffic in all of Williamsburg West.

This petition is signed by the members of the Williamsburg West Civic Association that oppose the deletion of proffer Z-08-94/ MP-2-94, which states that Realtec Incorporated "shall not provide access from Ford's Colony onto Lexington Drive and Country Club Drive."

Williamsburg West Property Owners

Barbara A. Gromala 117 Lexington Drive

Bela Kekesi 115 LEXINGTON DR.

Helena Kekesi 115 LEXINGTON DR.

Paul M. Tamm 112 LEXINGTON DR.

Ferris M. Halat 116 LEXINGTON DR.

Thomas M. Clark 110 Lexington Dr.

Edward W. Hallock 130 COUNTRY CLUB DR.

Ruby ... " " " "

... J. ... 38 ...

Thomas ... " " " "

Elmore C. ... 170 Country Club Dr.

Mildred S. ... " " " "

Ronald E. Dixon 108 Lexington Drive 23

Petition Against Deletion of Proffers

Clifford M. Cushman	118 Country Club Drive
Walter L. Cushman	" " " "
Ernest D. Cushman	110 Country Club Dr.
Bunny D. Cushman	110 Country Club Dr.
Terrence L. Dale	101 Country Club Ct
Diane Dale	101 Country Club Ct.
Nathan Stolow	100 Lexington Drive
Dorey Stolow	" " " "
Lyons Helmick	100 Country Club Ct
Roger A. Helmick	100 Country Club Ct.
Willy Valli	102 Country Club Ct
L. Valli	102 Country Club Ct
RUTH C. MARUCA	101 Lexington DR
Ann E. Moore	116 Country Club Dr.
James E. Moore	149 Country Club Dr
Dale Hoff	153 Country Club
Ken Giffeth	153 Country Club Dr.
Julys Johnson	138 Country Club Dr.
Reed Johnson	138 Country Club Dr.
Sammy Berryhill	137 Country Club Drive
Cecil James	134 Country Club Dr.
John C. Egan	134 Country Club Drive
Terry Lyons	159 Country Club Drive
Metzger	108 Lexington Drive
Marken	136 Country Club Dr.

**Rezoning 5-00
New Town Office Building**

Staff Report for the November 5, 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: October 1, 2001; November 5, 2001; December 3, 2001 7:00 p.m.

Board of Supervisors: January 2002 (Tentative)

SUMMARY FACTS

Applicant: Mr. Vernon Geddy, III

Proposal: Rezone the property from R-8, with proffers and M-1, to B-1, General Business, with proffers to allow for the construction of a 5-story office building

Location: At the intersection of Monticello Ave and Ironbound Road Relocated

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

The applicant has continued to work with the New Town Design Review Board (DRB) to finalize design details of this project. That process is still on-going and, subsequently, the applicant has requested a deferral until the December 3, 2001, meeting. Staff concurs with the applicant's

request and recommends deferral.

Attachment: Deferral request letter

GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.

ATTORNEYS AT LAW

316 SOUTH HENRY STREET

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

e-mail: vgeddy@widomaker.com

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

October 30, 2001

Mr. Paul Holt
James City County Planning Department
101-E Mounts Bay Road
Williamsburg, Virginia 23185

Re: Z-5-00/Office Building at Monticello Avenue and Ironbound Road

Dear Paul:

On behalf of the applicant, I am writing to request that consideration of this case be deferred until the December Planning Commission meeting to give the applicant time to continue its work with the Design Review Board.

Sincerely,



Vernon M. Geddy III

VMG:s

cc: Mr. John Saline
Mr. Richard A. Corallo

Special Use Permit 20-01; Height Limitation Waiver 1-01

James City Energy Park - Electrical Generation Plant

Staff Report for the November 5, 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:

November 5, 2001 7:00 p.m.

Board of Supervisors:

November 27, 2001 (Tentative)

SUMMARY FACTS

Applicant:

Mr. Alvin P. Anderson and Mr. Gregory R. Davis on behalf of James City Energy Park, LLC

Land Owner:

Greenmount Associates, LLC

Proposal:

Construct an electrical generation plant

Location:

The southern most end of Blow Flats Road

Tax Map ID:

A portion of parcel (1-47) on the Tax Map page (59-2)

Primary Service Area:

Inside

Existing Zoning:

M-2, General Industrial

Comprehensive Plan:

General Industry

Surrounding Zoning:

This property is surrounded by other M-2 zoned land

Surrounding Development:

North: Wal Mart Distribution Center
Single family homes (stick-built and manufactured)
South: The idled BASF property
East: Other undeveloped property of Greenmount
West: The Shouse Construction Company

Staff Contact:

Paul D. Holt, III Phone: 253-6685

STAFF RECOMMENDATION

With the attached SUP conditions, staff finds that possible negative impacts from the proposed facility will be mitigated to the greatest extent possible. With the proposed conditions, staff also finds the proposal will not negatively impact adjacent property or surrounding uses. Staff also finds the application consistent with the Comprehensive Plan and that the application meets the Zoning Ordinance criteria for the granting of a height limitation waiver. Staff therefore recommends approval, subject to the attached conditions.

Description of the Project

Electrical Generation Plant

Mr. Alvin P. Anderson and Mr. Gregory Davis have applied for a special use permit to allow for the construction of an electrical generation facility on approximately 53 acres located at the southern most end of Blow Flats Road. "Electrical generation facilities," public or private, are specially permitted uses on property zoned M-2, General Industrial.

The company interested in developing the site is James City Energy Park, LLC ("JCEP"). JCEP is a Virginia-based company established for the sole purpose of developing this project. The two lead developers in JCEP are Standish Energy, Inc., and the Landcraft Corporation. Standish Energy is a Massachusetts-based corporation formed in January, 2000, to develop power projects in the United States. Standish Energy currently has seven projects under development and its principals have over 60 years of power plant experience. Landcraft Corporation is also a Massachusetts-based company and was formed in 1985 by an individual with over 20 years of development experience. Landcraft is a participant in four of the Standish Energy projects. JCEP's equity funding partner is El Paso Power. The El Paso Corporation is the fourth largest U.S. energy company with an enterprise value of \$50 billion.

Specifically proposed is a nominal 540 mega-watt ("MW") power plant. The fuel source will be Natural Gas with low sulfur oil as a back up fuel. The power will be produced using "Combined-Cycle" advanced technology. The process is shown on the enclosed graphic. Plants using this type of technology are 40% more fuel efficient than traditional power plants. The plant will use two "F" class gas turbines, two heat recovery steam generators, one steam turbine, and cooling will come from a wet mechanical draft cooling tower.

Effective January 1, 2002, electrical power in the Commonwealth of Virginia will become deregulated. According to a recent article by the Washington Post, 15 U.S. power companies want to take advantage of this deregulation and have applied to build 21 power plants across the State. The four closest to James City County are proposed "peaking" plants in Charles City County, and Louisa County, and combined-cycle plants also in Louisa and in Brunswick County. Combined-cycle plants generate electricity for regular daily needs, while peaking plants generate electricity only for use on high-demand days.

The site is located within the Greenmount Industrial Park and adjacent to the Wal Mart Distribution Center. The site is ideally located for the applicant for a number of reasons: the presence of existing high-power distribution lines, existing Virginia Natural Gas (VNG) and Combined Natural Gas (CNG) pipelines, the presence of the Colonial pipeline, existing potable water and sanitary sewer lines, and close proximity to the Hampton Roads Sanitation District (HRSD) plant (to be discussed in further detail below). The site is also located within the James City County Enterprise Zone.

The applicant proposes constructing the facility on approximately 53 acres, which would be subdivided out from a larger parcel. However, only about 23 acres would be used for the plant and for the accessory uses and structures. The remaining 30 acres would be used for buffer areas

(including a minimum of 200 foot buffer around the perimeter of the site).

Developing an electrical generation plant requires many studies and approvals. In addition to the Special Use Permit and Height Limitation Waiver requested from the County, JCEP must also file for an interconnection study with Dominion Virginia Power (for using their existing lines and grid network), complete interconnect studies with the two competing Natural Gas companies, complete wetlands delineation and archaeological studies, initiate air quality and stormwater permitting activities with the Virginia Department of Environmental Quality (DEQ) and request a "Certificate of Public Convenience and Necessity" from the State Corporation Commission (SCC). Also, on a Federal level, the air quality permit must meet Environmental Protection Agency (EPA) standards (the EPA standards are delegated to DEQ for inclusion into their permitting process).

Should the special use permit be approved, the applicant anticipates being through the permitting process and through the construction phase (approximately 18-24 months) in time to begin commercial operation in March, 2005.

The facility, if approved, is expected to have 25-30 operating staff over 2-3 shifts.

Petroleum Storage Facility

As mentioned, the proposed plant would be fueled primarily with Natural Gas. This raw material would be delivered to the site via underground pipeline connections from either Virginia Natural Gas (VNG) or Combined Natural Gas (CNG). Both companies have existing pipeline networks in close proximity to the site. However, there may be brief periods when the natural gas is unavailable. In these times, a secondary fuel source is needed. For this particular plant, the back-up fuel proposed is low sulfur oil.

One particular advantage of the Greenmount site is that this back up fuel can be delivered via underground pipeline and not by truck. A connection would be made to the Colonial pipeline which would deliver the oil to petroleum storage tanks on site.

The two proposed petroleum storage tanks would be generally located at the rear of the site. Each tank would be 78 feet in diameter, 58 feet tall and would hold a combined storage capacity of approximately 7.0 million gallons. The tanks would be located inside an earthen berm, designed to contain spills in the event of a leak. The design of the safety berm is subject to local approval and is based on local, State and Federal safety standards. In staff's opinion, the size of these tanks are much larger than what would normally be used as an accessory use to an industry. Therefore, the application that is currently before you is also a special use permit request for a petroleum storage facility. "Petroleum storage facilities" are specially permitted uses on M-2 zoned property.

The applicant anticipates having to switch to oil back up no more than 30 days a year. Oil use would not be continuous for the 30 days however, but would be used on much more of an intermittent, disbursed schedule, and all as based on the contract with the gas company.

Air Emissions

In analyzing the proposed Greenmount site and the specific JCEP proposal, the applicant's environmental consultant found the following:

1. James City County is in an area that meets all ambient air quality standards. The addition of the JCEP project will not change the attainment of these air quality standards.
2. The proposed project will install Best Available Control Technology (BACT) to limit air emissions from the facility.
3. The air quality impacts of the JCEP facility will comply with all U.S. Environmental Protection Agency (EPA) and Virginia Department of Environmental Quality (DEQ) regulations. A detailed dispersion modeling analysis will be submitted with the air permit application, which will demonstrate the project complies with ambient air quality standards.

The project will employ Best Available Control Technology (BACT) to control air emissions. BACT controls for the project will include the following:

1. Dry-low NO_x (nitrogen oxides) combustors to reduce NO_x emissions from the combustion turbines.
2. Selective catalytic reduction (SCR) to further reduce NO_x emissions from the combustion turbines and the supplementary fired heat recovery steam generators (HRSG).
3. Utilizing natural gas as the primary fuel to limit emissions of NO_x, SO₂ (sulfur dioxide) and PM/PM₁₀ (particulate matter).
4. Good combustion practices to limit emissions of CO (carbon monoxide) and VOCs (volatile organic compounds) will also be used.

Staff has sent the applicant's air quality information to our own consultant for review, but as of this writing do not yet have a response. However, as mentioned previously, air emissions are subject to strict scrutiny and review and approval from the Virginia Department of Environmental Quality and the EPA.

Based on the information presented, the proposed SUP conditions, and based on the additional State permits that must be obtained, staff finds that air quality and emissions impacts will be adequately mitigated.

Odor

The applicant has stated that this facility will not have any odor emissions. Staff has confirmed this statement with field visits to two other existing plants. At both plants, no odor was present. Staff finds that odor will not be an impact.

Noise

The applicant had a consultant model the anticipated noise level that would be generated from this plant at its location on the Greenmount tract.

The Commonwealth of Virginia does not have specific regulations on noise limits, but rather, delegates that authority to the locality. In the absence of such State standards, the applicant's consultant looked at noise limit regulations from surrounding states. In Kentucky and Tennessee, there is likewise no noise control legislation. In West Virginia, the allowable limit is 80 decibels (dBA) at the property line. In the District of Columbia, the limit is 65 dBA at the property line. In North Carolina, the limit is 60 dBA at the property line and in Maryland, the limit is 55 dBA.

JCEP has elected to adopt this lower standard (55 dBA) as the noise limit for the proposed facility. Therefore, the facility would be designed such that no noise level exceeding 55 dBA would be heard at the property line of any nearby residence on Blow Flats Road. As mentioned, all homes on Blow Flats Road are on property zoned M-2.

The attached graphic shows the anticipated sound levels.

A "decibel" is a measure of sound level. The higher the decibel, the louder the sound. Also, the decibel scale is based on an exponential logarithm, not a linear one. Therefore, sounds with larger decibels are, generally, exponentially louder, and sounds with smaller decibel levels are exponentially quieter, rather than "twice as loud" or "half as quiet." The following chart equates sound levels to commonly heard noises.

dBA	Noise Source	Noise Effect
150	Jet takeoff (25 M)	Eardrum rupture
140	Aircraft Carrier Deck	
130	Earphones at high level, Jet takeoff (100 M)	
120	Thunderclap, Live Rock Music, Chain Saw	Human Pain Threshold
112	Rock Band (average)	
110	Steel Mill, Riveting, auto horn at 1 M	
100	Jet takeoff (305 M), Outboard motor, power lawn mower, motorcycle, farm tractor, jackhammer, garbage truck	Serious hearing damage (8 hrs)
90	Busy urban street, diesel truck, food blender	Hearing damage (8 hrs)
84	Diesel truck at 50 feet	
80	Garbage disposal, dishwasher, average factory, freight train (15 M)	Possible Hearing damage
70	Freeway Traffic at 15 M, vacuum cleaner, living room TV	Annoying
60	Normal conversation in restaurant, office, background music	
55	Air conditioner condenser at 3 feet	
50	Quiet suburb, conversation at home	Quiet
40	Library	
30	Quiet rural area	
20	Whisper, rustling leaves	Very Quiet

The closest residence to the JCEP property line is approximately 230 feet, and the facility itself will be setback from the property line almost 500 feet. Therefore, based on the information presented, and with the proposed SUP conditions, staff finds that noise impacts will be sufficiently mitigated and will not negatively impact any existing residential structure.

Indeed, with the proposed use, staff finds that noise levels would be substantially lower than with many other by-right uses allowed on M-2 property (notice the noise level for diesel truck). For comparison, a list of permitted M-2 uses is attached to this staff report. Staff believes that passing truck traffic (associated with other uses off Blow Flats Road) and truck traffic from other existing adjacent uses would create significantly more noise than the proposed power plant.

Traffic

As stated above, the plant is expected to generate 25-30 operating staff. Staff finds that the daily operating traffic generated from the proposed plant (approximately 120 vehicle trips per day) will not negatively impact Blow Flats Road.

The significant traffic will come from construction activity. The applicant has stated that the construction period may last 18-24 months.

The first 3-5 months involves site preparation, including the erection of temporary facilities, establishing lay-down space and parking, and laying the underground utilities. The second phase ranges from 6-8 months and includes finalizing the site grading and construction of the building and equipment foundations. The next phase (approx. 6 months) involves the erection of structural steel. Finally, installation of the balance of the equipment, piping, wiring, and ducts is done. The remaining time involves the final check out, testing, and commissioning of the plant.

According to the applicant, peak construction traffic could consist of 400-600 workers. Access to Route 60 would come from Blow Flats Road. Blow Flats Road is a substandard State Road that does not meet current VDOT construction standards. The road handles truck traffic from the Branscome Borrow Pits, traffic from the Shouse Construction Company, traffic from several uses within the Skiffes Creek Industrial Park, and traffic from several residences along the road.

Blow Flats Road intersects with Route 60 at a sharp angle and the right hand turn leading from Blow Flats Road, shown on the Master Plan, has never been constructed. Again, staff does not believe the operational traffic will have a negative impact on Blow Flats Road or on Route 60. Staff does believe, however, that construction traffic will negatively impact the road.

Given that this proposal is only a special use permit, and not a rezoning, staff is limited in drafting conditions which address off-site impacts on Blow Flats Road and Route 60. The attached proposed SUP conditions attempt to mitigate impacts to Blow Flats Road.

Water Usage

JCEP anticipates its potable water needs based on 12 persons per shift working three, eight hour

shifts a day. Based on a standard domestic water demand calculation, 300 gallons of water per day will be required.

Domestic water supply is proposed through an existing 8-inch Newport News Water Works (NNWW) supply main already located within the right of way for Blow Flats Road. NNWW has preliminarily reviewed this proposal and finds it acceptable and that adequate supply exists. Should this water line not be feasible from an engineering point of view, an existing 30-inch NNWW water line also exists in close proximity to the site.

Sanitary sewer service will come from an existing HRSD line, also located within the right of way for Blow Flats Road. Preliminary studies indicate that adequate service is available.

The proposed energy plant will require a large amount of process water for cooling purposes. Preliminary studies indicate that as much as 5.0 million gallons of water per day (MGD) will be required. To mitigate any impact to the JCSA or NNWW system, JCEP has proposed entering into an agreement with the Hampton Roads Sanitation District (HRSD) to use grey water for cooling purposes. A pipeline will be constructed from the HRSD plant located at the terminus of Ron Springs Road to the JCEP project. Up to 5.0 MGD of water will be used for the cooling process and to supply a storage tank which will be used on-site for a fire suppression system, while less than 1.0 MGD will be returned to the HRSD plant via a return pipeline. The loss of water occurs primarily from evaporation during the cooling process.

Visible Emissions

According to the applicant's consultant, the only visible emissions coming from the proposed plant will be water vapor plumes, not smoke. Plumes occur due to the condensation of water vapor. The ability of air to hold water in a vapor form is dependant on a number of factors including the relative humidity and the temperature of the air. As the temperature of the air decreases, the ability of the air to hold water vapor decreases. A familiar occurrence of this phenomenon is when an individual exhales during a cold morning and the individual's breath becomes visible. This is due to the warm breath being cooled by the surrounding air, resulting in the condensation of the water vapor in the breath and thereby making it visible.

Water vapor is contained in the exhaust from the combustion process and in the exhaust from the evaporative cooling towers. In the cooling towers, warm water is cooled by evaporation of a portion of the water. The exhaust from the fan stacks of the cooling towers contains warm air saturated with moisture due to this evaporation.

The water vapor plume will be visible in cold weather or cool and moist weather.

As with noise, staff verified these claims with visits to two other working plants. Staff finds that visible emissions will have no negative impact on surrounding properties.

Other Environmental Concerns

The stormwater runoff from the proposed facility will be managed by an on-site stormwater management facility. This facility, whose general location is shown on the master plan, will utilize

either infiltration or wet detention techniques, consistent with the County's 10-point stormwater management design program.

The applicant has also worked with the State to determine whether or not any natural heritage resource areas or any threatened or endangered plant or insect species exist on the site, and they do not. The Department of Game and Inland Fisheries has noted the presence of great egret, Northern harrier and the "least tern" in the project areas. These species are listed on the State's list of "Special Concern Species." Staff has proposed a special use permit condition to mitigate impacts to these species.

The applicant has also performed a Phase I archaeological survey of the entire 53 acres. The findings consisted of 34 isolated finds and two archaeological sites that were either decomposed, of recent date, or were otherwise felt to be insignificant. No further investigations were recommended by the archaeologist. Staff has reviewed the study and concurs with its findings.

Height Limitation Waiver

The applicant has also requested a Height Limitation Waiver from the Board of Supervisors. On property zoned M-2, structures may be constructed up to 60 feet as a matter of right; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board.

The applicant has requested the following be approved:

1. An exhaust stack: 250 feet
2. Electrical transmission tower(s): 135 feet
3. Heat Recovery Steam Generator(s) (HRSG): 105 feet
4. The noise control equipment for the HRSG: 135 feet
5. Turbine building(s): 105 feet
6. Cooling tower(s): 80 feet
7. Cooling tower(s) inlet filter(s): 80 feet
8. Electrical switch yard and its accessory structures: 80 feet

The applicant has stated these heights are the maximum heights the structures may be, but it may be possible to use plant components that are not as tall (for example, the exhaust stack may be much less than 250 feet tall). The applicant will not have this specific information until the plant design is completed. Staff therefore has analyzed this application as if the tallest components possible would be constructed.

To simulate the proposed height, staff conducted a balloon test with the applicant. A 4.5 foot diameter balloon was raised to a height of 250 feet. Staff then drove on nearby streets, into nearby subdivisions and onto nearby historic properties to gauge visual impacts.

Balloon Test Results

The balloon was only visible on Route 60 in the vicinity of the Wal Mart Distribution Center. The balloon was somewhat visible in some spots on Blow Flats Road and not visible from subdivisions on the north side of Route 60 or in the closest Newport News subdivision of Carlton Farms. The

existing tree cover on Blow Flats Road (off-site from the proposed power plant property) provided the necessary screening for homes and for vehicles on Blow Flats Road.

Staff also toured the Carter's Grove Plantation site. At no point on the property was the balloon visible.

Section 24-444 of the James City County Zoning Ordinance states that structures may be erected up to 60 feet in height from grade to the top of the structure. Structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors upon finding that:

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60';

Staff comment: With the proposed buffers, the plant would be a minimum of 200 feet from the closest property line and at least 500 feet from the front property line. From the front of the property, the Zoning Ordinance requires a 147 foot setback for a structure that is 250 feet in height. From the side and rear property lines, the Zoning Ordinance requires a 92 foot setback for a structure that is 250 feet in height. Therefore, with the proposed 200 foot wide property line buffers, the setbacks are well in excess of those required by the Zoning Ordinance.

2. Such structure will not obstruct light from adjacent property;

Staff comment: Given the distance to the property line, staff believes the plant will not obstruct light from adjacent properties.

3. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

Staff comment: Carter's Grove Plantation is over 1 mile away from this site and, as mentioned above, the balloon test revealed that the tallest portions of the facility will not be visible. Staff believes surrounding historic attractions & developments will not be impaired.

4. Such structure will not impair property values in the area;

Staff comment: According to Real Estate Assessments, there is no indication that the construction of the power plant will have a detrimental effect on surrounding residential properties beyond any effect already experienced by existing industrial uses throughout the area.

5. Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;

Staff comment: The project, if approved, will be subject to full County review processes,

as well as State review and approval of certain permits. Staff feels confident this review process will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from the Grove Fire Station with back up from the other JCC fire stations and the Williamsburg Fire Department. Additionally, JCC has standing mutual aid agreements with York County, the City of Newport News, Fort Eustis, the Yorktown Naval Weapons Station and Camp Peary, if needed. The proposed power plant will be designed to provide on-site fire suppression capabilities through on-site water storage and an on-site fire pump.

6. Such structure will not be contrary to the public health, safety and general welfare.

Staff comment: Based on the analysis contained within this staff report, staff believes the proposed power plant will not adversely effect the public health, safety or general welfare.

Federal Aviation Administration (FAA) requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) should be marked and/or lighted. Owners/developers of all structures greater than 200' AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and white paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium intensity white strobe lighting during the day. Ultimately, the FAA has approval over the visibility scheme, however, to best mitigate visual impacts, staff's recommended system is outlined in the proposed SUP conditions.

Surrounding Development and Zoning

The site is completely surrounded by other property zoned M-2, General Industrial. To the south, across the creek, is the idled BASF property. To the east is other zoned land within the Greenmount Industrial Park and the Branscome and Sanifill borrow pits. To the north is the Wal Mart Distribution Center and 17-20 scattered homes (both stick-built and manufactured) along Blow Flats Road. Also accessed via Blow Flats Road is the Skiffe's Creek Industrial Park. The Shouse Construction Company is on property located to the west of this site.

As mentioned, the closest home on Blow Flats Road is approximately 230 feet from the proposed JCEP property and the plant itself is located approximately 500 feet back from the front property line. Again, all these homes are located on M-2 zoned property. The visual impacts of the proposed plant will be mitigated with a proposed 200 foot wide tree buffer along all property lines. Where existing mature vegetation does not exist within the buffer, staff has proposed a SUP condition to reforest the buffer with Loblolly Pine tree seedlings.

With the proposed SUP conditions, staff believes the potential negative impacts to surrounding property and homes have been mitigated to the greatest extent possible. Staff believes the impacts to these properties will be negligible when the plant is operating and significantly less than impacts that might be generated by an otherwise by-right M-2 development.

Comprehensive Plan

This property is designated for General Industry on the 1997 Comprehensive Plan Land Use Map.

General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses. General industrial uses usually require access to interstate and arterial highways, public water and sewer, adequate supply of electric power and other energy sources, access to a sufficient labor supply, and moderate to large sized sites with natural features such as soils, topography, and buffering suitable for intense development. Timing and intensity of development is controlled by the maintenance of an acceptable level of service of roads, the availability and capacity of public utilities, and the availability of skilled labor.

Again, with the proposed SUP conditions, staff finds the proposed use consistent with the Comprehensive Plan recommendations and land use designation. Staff believes impacts have been mitigated to the greatest extent possible, the level of service on the adjacent roads will not be impacted, once the plant is in operation, and the availability and capacity of public utilities is acceptable.

Economic Development Potential

The James City County Office of Economic Development (OED) has provided the following project highlights with respect to economic development:

S The site is located within the James River Enterprise Zone (JREZ), and this project would qualify for the County's codified local enterprise zone grants and fee waivers.

S Based on information provided by the applicant and the State Corporation Commission, the projected initial capital investment of this project is between \$250 million and \$300 million; Staff has chosen to use the high end of this range for its local annual tax revenue (LATR) and JREZ grant estimates:

LATR Estimates*:	Year 1 -	\$ 2,184,600
	Year 2 -	\$ 2,160,300
	Year 3 -	\$ 2,136,000
	Year 4 -	\$ 2,111,800
	Year 5 -	<u>\$ 2,087,500</u>
	TOTAL	\$10,680,200

S The Office of Economic Development conservatively assumes all taxable capital investment is taxed as real property; this would make JCEP the second largest property taxpayer in James City County, second only to Anheuser-Busch brewery.

S 28-32 new jobs, 90+% of which would be highly skilled positions that will earn \$40,000-\$70,000 annually plus fringe benefits.

S Standish believes all employees could be hired locally.

S Projected JREZ Local Grant Estimates:

Year 1 -	\$1,130,000
Year 2 -	\$ 893,900
Year 3 -	\$ 662,900
Year 4 -	\$ 436,900

Year 5 -	<u>\$ 215,900</u>
TOTAL	<u>\$3,339,600</u>

S State incentives are to be negotiated directly between JCEP and the Commonwealth of Virginia due to the size of the project.

Recommendation

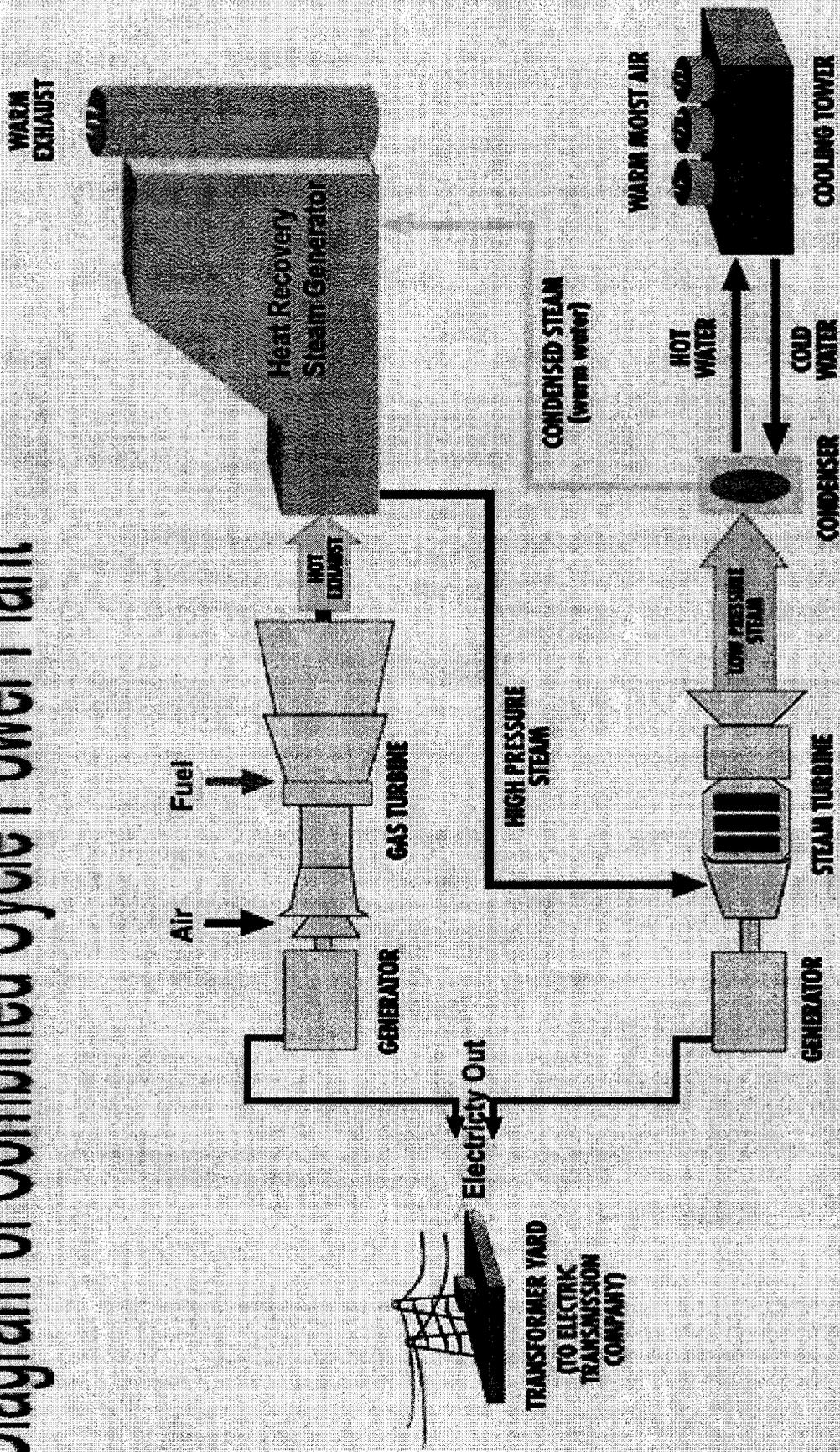
With the attached SUP conditions, staff finds that possible negative impacts from the proposed facility will be mitigated to the greatest extent possible. With the proposed conditions, staff also finds the proposal will not negatively impact adjacent property or surrounding uses. Staff also finds the application consistent with the Comprehensive Plan and that the application meets the Zoning Ordinance criteria for the granting of a height limitation waiver. Staff therefore recommends approval, subject to the attached conditions.

Paul D. Holt, III

Attachments:

1. General vicinity map
2. Location map
3. Master Plan (separate)
4. Sheet showing the building elevation/cross section (separate)
5. Graphic showing electrical generation process
6. Graphic showing anticipated noise levels
7. List of permitted uses on M-2 zoned property
8. Graphic showing pollution levels of Natural Gas fired electrical plants
9. A Community Impact Statement prepared by the applicant
10. Proposed SUP conditions

Diagram of Combined Cycle Power Plant





Sound Level Contours for the James City Energy Park

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-435. Statement of intent.

The primary purpose of the General Industrial District, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for industrial purposes;
 - (2) Prohibit residential and commercial service developments on land reserved for industrial uses; and
 - (3) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.
- (Ord. No. 31A-88, § 20-95, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-436. Permitted uses.

In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the industrial use of the property.

Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions as an accessory use to other permitted uses.

Boiler shops.

Breweries and other necessary associated activities.

Business, professional and governmental offices.

Child day care centers as an accessory use to other permitted uses.

Contractor offices, equipment storage yards, shops and warehouses.

Drop-forge industries, manufacturing, forgings with a power hammer.

Supp. No. 1, 8-98

Fire stations.

Health clubs, exercise clubs, and fitness centers as an accessory use to other permitted uses.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of acrylic and other synthetic fibers.

Manufacture and processing of textiles and textile products.

Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units.

Manufacture and sale of wood products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair and yarn.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Manufacture of batteries.

Manufacture of boats, marine equipment and boat trailers.

Manufacture of cans and other metal products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Supp. No. 1, 8-98

Manufacture or assembly of aircraft and aircraft parts.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of automobiles, trucks, machinery or equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution.

Metal foundry and heavy weight casting.

Off-street parking as required by section 24-53.

Post offices.

Printing and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Propane storage, distribution, and sale.

Publicly owned solid waste container sites.

Radio and television stations and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Retail sales of products related to the main use, provided floor area for retail sales comprises less than 25 percent of the first floor area of the main use.

Security service offices.

Structural iron and steel fabrication.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Warehouse, storage and distribution centers.

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Water well drilling establishments.

Welding and machine shops including punch presses and drop hammers.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, § 20-96, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98)

Sec. 24-437. Uses permitted by special use permit only.

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Antennas and towers (not attached to buildings) in excess of 60 feet in height.

Asphalt mixing plants.

Automobile graveyards and scrap metal storage yards.

Child day care centers.

Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.

Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

Heliports, helistops and accessory uses.

Manufacture and compounding of chemicals.

Manufacture of cement, lime, gypsum, bricks and stone products.

Petroleum refining.

Petroleum storage.

Railroad facilities including tracks, bridges, switching yards, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Ready mix concrete production.

Resource recovery facilities.

Solid waste transfer stations.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

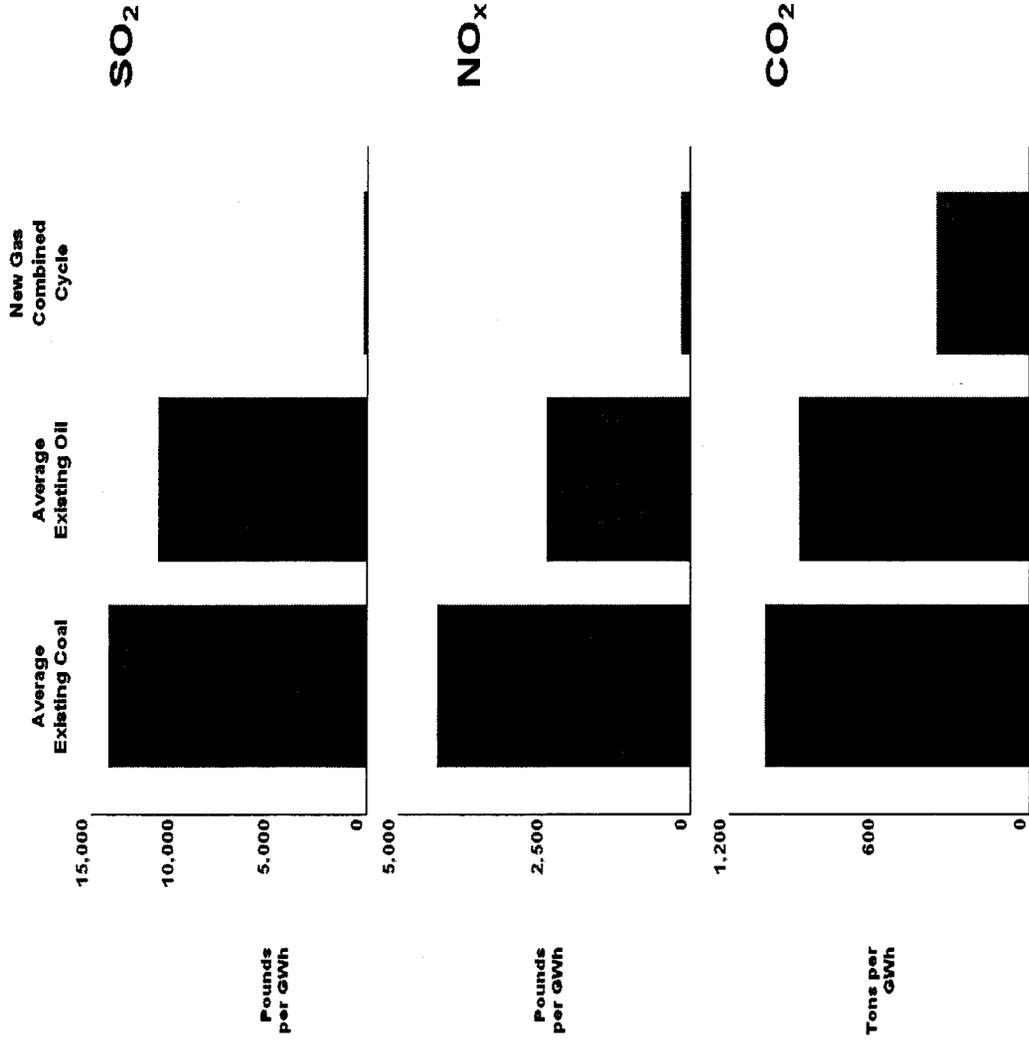
Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit.

- (a) private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) distribution lines and local facilities within a development, including pump stations.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.

Wood preserving operations.
(Ord. No. 31A-88, § 20-96.1, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98)

Existing Conventional Power Plants Compared with Combined-Cycle Natural Gas



Sources: USEPA 1997 Emissions Scorecard; 1997 EIA 767; EarthTech

SUP-20-01

COMMUNITY IMPACT STATEMENT

James City Energy Park

A Private Power Generation Facility

To be Situated on the Greenmount Property
In the Roberts District of James City County, Virginia



Prepared for:

James City Energy Park, LLC
52 Cachalot Lane
Falmouth, MA 02540

September 24, 2001

Prepared by:

LANDMARK
DESIGN GROUP

4029 Ironbound Road, Suite 100
Williamsburg, Virginia 23188
(757) 253-2975
Fax (757) 229-0049

COMMUNITY IMPACT STATEMENT

James City Energy Park

Introduction

The subject of this Community Impact Statement is a proposed private power generating facility to be located on the Greenmount Property, in the Roberts District of James City County, Virginia. The facility is proposed to be sited on approximately 53 acres of land currently zoned M-2, General Industrial District. Power generating facilities in the M-2 District require a Special Use Permit (SUP). Additionally, since various components of the proposed facility will exceed 60 feet in height, a Height Limitation Waiver (HLW) will also be required. This community impact statement addresses the elements listed in Sec. 24-23(a)(1) of the James City County Zoning Ordinance.

Infrastructure Information

1. Traffic – The proposed use is unique and is not listed in the Institute of Transportation Engineers Trip Generation Manual. Similar projects across the nation have demonstrated extremely low trip generation rates. For this facility, the total number of employees is projected to be 35, with no more than 12 employees per shift. Given that the fuel source for the power generating facility is supplied by pipeline, total deliveries to the site will be limited to non-fuel sundries and are expected to be nominal. As such, we project that the peak hour trips will be far below the County's threshold of 100 or more weekday peak hour trips to and from the site during the peak hour of operation. Moreover, access to the proposed power generating facility will be via Blow Flats Road, which currently operates at a level of service "C" or better. For these reasons, no traffic impact study is required.
2. Water and Sewer – The proposed use will require both potable water and process water. The applicant has secured commitments from the Newport News Waterworks (NNWW) for potable water service from existing water facilities in the vicinity. With respect to water demand and consequent sewerage flows, the proposed facility will not generate an average daily flow greater than 30,000 gallons. With a total of 35 employees (maximum 12 per shift), the total projected potable water demand and sewerage flow is projected to be on the order of 2,500 gallons per day or less. Therefore, no water and sewer impact study is required.

Process water will be used primarily for cooling and will neither tap NNWW nor JCSA water systems. Instead, process water needs will be met by a creative arrangement with the Hampton Roads Sanitation District (HRSD), wherein treated, reclaimed water from the nearby HRSD Williamsburg treatment facility (next to Carter's Grove) will be piped to the proposed power generation facility, used for process cooling, and then piped back to the HRSD facility. Adequate treatment capacity exists to accommodate this process water arrangement.

3. Conceptual Stormwater Management Plan – The stormwater runoff from the proposed power generation facility will be managed by an on-site stormwater management facility. This facility will utilize either infiltration (should subsequent soil boring information support this approach) or wet detention techniques, consistent with the County's 10-point stormwater management design program.
4. Adequate Public Facilities – For this project, applicable public facilities include only fire and rescue services. Schools issues are not applicable as no residential units are proposed. Issues related to water and sewer adequacy have been addressed above. As for police service, the proposed power generating facility will not generate demands for police services beyond those ordinarily anticipated for any industrial enterprise.

James City County Deputy Chief Howlett affirmed that basic fire and rescue services will be provided to the subject property primarily from James City County Station 2, the Grove Station. The Grove Station offers elevated stream capacity for fire fighting for structures equivalent to 6 or 7 stories, which will accommodate all structures associated with the project except for the stacks. In the event of larger emergencies, including structural fires, service will be provided by a combination of the Grove Station, Station 3 (the Headquarters Station), and with assistance from the Williamsburg Fire Department. Additionally, James City County has standing mutual aid agreements with York County and the City of Newport News, as well as the nearby military installations, including Fort Eustis, Yorktown Naval Weapons Station and Camp Peary.

In addition to public fire fighting facilities in James City County, surrounding jurisdictions and nearby military installations, the proposed power generating facility will be designed to provide on-site fire suppression capabilities through on-site water storage and an on-site fire pump. Together, existing fire and rescue capacity and on-site fire fighting equipment will be adequate to serve the proposed facility.

Quality of Life Information

1. Phase IA Historic and Archaeological Study – A Phase I historic and archaeological identification survey was conducted for the subject property by Cultural Resources, Inc. in August 2001. The entire 53 acres was subjected to a complete Phase I survey and, as a result, two archaeological locations were recorded. The findings were determined to be insignificant and no further investigations are recommended in the event of future impacts. Neither location is considered to be potentially eligible for the National Register of Historic Places due to a lack of integrity as the result of modern use of the site, plowing and the existence of better examples of this type of site in the region. No further work is recommended.

2. Environmental Inventory – The subject property is not located within any primary or secondary ecological boundaries identified in the publication entitled "Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia". Indeed, the property is located greater than one mile from any identified natural area in that document. Given this finding, no environmental inventory is required.
3. Fiscal Impact Analysis – This item is not applicable to this application as the proposal does not include any residential units and the proposed power generating facility is a taxable asset.

Proposed SUP conditions
SUP-20-01
James City Energy Park - Electrical Generation Facility

1. This special use permit is valid for the construction and operation of an approximate 540 mega-watt combined-cycle electrical generation plant (the "Power Plant") to be located on approximately 53.53 acres as shown on the "Plat of Subdivision of Lot 4A Standing in the Name of Greenmount Associates," prepared by LandMark Design Group, and dated August 17, 2001.
2. The Power Plant shall use Natural Gas as its primary source of fuel. The back-up source of fuel for the Power Plant shall be limited to low sulfur oil. The primary natural gas fuel and the back-up oil fuel shall be delivered to the site via underground pipeline only. The Power Plant shall not operate for more than 60 days per calendar year on the back-up fuel source.
3. The Power Plant shall be limited to two combustion turbine generators, directly coupled with two multi-pressure level heat recovery steam generators, and one steam turbine. Cooling for the Power Plant shall be in the form of a multi-cell induced draft cooling tower.
4. Prior to the issuance of a building permit, all permits then required by all local, State, and Federal laws, rules, and regulations shall be obtained by the applicant. The Power Plant shall be subject to all limitations placed on such permits.
5. This special use permit shall also be valid for a petroleum storage facility. Such facility shall be limited to a total of 7.0 million gallons of low sulfur oil, or a ten (10) day supply, whichever is less, with said storage being for the sole purpose of providing a back-up fuel supply to the Power Plant. Secondary containment berms, dikes and facilities shall be designed and constructed to encompass all petroleum storage tanks on the property as approved by the Director of the Environmental Division and shall meet all local, State and Federal requirements upon completion.
6. The Power Plant shall be designed, configured and constructed generally as follows, with the final design subject to the review and approval by the Director of Planning:
 - a. Turbine building(s) shall be constructed nearest the northern most property line, but no closer than 500 feet from the property line.
 - b. Heat recovery steam generators, cooling towers, storage tanks, stacks, and other structure(s) shall be constructed to the south (rear) of the turbine motor building(s).
 - c. Only office buildings, switchyard(s) and/or substation(s), the gas compressor building(s), the gas metering station(s), and transformers with related/accessory structures shall be north of the turbine motor building.
7. Start of construction, as defined in the James City County Zoning Ordinance, shall have commenced within 36 months of this special use permit approval, or the permit shall be void.
8. Unless this condition is otherwise modified by the Director of Planning, all site lighting shall be limited to fixtures which are mounted on light poles and/or other structures horizontally

and shall be 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. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.

9. The applicant shall inform the Federal Aviation Administration (FAA), that should obstruction marking and/or lighting be required, that it is the preference of James City County that such obstruction marking be of a type that utilizes red lighting and medium-intensity white strobe lighting, per FAA requirements. Structure painting and colors shall be subject to review and approval by the Director of Planning.
10. Water used for process cooling shall not come from a Municipal water source or from a well. Potable water shall not be used for process cooling.
11. All non-evaporated process water shall be returned to the HRSD plant via underground pipeline. No discharge of cooling water shall be made to any on-site surface waters or groundwater.
12. The location of any and all pipelines which connect the site to the HRSD plant located at the terminus of Ron Springs Road shall be subject to review and approval by the Development Review Committee.
13. The location of any and all pipelines which connect the site to existing natural gas pipelines shall be subject to review and approval by the Development Review Committee.
14. The location of any and all pipelines which connect the site to the Colonial pipeline shall be subject to review and approval by the Development Review Committee (DRC).
15. The installation of all underground pipelines shall comply with all State Erosion and Sediment Control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook, as amended.
16. A minimum of a 200 foot wide landscape buffer shall be maintained from each property line. This buffer shall remain generally undisturbed, with the exception of utility and road crossings, signs, lighting and stormwater management facilities, all as approved by the DRC. Existing trees within this buffer shall be protected and maintained to the greatest extent possible. Prior to the issuance of temporary Certificate of Occupancy, the buffer, unless otherwise modified by the Director of Planning, shall be supplemented with Loblolly pine-seedlings, planted at a rate of 600 seedlings per acre.
17. Prior to the issuance of a land disturbing permit, a Traffic Management Plan shall be submitted to the Director of Planning for review and approval. Such Traffic Management Plan shall include time and/or day limitations on the use of Blow Flats Road and any other provision or limitation deemed necessary by the Director of Planning to mitigate impacts of traffic during the construction of the facility. Such Traffic Management Plan, as approved by the Director of Planning, shall also provide for either a.) the maintenance and repairs to Blow Flats Road for damage caused to the road from the time a Land Disturbing Permit is issued until the time a final Certificate of Occupancy is issued, AND/OR b.) the re-routing of traffic to and from the site from the time a Land Disturbing Permit is issued until the time

a final Certificate of Occupancy is issued. Prior to the issuance of a Land Disturbing Permit, all conditions and/or limitations shall be implemented by the owner. Assurances to guarantee, and provide for, all recommendations of the approved Traffic Management Plan, in the form of a surety acceptable to the County Attorney, shall be submitted prior to the issuance of a Land Disturbing Permit.

18. The Power Plant shall utilize Best Available Control Technology (BACT) to limit air emissions from the facility, in a manner approved by the County Engineer. BACT controls for the project shall include, but not be limited to the following: (1) dry-low NO_x (nitrogen oxides) combustors to reduce NO_x emissions from the combustion turbines; (2) selective catalytic reduction (SCR) to further reduce NO_x emissions from the combustion turbines and the supplementary fired heat recovery steam generators (HRSG); (3) utilizing natural gas as the primary fuel to limit emissions of NO_x, SO₂ (sulfur dioxide) and PM/PM₁₀ (particulate matter); and (4) good combustion practices to limit emissions of CO (carbon monoxide) and VOCs (volatile organic compounds).
19. Noise abatement equipment shall be installed on the Power Plant in a manner approved by the County Engineer such that noise levels at the front property line of 150 Blow Flats Road shall not exceed a nominal 55 decibels.
20. The following components of the Power Plant shall not exceed the following heights above ground level (AGL):
 - a. An exhaust stack: 250 feet
 - b. Electrical transmission tower(s): 135 feet
 - c. Heat Recovery Steam Generator(s) (HRSG): 105 feet
 - d. The noise control equipment for the HRSG: 135 feet
 - e. Turbine building(s): 105 feet
 - f. Cooling tower(s): 80 feet
 - g. Cooling tower(s) inlet filter(s): 80 feet
 - h. Electrical switch yard and its accessory structures: 80 feet
21. A Conservation Plan for the protection and/or mitigation of impacts to any animal species of special concern, as defined by the State of Virginia Department of Game and Inland Fisheries, shall be submitted to the Director of Planning for review and approval. The recommendations of said plan shall be incorporated in the site plan and shall be implemented prior to the issuance of a land disturbance permit.
22. No exterior loud speaker system shall be used.
23. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

**SPECIAL USE PERMIT-21-01, Johnston Dental Medical Clinic
Staff Report for November 5, 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 Center
Planning Commission: November 5, 2001 7:00 p.m.
Board of Supervisors: December 11, 2001 (Tentative) 7:00 p.m.

SUMMARY FACTS

Applicant: Greg Davis on behalf of Timothy K. Johnston, DDS and Kelly T. Johnston

Land Owner: Timothy K. Johnston, DDS and Kelly T. Johnston

Proposed Use: Dental Medical Clinic

Location: 7450 Richmond Road

Tax Map/Parcel: (23-2) (1-18)

Primary Service Area: Inside

Parcel Size: 1.514± acres

Existing Zoning: A-1, General Agricultural District

Comprehensive Plan: Low-Density Residential

Surrounding Zoning: North: A-1, General Agriculture
R-8, Rural Residential
B-1, General Business
M-1, Limited Business
East: A-1, General Agriculture
South: A-1, General Agriculture
B-1, General Business
West: R-2, General Residential
B-1, General Business

Staff Contact: Karen Drake, Planner
Phone: 253-6685

STAFF RECOMMENDATION

Staff believes the proposed dental medical office is a complimentary use to the surrounding residences and businesses. The architectural design of the clinic, which is residential in nature, would provide a smooth transition on Richmond Road between the retail and commercial shopping centers to the smaller scale businesses and residential homes. Staff recommends the Planning Commission approve this special use permit application with the attached conditions.

Description of the Project and Proposed Operation

Dr. Johnston's dental practice is currently located in Norge within the same office complex as the Norge Post Office. In conjunction with the other dentist in the practice, Dr. Johnston treats an average of thirty patients per day. Due to recent growth in the number of patients Dr. Johnston's office treats every year, the practice has now outgrown the current office space.

Therefore, Greg Davis has applied on behalf of Dr. Johnston for a Special Use Permit to construct and operate a dental medical clinic, essentially across the road in Norge at 7450 Richmond Road. A Special Use Permit is necessary to operate a dental medical clinic on property zoned A-1, General Agricultural.

The proposed dental medical clinic would be no larger than 11,000 square feet and has been designed architecturally to resemble a country house. The first floor where patients would be treated, would be approximately 8,500 square feet with an additional approximate 1,500 square feet of office and storage space on the second floor. This larger dental clinic would provide space for two additional dentists to enter the practice and typically no more than three dentists would be working at a time via a rotation schedule. Dr. Johnston predicts that an average of 60 patients a day would be treated in the larger clinic. Office hours are expected to remain the same with appointments available Monday thru Friday.

Surrounding Zoning and Development

Within Norge where the proposed dental medical clinic would be constructed, there is a multitude of zoning districts and permitted uses, both commercial and residential. Immediately to the north of the site is St. Olaf Catholic Church that is zoned R-8, Rural Residential. Further north are residential homes, zoned A-1, General Agriculture and the Norge Shopping Center with the Farm Fresh Supermarket, zoned B-1, General Business. To the east, or behind the proposed site is the Norge Sports Club which has an outdoor horseback riding rink and is zoned A-1, General Agriculture. South of the site are small scale businesses and residential homes, some with home based businesses that are zoned A-1, General Agriculture and B-1, General Business.

Located on the other side of Richmond Road are more businesses including the Christmas Mouse, Corning Ware and the Candle Factory, zoned B-1, Limited Business and M-1, Limited Business/Industrial respectively. Residential homes, zoned R-2, General Residential, are located behind these businesses. The proposed dental medical clinic will help to provide a smooth transition from the retail and commercial businesses to the smaller scale, home based businesses and residential homes located on Richmond Road in Norge.

Topography and Physical Features

The 1.54-acre site is relatively flat and wooded. There is one dilapidated structure on the corner of the property that would be demolished prior to construction.

Utilities

The property is located within the Primary Service area and would be served by public water and sewer.

Regarding the County's water supply, the Board of Supervisors recently agreed to apply certain criteria to new developments to mitigate the negative impact on the County's water supply. One of those criteria suggests that building permits be delayed until a draft permit is obtained by James City County from the State for the proposed desalination plant or the applicant provide information on mitigating factors that offset the need for this criteria. Any conditions or information addressing this criterion are not included in this report. Staff recommends that it be permitted to work with the applicant prior to the Board of Supervisors meeting regarding the applicant's intent to address this new Board criterion.

Please note that the applicant and owner are aware the current water supply issue within the County. To help mitigate any negative impact the clinic would have upon the water supply, the applicant and owner are willing to implement water conservation measures within the new clinic building and on the property. Detailed water conservation measures would be formalized in conjunction with the development plans.

Access and Traffic

The proposed dental medical office is located on Richmond Road where the road has four lanes and no dividing median. Therefore, patients and staff would be able to turn left or right entering or exiting the clinic. VDOT has commented that the entrance would need to be designed in accordance with the minimum standards of entrances to state highways. Turn lanes were not warranted for the site.

The proposed dental clinic is projected to generate approximately 400 two-way vehicle trips per day, with the highest commuter peak hour occurring during the evening. Currently Richmond Road in the site vicinity carries approximately 19,000 vehicles per day. As discussed in the Comprehensive Plan, a four-lane road has a capacity of 30,000 vehicles per day.

Comprehensive Plan

The property is designated Low Density Residential on the Comprehensive Plan Land Use Map. Properties designated Low Density Residential are intended for residential development with densities generally 1-unit per acre or less. Examples of acceptable land uses include single-family homes, duplexes, cluster housing, schools, churches, community-oriented public facilities, and very limited commercial establishments. While a non-residential use, the proposed dental medical clinic would resemble a house and blend with existing residences due to its architectural design and location of parking on the side of the building.

Non-residential uses should complement the residential character of the low-density area in which it is located. Very limited commercial establishments should be located on collector roads at intersections where adequate buffering can be provided to protect nearby residential properties. Although not considered a very limited commercial establishment, staff finds there are mitigating circumstances that make this use acceptable in this location. The dental clinic would establish a good transition between the smaller scale businesses and residences to the south and the larger scale, more intensive businesses to the north and west. The proposed dentist medical clinic also meets the previously mentioned requirements by being located on a main road and incorporating landscape buffering to protect nearby residential properties. An example of the landscape buffering would include a fence or berm in the rear of the property to shield the Norge Sports Club from Richmond Road traffic.

The proposed site is also located within the Norge Community Character Area. The Norge Community Character Area has a unique history, which should be preserved and protected through the specific design criteria outlined below:

- ◆ The architecture, scale, materials, spacing and color of building should complement the historic character of the area.
- ◆ Building setbacks should be consistent with adjacent buildings and structures.
- ◆ Where possible, parking should be located to the rear of the buildings. Parking should be screened from roadway and adjacent properties.
- ◆ New landscaping should be of a type, size, and scale to complement the historic character of the area.
- ◆ Signage should be of scale, size and color, and materials to complement the historic character of the area.
- ◆ Mixed use development which provides residential, commercial, and office uses in close proximity are encouraged.

The proposed dental medical office would meet these specific Community Character Area design

criteria through the proposed binding master plan, submitted elevations, special use permit conditions listed below and/or the James City County Zoning Ordinance requirements.

RECOMMENDATION

Staff believes the proposed dental medical office is a complimentary use to the surrounding residences and businesses. The architectural design of the clinic would provide a smooth transition on Richmond Road from the retail and commercial shopping centers to the smaller scale businesses and residential homes. Staff recommends the Planning Commission to approve this application with the following conditions placed on its approval.

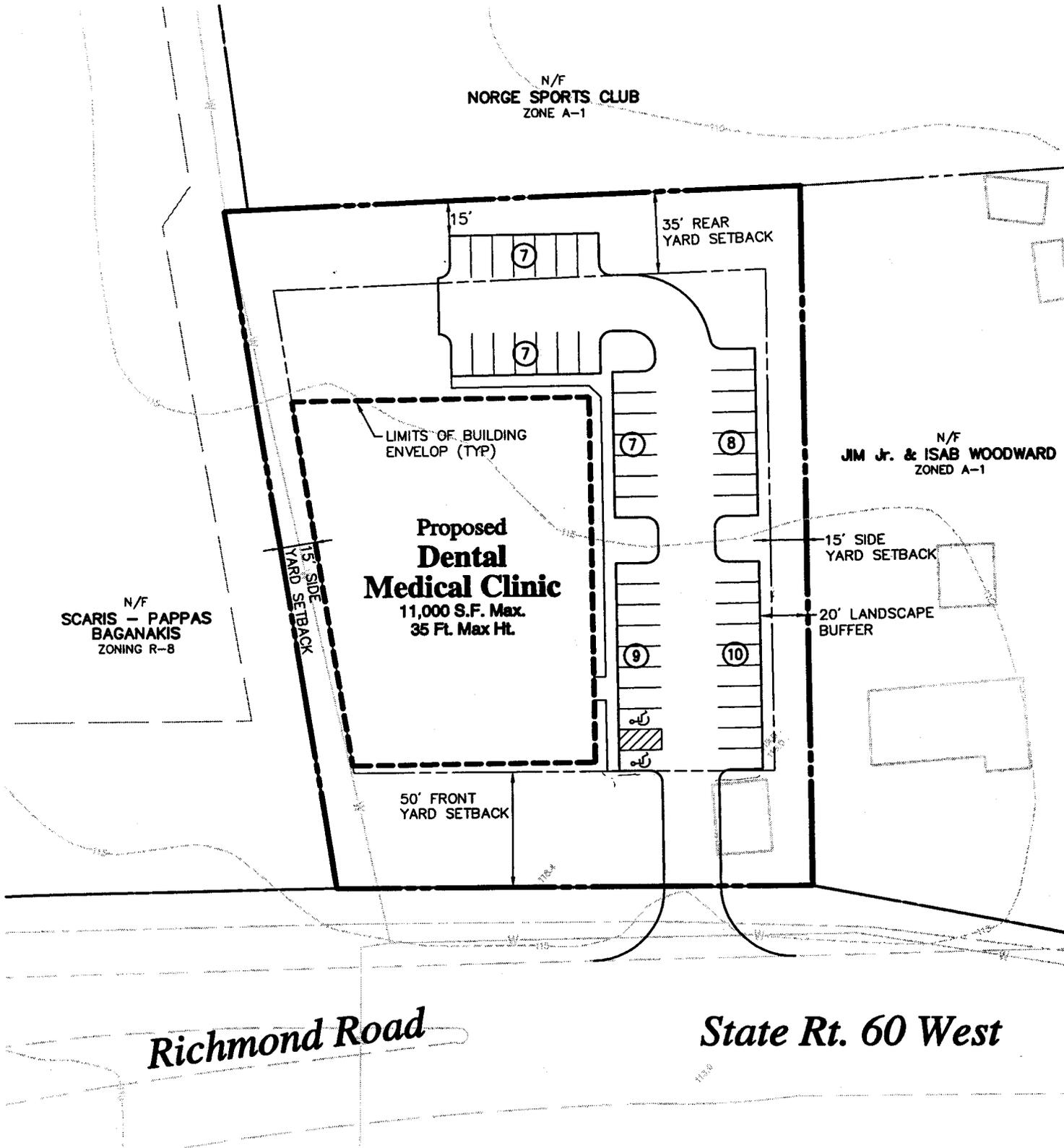
1. The dental medical clinic shall be built in accordance with the submitted binding master plan; titled "Master Plan of Dental Clinic, Timothy K. and Kelly T. Johnston" dated September 21, 2001.
2. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the clinic building. Such building shall ensure that the design and construction are reasonably consistent with the architectural elevations, titled "Dr. Johnston Office Concept Elevations" dated September 14, 2001 and submitted with this special use permit application, as determined by the Planning Director.
3. Prior to final site plan approval, the Planning Director shall review and approve the proposed landscaping plan for the entire property. Enhanced landscaping shall be provided that exceeds the planting standards of the landscaping requirements of the James City County Zoning Ordinance by 133%.
4. A privacy fence shall be provided along the rear property line that is landscaped on both sides and provides an effective buffer between the proposed clinic and the Norge Sports Club. Alternatives to installing a privacy fence, including but not limited to installing a berm with trees and shrubbery that would provide an equivalent buffer may be considered and approved by the Planning Director. Parking spaces in the rear shall be located in such a manner that the parking spaces will be incorporated into the landscape design so as to compliment the rear landscape buffer. All of these items shall be approved by the Planning Director prior to final site plan approval.
5. Fencing shall be provided that shields the view of the parking lot from Richmond Road. The fence shall be three to four feet in height and be compatible with the architectural features of the clinic and approved by the Planning Director prior to final site plan approval. Alternatives to installing fencing to shield the parking lot, including but not limited to planting suitable shrubbery shall be considered and approved by the Planning Director.
6. The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials, including the use of drought tolerant plants if and where appropriate and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Irrigation wells shall only draw water from the Upper Potomac or Aquia Aquifers. The water conservation standards shall be approved by the James City County Service Authority prior to final site plan approval.
7. Sidewalks shall be provided along Richmond Road, built in accordance to the standards listed in the James City County Zoning Ordinance and incorporated into the enhanced landscaping.

8. The Special Use Permit granted pursuant to this application shall be null and void and of no further force or effect unless construction is commenced within twenty-four (24) months of the date of approval by the James City County Board of Supervisors.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Karen Drake
Planner

ATTACHMENTS:

1. Site Map.
2. Proposed Master Plan.
3. Citizen Comment Letters.



Richmond Road

State Rt. 60 West

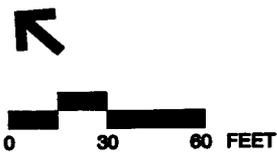
Vanasse Hangen Brustlin, Inc.

**Master Plan of Dental Medical Clinic
Timothy K. & Kelly T. Johnston**

September 21, 2001

**Site = 1.5+/- Acres
Site Zoned A-1
Tax Map Parcel No. (23-2)(01-0-0018)**

Attachment 2



71



St. Olaf Catholic Church

104 Norge Lane
Williamsburg, VA 23188 • 757-564-3819

Rev. John Ridgell, Pastor

September 21, 2001

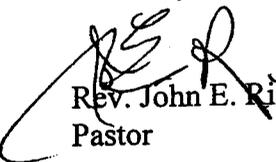
James City County
Attn: Mr. John Horne
101-E Mounts Bay Rd.
Williamsburg, VA 23185

Dear Mr. Horne,

Dr. Timothy Johnston, D.D.S, has informed me of his intentions to build an office building on the property adjacent to the church property on Richmond Road. He stated also that the county proposed that he use the church's driveway and parking lot as access to his property rather than direct access onto Richmond Road. The county's proposal to Dr. Johnston is unacceptable. The church property is private, not public.

I have seen a sketch for the office complex and have no objection to it being built next to the church property.

Sincerely in Christ,


Rev. John E. Ridgell,
Pastor

"All Are Welcome"

Attachment 3

72

Rezoning 6-01/Special Use Permit 19-01/Height Waiver 2-01. Williamsburg Landing Expansion

Staff Report for the November 5, 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: November 5, 2001, 5:00 p.m.
Board of Supervisors: December 11, 2001 (tentative), 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Alvin Anderson

Land Owner: Norman G. Beatty, Katharine M. Beatty; Williamsburg Landing, Inc.

Proposed Use: Expansion of continuing care retirement community

Location: 3110 Lake Powell Road; 5560 Williamsburg Landing Drive; Jamestown District

Tax Map and Parcel No.: (48-1)(1-33); (48-2)(1-3)

Primary Service Area: Inside

Parcel Size: .95 acres (Beatty property); 49 acres (WL property)

Existing Zoning: R-8, Rural Residential District (Beatty property); R-5, Multi-Family Residential District with proffers (WL property)

Proposed Zoning: R-5 with proffers

Comprehensive Plan: Low-Density Residential

Surrounding Zoning: North: R-8 (veterinary clinic, day care center)
East: R-5 (Williamsburg Landing)
South: R-5 (Williamsburg Landing)
West: R-2, General Residential (single-family homes)

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

STAFF RECOMMENDATION:

Staff finds the proposed rezoning, special use permit and height waiver (maximum 50 feet) consistent with surrounding zoning, the Comprehensive Plan and consistent with previous action by the Board of Supervisors. Staff recommends the Planning Commission recommend approval of the rezoning, special use permit and height waiver requests, with the conditions listed in the report. Staff also recommends the Planning Commission recommend acceptance of the voluntary proffers.

Project Description

Mr. Alvin Anderson has applied on behalf of Norman G. Beatty, Katharine M. Beatty and Williamsburg Landing, Inc. for a rezoning, special use permit and height waiver request for an expansion of the Williamsburg Landing continuing care retirement community. The rezoning request is to rezone approximately .95 acres from R-8, Rural Residential District, to R-5, Multi-Family Residential District, located at 3110 Lake Powell Road, known as the Greenwood Pre-School in order to incorporate the property into the Williamsburg Landing community. The special use permit request is to expand the continuing care retirement community by extending SUP-7-95 to include the Beatty property, and increasing the number of nursing units by 30 and the number of assisted living units by 30 on both the Beatty property and the existing Williamsburg Landing property. The Williamsburg Landing property is zoned R-5 with proffers and is located at 5560 Williamsburg Landing Drive. The height waiver request is to allow an additional 15 feet for the continuing care facility, for a total of 50 feet.

History

The Williamsburg Landing site was rezoned from A-2, Limited Agriculture to R-5 in 1982 to allow a nursing home, residence for aged and offices. In 1991, 1993 and 1995, property within the development was rezoned to allow single-family dwellings, nursing homes and facilities for the residence and care of the aged. In 1996, the Board approved a height waiver for the Nursing and Assisted Living Facility. Currently what is permitted on the Williamsburg Landing property is a 60-bed nursing home, a 60-unit assisted living facility, and up to two dwelling units per acre (for a maximum of 98 dwelling units). The nursing home and assisted living facility have been constructed. None of the permitted independent dwelling units have been constructed in this section.

Proffers

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

- use of property;
- number of dwelling units;
- entrance location;
- private roads;
- archaeological study;
- Route 199 buffer
- 3-story building height limitation
- cash contribution toward water supply.

Please note that the proffers are consistent with the existing proffers that apply to the R-5 zoned Williamsburg Landing property, with the following exceptions: the currently proffered 60 nursing beds and 60 assisted living beds has been increased to 90 nursing beds and 90 assisted living beds, and a new proffer has been offered for a cash contribution toward water supply.

Surrounding Zoning and Land Use

The property is surrounded by residentially zoned property. To the northwest of the site, across Brookwood Drive is a veterinary clinic and day care center, zoned R-8, Rural Residential. The property is bounded on the north side by Route 199. To the east and south of the site is the

existing Williamsburg Landing development, zoned R-5. To the west of the site are several single-family residences located on Lake Powell Road in the Marlboro and Birchwood subdivisions, zoned R-2, General Residential. The proposed development is consistent with the residential character of the surrounding zoning and development.

Topography and Physical Features

The Greenwood Pre-School site is surrounded by woods. The Williamsburg Landing property contains a mixture of mature evergreens and hardwoods. Ravines within Resource Protection Area wetlands are located on the eastern edge of the site. A proffer has been offered that provides 100 feet of undisturbed buffer along Route 199, Brookwood Drive, and Lake Powell Road.

Utilities

The site is located within the Primary Service Area (PSA), and public water and sewer are available. On September 25, 2001, the Board expressed its expectations on water supply issues to be addressed in pending and future rezoning proposals. In general, the Board set out an expectation for a proffer that addresses future water supply costs. To mitigate the demands placed on future water supply, the applicant submitted a proffer for a cash contribution to water supply alternatives, such as a desalinization plant. The proffer specifically provides for contributions of \$500 per nursing and assisted living bed for a maximum of \$30,000. Staff finds that the cash contribution adequately mitigates demands placed on the water supply as a result of this expansion and is an acceptable proffer.

Regarding the County's water supply, the Board of Supervisors recently agreed to apply certain criteria to new developments to mitigate the negative impact on the County's water supply. One of those criteria suggests that building permits be delayed until a draft permit is obtained by James City County from the State for the proposed desalination plant or the applicant provide information on mitigating factors that offset the need for this criteria. Any proffers, conditions or information addressing this criterion are not included in this report. Staff recommends that it be permitted to work with the applicant prior to the Board of Supervisors meeting regarding the applicant's intent to address this new Board criterion.

Transportation and Access

A Traffic Impact Study was submitted as part of the 1995 rezoning. For this project, an update to the traffic study was submitted, which outlined the changes to the traffic in the area with the additional nursing and assisted living beds and the elimination of traffic at the Greenwood pre-school. The existing driveways to the pre-school will be closed. All Williamsburg Landing traffic will be routed to the existing Williamsburg Landing entrance, which has turn lanes on Lake Powell Road. The existing Greenwood pre-school driveways are in close proximity to the Brookwood Drive/Lake Powell Road intersection. Traffic entering the school backs up in both directions during drop-off and pick-up times into the through travel lanes on Lake Powell Road.

Trip generation for the increased development (30 nursing beds and 30 assisted living beds) would be 160 trips per day, or the equivalent of 16 single-family housing units. AM and PM peak hour traffic for the increased development is less than that for 16 single-family housing units.

Actual counts taken reveal the pre-school generates 195 trips per day, with the peak occurring during the AM peak hour and mid-day. Classes at the pre-school end before the PM peak hour, so there is no trip generation for the school at that time. The heaviest traffic occurs between 12:15 pm and 1:15 pm, when 137 vehicles were counted.

The elimination of the Greenwood pre-school and the addition of the Williamsburg Landing beds will improve the traffic in the area by eliminating traffic during the AM peak hour and mid-day hour. Additionally, the periodic back-ups at the school's driveways will be eliminated. The land use change of increased Williamsburg Landing traffic and removal of Greenwood pre-school traffic will be an improvement from existing conditions based on reduced traffic volume and reduced traffic congestion.

The Virginia Department of Transportation (VDOT) has reviewed the additional traffic information and concurs with the results.

Adequate Public School Facilities Test Policy

The proposal is for nursing and assisted living beds and no additional school age children will be added with this expansion. The project passes the adequate public school facilities test policy.

Emergency Medical Services, Fire and Police Protection

Staff from Emergency Medical Services and the Fire Department reviewed the proposal and have determined it will create very little increase in services. EMS staff anticipates only a minor increase in emergency service calls, and states that the rate of calls historically has been only moderate at Williamsburg Landing compared to other nursing care facilities. Fire Department staff anticipates no major additional coverage required. The projected increase in calls is 32 EMS and 2 fire calls per year.

Williamsburg Landing provides a partially fenced property and staff security at its single point of entry. Staff from the Police Department state that their only need to enter the premises has been to inform residents of the natural death of a family member or to follow up on an occasional larceny report. No significant increase in involvement is anticipated.

Fiscal Impact

Fiscal impact information was submitted as part of the Community Impact Statement, which shows the project to be fiscally positive for the county. The construction costs are approximately \$25 - 30 million, including payroll, purchase of materials and furnishings, and 30 new jobs will be created. Williamsburg Landing is currently the County's 8th largest taxpayer. Staff from Financial and Management Services reviewed the fiscal information and concurs with the result that the project is fiscally positive for the county.

Comprehensive Plan

The Comprehensive Plan designates this site as Low-Density Residential. Low Density Residential areas are located in the PSA and where natural characteristics are suitable for residential development. Low Density Residential areas are located where public services and utilities exist or are expected to be expanded to serve the sites over the next 20 years. Timing and density of the development of particular sites within low-density areas will depend upon the

availability of utilities and the maintenance of an acceptable level of service of roads and other public services. Staff finds the expansion of Williamsburg Landing to be consistent with the Low-Density Residential designation of the Comprehensive Plan.

Height Waiver

Section 24-314 (j) of the James City County Zoning Ordinance states that a structure in excess of 35 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the Board of Supervisors. In 1996, the Board approved a height limitation waiver to allow construction of a facility that is 42 feet in height. The Board may grant a height limitation waiver upon finding that the following five items are adequately addressed.

A. Such structure will not obstruct light to adjacent property.

The development is located within the Williamsburg Landing property, and is guaranteed by proffer to be no closer than 100 feet from Route 199, Lake Powell Road and Brookwood Drive. Staff finds a 50-foot structure will not obstruct light to adjacent property as a result of the buffers.

B. Impact on Historic Features and Surrounding Areas.

Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest. As a result of the wooded nature of the property and proffered buffer, staff finds that the proposed location meets this criteria.

C. Property Values.

Such structure will not impair property values in the surrounding area. The Real Estate Assessor has stated that it is unlikely that there would be a negative impact from having such a facility in this location.

D. Safety.

Such structure shall be adequately designed and served from the standpoint of safety. Staff from the Fire Department finds that Williamsburg Landing is well located in relation to fire stations and equipment, so as to offer adequate protection to life and property. The structure will be constructed according to the building code and with the concurrence and approval fo the fire department.

E. Public Health, Safety and General Welfare.

Such structure will not be contrary to he public health, safety and general welfare. Staff does not expect the proposed expansion to be contrary to the public health, safety and general welfare.

RECOMMENDATION:

Staff finds the proposed rezoning, special use permit and height waiver consistent with surrounding zoning, the Comprehensive Plan and consistent with previous action by the Board of Supervisors. Staff recommends the Planning Commission recommend approval of the

rezoning, special use permit and height waiver requests, with the conditions listed below. Staff also recommends the Planning Commission recommend acceptance of the voluntary proffers.

1. If construction has not commenced on the project within thirty-six (36) months from the issuance of the special use permit, it shall become void. Construction shall be defined as obtaining permits for building construction and installation of footings and/or foundations.
2. This special use permit shall be limited to the following specially permitted uses:
 - a. Single-family dwellings.
 - b. Nursing homes and facilities for the residence and/or care of the aged.

These specially permitted uses are in addition to those generally permitted uses specified in Proffer 1 of the Proffer Agreement. Nursing home facilities shall be limited to one (1) 90-bed nursing home. Assisted living units shall be limited to 90 units. The aggregate number of generally and specially permitted living units, over and above the sum of a ninety (90) bed nursing home and a ninety (90) unit assisted living facility, shall not exceed two dwelling units per acre of the gross acreage of the property.

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

Jill E. Schmidle

Attachments:

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

**AMENDED AND RESTATED
PROFFER AGREEMENT**

THIS AMENDED AND RESTATED PROFFER AGREEMENT is made as of the 18th day of October, 2001, by WILLIAMSBURG LANDING, INC., a Virginia non-profit, non-stock corporation (“WLI”), and NORMAN G. BEATTY and KATHARINE M. BEATTY, husband and wife (“Beatty”), together with their respective successors and assigns.

RECITALS

A. WLI is the owner of certain real property in James City County, Virginia (“the WLI Property”) more particularly described as follows:

All that certain tract or parcel of land situate in James City County, Virginia, and more particularly described as a portion of “Parcel “C” north of “Parcel B”, west of “Parcel A”, south of Va. State Route 199 and east of Va. State Route 617 on that certain plat entitled “PLAT OF PARCELS ‘A’ AND ‘B’”, BEING A SUBDIVISION OF THE PROPERTY OF AMERICAN RETIREMENT CORPORATION TO BE CONVEYED TO WILLIAMSBURG LANDING, INC.” dated October 6, 1983 consisting of two sheets and prepared by Charles R. Orsborne, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which is recorded in Plat Book 39, pages 20 and 21.

B. Beatty is the owner of certain real property in James City County, Virginia (“the Beatty Property”) more particularly described as follows:

That certain lot, piece or parcel of land, situate in James City County, Virginia, set out and shown on a plat attached to and made a part of a certain deed dated October 5, 1964 from Carrie Cole Lane Geddy to Beverly S. Kelly and Louise B. Rose, and recorded in Deed Book 97, at page 661, which plat is entitled “Jamestown Dist., James City County, VA., Plat Showing Boundary Survey of a Parcel of Land to be Convey by Carrie Cole Lane Geddy to Greenwood Kindergarten Co.,” dated September 3, 1964, and made by Vincent D. McManus.

C. The WLI Property and the Beatty Property are collectively called “the Property”.

D. The existing proffers applicable to the WLI Property are dated March 14, 1995 and recorded in Deed Book 752, Page 275 et seq. (“the Existing Proffers). The existing special

use permit applicable to the WLI Property is dated April 3, 1995 and identified as SUP 7-95 ("the Existing SUP").

E. WLI and Beatty have requested that the Beatty Property be rezoned from the Rural Residential District, R-8 to Multi-Family Residential (R-5). WLI and Beatty have also requested the amendment of the Existing Proffers as hereinafter provided, an extension of those amended proffers to the Beatty Property; the amendment of the Existing SUP and an extension of the amended special use permit to the Beatty Property to permit single family dwellings, nursing homes and facilities for the residence and care of the aged and a height limitation waiver.

F. The provisions of the James City County Zoning Ordinance may be deemed inadequate for the orderly development of the Property.

G. WLI and Beatty desire to offer to James City County certain conditions on the development of the Property not generally applicable to land zoned Multi-Family Residential District (R-5) for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

H. Upon the approval of the requested rezoning of the Beatty Property, this amended and restated proffer agreement, the extension of this amended and restated proffer agreement to the Beatty Property, the amendment of the Existing SUP and an extension of the amended special use permit to the Beatty Property and the height limitation waiver, all prior proffers on the Property including but not limited to the Existing Proffers in favor of James City County shall become null and void.

NOW, THEREFORE, for and in consideration of the approval by James City County ("the County") of the rezoning of the Beatty Property, the acceptance of this amended and restated proffer agreement, the extension of these amended and restated proffers to the Beatty

Property, the approval of the amendment of the special use permit and the extension thereof to the Beatty Property, the granting of the height limitation waiver and pursuant to § 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and § 20-18 of the County Code, WLI and Beatty agree that they will meet and comply with all of the following conditions in developing the Property. In the event each of the requested rezoning of the Beatty Property, the approval of the amendment and restatement of the Existing Proffers, the extension of these amended and restated proffers to the Beatty Property are not granted by the County, these amended and restated proffers shall thereupon become null and void.

CONDITIONS

1. The use of the Property shall be limited to accessory buildings or structures, apartments, community recreation facilities, off street parking as required, accessory restaurants, retail shops associated with community recreation facilities, signs, single-family dwellings contained within a cluster development, two-family dwellings, townhouses, three-family dwellings all of which are to be used as facilities for the residence and/or care of the aged; and, with the special use permit, single-family dwellings, nursing homes and facilities for the residence and/or care of the aged.

2. The aggregate number of generally and specifically permitted living units over and above the sum of a ninety (90) bed nursing home and a ninety (90) unit assisted living facility shall not exceed two (2) dwelling units of the gross acreage of the Property.

3. The entrances to the Property shall be limited to entrances from Williamsburg Landing Drive. No entrances except temporary construction entrances approved by the County and the Virginia Department of Transportation shall be permitted from Lake Powell Road to the Property.

4. All internal roads within the Property shall be constructed to Virginia Department of Transportation construction standards (but not design standards – i.e. width, curvature, etc.) and accordingly said roads shall not be public but shall be private and maintained by the Owner.

5. A Phase I Archaeological Study for the area to be disturbed on the Beatty Property shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites that are, in the Phase I study, 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 Planning Director 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 Resource's Guidelines for Preparing Archaeological Resources 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 the clearing, grading or construction activities thereon.

6. No building on the Property shall be erected closer than 100 feet to the existing rights of way of Lake Powell Road, Brookwood Drive and Route 199. These areas shall be left in their existing natural wooded states, except for utility crossings, construction road entrances, signs and storm water management facilities each of which must be approved by the Development Review Committee of James City County Planning Commission. Notwithstanding the aforesaid, dead, diseased or dying trees or trees weakened by age, storm or other injury and dead, diseased or dying shubbery may be removed.

7. No building on the Property shall exceed three (3) stories in height.

8. A contribution shall be made to the County in the amount of Five Hundred Dollars (\$500.00) per assisted living unit and nursing bed for each assisted living unit and for each nursing bed not previously approved pursuant to the Existing Proffers and the Existing SUP (up to a maximum cumulative contribution amount of Thirty Thousand Dollars (\$30,000.00)) (the "Per Unit Contribution"). The County shall make these monies available for development of water supply alternatives, the need for which is generated by the development of the Property. In the event the monies are not used by the County for the purpose designated within ten years from the date of receipt by the County, the amounts not used shall be used at the discretion of the Board of Supervisors of the County for any other project in the County's capital improvement plan, the need for which is generated by the development of the Property.

A. Such contributions shall be payable for each of the additional assisted living units and the additional nursing beds developed within the Property at the time of final site plan approval by the County for the particular assisted living unit or bed or grouping, phase or section of assisted living units or beds.

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 Five Hundred Dollars (\$500.00) per additional assisted living unit and nursing bed. 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.

9. These Proffers shall amend and restate in their entirety the Existing Proffers.

10. If any clause, sentence, paragraph, section or subsection of these Proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary on the Constitution of the Commonwealth or of the United States, or if the application thereof to the Owner or to any government agency or circumstance 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 judgement 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 subsection hereof, or affect the validity of the application thereof to the Owner or to any other government agency, person or circumstance.

WILLIAMSBURG LANDING, INC., a Virginia
non-profit, non-stock corporation

By: Paul A. Dresser, Jr. (SEAL)
Chairman of the Board and President

STATE OF VIRGINIA

~~CITY/COUNTY OF~~ James City, to wit:

The foregoing instrument was acknowledged before me this 18th day of October, 2001
by PAUL A. DRESSER, JR. Chairman and President of the Board of WILLIAMSBURG
LANDING, INC., a Virginia non-stock, non-profit corporation, its agent in its behalf first duly
authorized.

Sara Rosenberg
NOTARY PUBLIC

My commission expires: 3-31-2004

Norman G. Beatty (SEAL)
NORMAN G. BEATTY

Katharine M. Beatty (SEAL)
KATHARINE M. BEATTY

STATE OF VIRGINIA

CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 18th day of October, 2001
by NORMAN G. BEATTY and KATHARINE M. BEATTY.

[Signature]
NOTARY PUBLIC

My commission expires: 9/30/2014

#6018946 v3 - WLI Amended and Restated Proffers

**Z-04-01. SUP-17-01. MP-04-01. Prestonwood at Williamsburg Crossing
Staff Report for the November 5, 2001, Planning Commission's 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 at 7:00 p.m.
Planning Commission: October 1, 2001 (Applicant Deferred)
November 5, 2001
Board of Supervisors: December 11, 2001, *tentative*

SUMMARY FACTS

Applicant: Richard Gordon on behalf of University Square Associates

Proposed Use: 170 Townhouse Units. This requires a rezoning and an amendment to the approved Master Plan (SUP-2-93) for Williamsburg Crossing. SUP-2-93 limits the total number of residential units to 198 and the proposed Master Plan has a total of 330 residential units. The proposed Master Plan would include 484,640 square feet of commercial/office space, 51,025 square feet less than is proposed per the existing Master Plan.

Location: The residential community is located on 11.2 acres behind the existing retail stores at Williamsburg Crossing Shopping Center and adjacent to the Winston Terrace subdivision. The site is located within the Williamsburg Crossing site and would be accessed via Kings Way Drive and Road "A" behind the shopping center.

Tax Map/Parcel: (48-1)(22-20)

Existing Zoning: General Business (B-1)

Proposed Zoning: Mixed Use

Comprehensive Plan: Mixed Use

Surrounding Zoning: General Residential (R-2) and General Business (B-1)

Staff Contact: Karen Drake Phone: 253-6685

STAFF RECOMMENDATION:

While staff believes that the proposed townhouse community and revisions to the Master Plan are generally consistent with the property's Mixed Use land use designation, the proposal does not meet the zoning ordinance requirement of a 50-foot perimeter buffer in a mixed used zoning district. At its October 31, 2001 meeting, the Development Review Committee considered the applicants modification request to the 50-foot perimeter buffer requirement, which has not occurred at the time of writing this report.

Additionally, there are several conflicting issues presented by the applicant in the master plan and proffers that remain outstanding. Unresolved issues include: proffers in an unacceptable legal format, parking, buffer issues and lack of sidewalks, school mitigation and affordable housing. Staff recommends that the Planning Commission deny approval of the proposed rezoning.

Description of the Master Plan Amendment

Richard Gordon has applied on behalf of University Square Associates to amend the existing special use permit for Williamsburg Crossing (SUP-2-93) and also rezone approximately 11.2 acres from B-1, General Business to Mixed Use to accommodate 170 townhouse units. The proposed townhouse community, Prestonwood, would be located behind the existing Food Lion, adjacent to the Riverside Medical facility and the Winston Terrace subdivision. Road "A" that extends behind the existing shopping center and connects to King's Way Drive would provide access to Prestonwood. The attached site location map (Attachment 1) shows the proposed parcel and its relationship to surrounding development within Williamsburg Crossing.

Please note that the property owner, University Square Associates applied in June of 1999 to rezone the same property, JCC Case No. Z-6-99 for a similar residential development. The applicant withdrew that rezoning request February 15, 2001 after it was denied by the Planning Commission. JCC Case No. Z-4-01, SUP 17-01, MP-04-01 was submitted July 25, 2001 and has been reviewed against all current ordinances and policies.

Neighborhood Information Meeting

Staff recommended that the applicant host a Neighborhood Information Meeting to inform adjacent property owners, particularly the Winston Terrace residents of the proposed development and hear their thoughts and concerns. To staff's knowledge, a neighborhood information meeting was never conducted. Comment letters submitted to date by citizens are included as Attachment 7.

Comparison of the Approved Master Plan and the Proposed Master Plan

The existing Williamsburg Crossing Master Plan (Attachment 2) was approved as part of SUP-2-93 and limits the number of residential units to 198. The existing La Fontaine townhouse community consists of 160 units; therefore, an additional 38 units could be constructed under the existing Master Plan. The chart below compares the land use scenarios of the approved Master Plan and the Proposed Master Plan.

Land Use	Approved Existing Master Plan (SUP-2-93)	Proposed Master Plan (MP-04-01)	Net Change
Commercial/Office	535,665	484,640	- 51,025
Residential (Units)	198	330	132

The existing Master Plan for Williamsburg Crossing designates Land Bay 11 (7.6 acres), located adjacent to Winston Terrace, as E-Commercial. However, the existing SUP (SUP-2-93) states that this area shall be reserved as open space associated with an outdoor center of amusement. It further states that no impervious surface or buildings shall be permitted. At the time SUP-2-93 was approved, SUP-3-93 was also approved to permit an outdoor center of amusement (uses included a driving range, miniature golf course, an 18-hole par-3 course, and related facilities). SUP-3-93, however, has expired. While Land Bay 11 is technically limited to open space, it has always been intended to be directly associated with a commercial use. Staff believes that a conversion of a substantial portion of Land Bay 11 to a residential use would better complement the adjacent Winston Terrace community. It would safeguard against future commercial proposals on this property that may have negative impacts on the adjacent residential properties. A significant amount of commercial development would still be possible on the remaining portions of the property.

Under the proposed plan (Attachments 3 and 4), Land Bay 11 would be redesignated and combined with other existing E-Commercial land bays to Mixed Use – 11.2 acres to C Residential (Prestonwood) and 16.3 acres to Commercial and Office – E/G. The 16.3 acres of commercial and office is proposed to accommodate a maximum of 115,351 square feet of commercial and/or office development.

Surrounding Zoning and Land Uses

The 11.2-acre parcel that is the subject of this rezoning application is surrounded to the north, west, and east by the shopping center property and the Riverside Medical facility, zoned B-1, General Business. Immediately to the south is the Winston Terrace subdivision that is zoned R-2, General Residential. **Staff believes that the proposed Prestonwood development is appropriate on this site, as it will create a transitional buffer between the Winston Terrace neighborhood and the shopping center. In general, the overall development on the property would benefit from somewhat more residential development combined with the very large amount of commercial development existing and to be built in the future.**

Vehicular Access

Access to Prestonwood will be from a private road (Road “A”) that runs behind the shopping center and connects to Kings Way Drive. Road “A” will effectively form a loop around the existing shopping center and provide access to both Riverside Medical and Prestonwood. The applicant has proffered an emergency vehicular access either along the northern property line adjacent to future commercial/office development or along the western property line adjacent to Riverside Medical. The emergency access will not be open for public vehicular access, but is designed to permit access for fire and police vehicles.

Topography and Physical Features

The site is relatively level and wooded. The property drains toward an existing stormwater management facility (BMP – Pond No. 3) adjacent to the Riverside Medical facility. This BMP was designed and constructed to accommodate the future runoff from Parcel 20, the site of Prestonwood as well as future development of the remaining undeveloped parcels within Williamsburg Crossing. **The proposed conditions would ensure that the townhouse development would not divert any additional stormwater to the Winston Terrace or Kingswood subdivisions and shall be a condition of the special use permit.**

Townhouse Units

The applicant has stated that the proposed townhouse units will be very similar to the units at La Fontaine and Bristol Commons on Ironbound Road, a new subdivision recently constructed in the City of Williamsburg. As with La Fontaine and Bristol Commons, the buildings will be constructed for full 360-degree frontage -- all four sides of the buildings will be designed for maximum aesthetic quality. Attachment 6 is a graphic illustration of building types being considered. While these specific designs have not been proffered, the applicant has proffered that the design criteria for the proposed units shall be reviewed and approved by the Development Review Committee prior to final site plan approval. Staff believes it is important to achieve this design objective given the visibility of the development. The applicant has also proffered that all dwelling units shall be fewer than three stories high or a maximum of 35 feet, which is in accordance with the “C” area designation for the residential units on the master plan.

Pedestrian Facilities

Staff believes that sidewalks are integral to the success of all mixed-use areas including Williamsburg Crossing Shopping Center so that residents, employees and visitors can walk within the mixed-use area and not be dependent upon their automobile for all transportation. Thus, the applicant is proposing a set of internal pedestrian sidewalks that are illustrated in the Master Sidewalk Plan (Attachment 5). The proposed five-foot wide paved sidewalks are classified in one of three categories; existing sidewalks, University Square Associates external proffered sidewalks and third party suggested sidewalks.

In conjunction with the Master Sidewalk Plan, the applicant has proffered details of the pedestrian walk system that are in an unacceptable legal format to the County Attorney. The submitted proffers apply only to Parcel 20, the proposed site of Prestonwood, and not to other parcels of Williamsburg Crossing where sidewalks are proffered. Additionally, there are no assurances that the third party suggested sidewalks would be built nor does the applicant own portions of the property upon which sections of the proposed sidewalks would be built.

Staff believes the pedestrian facilities proposed on the master sidewalk plan and additional sidewalks along King's Way to the intersection of Road "A" and along Road "A" to Prestonwood are essential for the safe travel of pedestrians throughout the Williamsburg Crossing site. All of these referenced pedestrian facilities are necessary to ensure the proposed townhouse community is well integrated into the Williamsburg Crossing community. With the previous development of La Fontaine and now Prestonwood, Williamsburg Crossing has transformed from a suburban shopping center to a mixed use development. Without a good sidewalk system, the individual developments (La Fontaine, Riverside, etc.) function as an unrelated and unconnected part of the larger development.

These pedestrian facilities would typically be required if King's Way and Road "A" were part of the public road system. While these roads will never be part of the Virginia Department of Transportation (VDOT) street system, they do practically function as public roads and either carry or will carry a significant amount of vehicular and pedestrian traffic given the size and mixed-use nature of Williamsburg Crossing.

Please note that no recreation trails connecting Prestonwood to La Fontaine through the Riverside Medical Center property are provided. In a previously submitted letter, "the property owners of the adjacent Riverside Health clinic have indicated that they are not inclined to allow for unrestricted pedestrian access across their site for security and liability reasons."

Recreation Facilities

The applicant has proffered to construct a swimming pool and community clubhouse adjacent to adjacent to the entrance to Prestonwood. The site and facilities would be owned and operated by the Homeowner's Association. While pools are not discussed in the Parks and Recreation Proffer Guideline policy, staff believes that providing a pool and clubhouse for a development of this size, density and location would be an equivalent alternative to providing the required court, field and/or playground equipment.

Buffers and Landscaping

Winston Terrace Buffer

The applicant is providing a minimum 50-foot undisturbed landscaped buffer along the property's common property line with Winston Terrace. Within this buffer, all trees and shrubs must remain undisturbed. The applicant is also proffering that the 50-foot buffer will contain a

variety of trees and shrubs equivalent to 133 percent of the minimum landscape Zoning Ordinance requirements. In areas where the natural buffer falls short of this requirement, additional trees and shrubs will be planted.

Note that the applicant has also proffered that following the clearing of those portions of the property designated for construction of dwelling units, the Owner shall erect a privacy hedge or a privacy fence of such height and density as to prohibit visual or pedestrian access to Winston Terrace and to Riverside. Despite the above proffer that the buffer remains undisturbed, it is apparent from the master plan that clearing for construction of Buildings #1--#4 would take place within the 50-foot undisturbed landscape buffer. These contradictions could lead to significant discrepancies when development plans are submitted.

Buffer Adjacent to Riverside Medical

Section 24-257(b) of the Zoning Ordinance states, "For commercial, industrial, office and mixed uses a setback of 50-feet shall be maintained from the perimeter of a mixed use district. The setback shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent property." The applicant has requested a modification to this buffer requirement that was brought before the Development Review Committee at its October 31st meeting. **The proposed binding master plan as submitted, fails to meet the Zoning Ordinance, unless the Development Review Committee approves the modification request.**

Adjacent to the Riverside parking lot, the applicant proposes a 10-foot building setback and proffers that the "Owner, in its best efforts, shall seek permission from Riverside to create an additional landscape easement along this common property line. Staff cannot ensure that any of this additional landscaping will be planted. Along the southern property line adjacent to the existing BMP, the applicant proposes a 5-foot building setback with no additional landscaping proffered. Staff does not believe that a 5 or 10-foot building setback buffer is sufficient to adequately mitigate the impact between the two developments.

Buffer Adjacent to Future Commercial and/or Office

The applicant has also proffered a transitional buffer along the property's northern property line adjacent to property that is planned for retail and/or office development. This transitional buffer whose total or combined easements, shall be equal to 50-foot enhanced landscape buffer at its closest point to Buildings #1 and #8. Note that this 50-foot buffer does not screen the pool or Buildings #17 or #16 from Road "A".

Staff believes that this landscaped buffer is necessary to buffer the future townhouse residents from the adjacent commercial development that is planned. This is particularly important given the fact that this commercial area is likely to be either a parking lot or the rear of retail shops.

The applicant has acknowledged via a proffer that the parking ratio provided exceeds what is required by the James City County Ordinance by 110 spaces. For a comparison, La Fontaine has 160 units and 331 spaces, or 2.06 spaces per unit located on 13.46 acres. Prestonwood proposes 170 units with 365 parking spaces or 2.14 spaces per unit located on 11.2 acres. Prior to site plan approval, the owner plans on determining the amount of parking to be directly allocated for each residential unit, guest parking and recreational parking. All parking areas not allocated will be converted to open or planted areas. **Staffs has no assurances that these excess parking spaces will be converted to open or planted space and enhance the buffer setback requirements. Staff also believes that the number of spaces maybe excessive and has not received any documentation justifying the proposed higher parking ratio.**

Route 199 Buffer

Staff is recommending a condition (No. 3) be placed on SUP-17-01 that requires a 50-foot undisturbed landscape buffer along Route 199. This condition is very similar to the existing condition found in SUP-2-93. The only difference between the two is the proposed condition requires the buffer to be landscaped in accordance with the landscaping requirements of the Zoning Ordinance. **Staff believes that landscaping is necessary to reestablish the landscape character of this heavily traveled road.** The existing buffer has very few trees and shrubs and has been previously disturbed.

Staff's main objective in requesting the above condition is to ensure adequate planting area for large trees and partial restoration of the site's tree canopy, most of which will be lost when the site is developed. Additionally the planting of overstory trees as proffered throughout the development will offer many benefits, particularly as the trees mature. These benefits include: shade, help reduce the scale of the development and give it a truly "residential" character, provide visual and noise buffers, and slow water run-off.

Utilities/Water Supply

The site is served by public water and sewer and will be master metered. The James City County Service Authority (JCSA) has stated that as development takes place, system upgrades may be required. These improvements would be the responsibility of the developer.

Regarding the County's water supply, the Board of Supervisors recently agreed to apply certain criteria to new developments to mitigate the negative impact on the County's water supply. One of those criteria suggests that building permits be delayed until a draft permit is obtained by James City County from the State for the proposed desalination plant or the applicant provide information on mitigating factors that offset the need for this criteria. Any proffers, conditions or information addressing this criterion are not included in this report. Staff recommends that it be permitted to work with the applicant prior to the Board of Supervisors meeting regarding the applicant's intent to address this new Board criterion.

Regarding the other criteria, the applicant has proffered water conservation measures that will be implemented with approval of JCSA. The applicant has also proffered that \$625.00 per unit constructed would be contributed to James City County to use as it sees fit to mitigate the negative impact Prestonwood would have upon the County's water supply. However, the applicant has requested in a separate letter dated October 25, 2001 (Attachment 8) and in the proffers (Attachment 9) that the owner be exempt from paying the \$625.00 per unit impact fees for the first 38 units built because the owner already has approval to build these units by-right. Therefore, the owner requests the Planning Commission and Board of Supervisors to consider a partial waiver of impact fees and support a contribution of \$625.00 per unit for the additional 132 units that the applicant is seeking approval to build. A total of \$82,500 is thus being proffered to mitigate the negative impacts Prestonwood would have upon the water supply. **Staff supports the applicant's request and recommends the proffer contribution of \$82,500. However the County Attorney does not find the wording of the proffer legally acceptable.**

Traffic

The applicant's traffic analysis concluded that the proposed Master Plan would generate less traffic than the existing Master Plan for Williamsburg Crossing. The chart below summarizes these findings:

Use	Square Footage or Units (net increase or decrease)	Net Impact Vehicle Trips Per Day (VTPD)
Commercial & Office	-51,025 square feet	-1,898
Residential	+132 units	606
Net Change		- 1,292

Level of Service at the intersection of Route 199 and Route 5 would remain the same at “C” with the proposed rezoning. AM service at the intersection of Route 5 and King’s Way would remain the same at “B” and improve in the PM to “B”.

The Virginia Department of Transportation (VDOT) recently completed its review of the submitted traffic study and finds that the submitted traffic study did not provide the necessary information in order to provide a proper review. Additional information that VDOT has requested relates to the methodology that the consultant used while compiling the submitted traffic study. It should be noted that the traffic study for the previously proposed residential community rezoning application on this site reached the same conclusions and VDOT accepted these conclusions.

Despite the methodology concerns of VDOT, staff agrees with the conclusions stated by the submitted traffic report and believes that this proposal will have the net effect of lowering the trips generated by the overall development. It should be noted that the It is also important to note that, given the proximity of the proposed residential community and the existing and planned retail and office uses, many of the trips that would normally be leaving a residential community of this type will be captured “internally.” In other words, residents will not have to drive and leave Williamsburg Crossing to shop, go to the movies, and do related activities.

Fiscal Impacts

Note: The fiscal impact study prepared by the Wessex Group for the Prestonwood Rezoning Application comments on the project being located on 11.7 acres. The proffers and plans submitted by the applicant refer to the project being located on 11.2 acres.

Schools

The applicant anticipates that the demographics for Prestonwood will be similar to La Fontaine and would have little impact on the County’s public school population. WJCC Schools reports only four school students for the 2000-01 school year from La Fontaine.

The fiscal impact study for Prestonwood assumes “because of the nature of the units, it is estimated that there will only be six public school children living in Prestonwood.” Based on an analysis done by the County’s Financial and Management Services (FMS) division, the average number of public school students generated by apartments and townhomes is 0.27 per unit. Based on this ratio, one would expect 46± school children to be generated by Prestonwood. It is important to note that the 0.27 students per unit is an average of all of the apartment and townhouse units in James City County. There is a wide range of school children generated by each townhouse and apartment community. Based on the proposed unit type and expected price range of the Prestonwood units, one might expect this 0.27 ratio to be lower. Since the number of bedrooms and the average value so closely mirror the LaFontaine development, it would be staff’s expectation that the number of public school enrollees would be fewer than ten. However, it is difficult to determine the correct ratio and it is important to remember that these communities are not static - their demographics can change over time.

Prestonwood would be served by Matthew Whaley Elementary School, Berkeley Middle School, and Jamestown High School. The chart below provides the design and effective capacities,

current enrollment, and proposed enrollment for the schools serving Prestonwood.

School	Design Capacity	Effective Capacity	Current Enrollment As of September, 2001	Proposed Enrollment with Prestonwood (46 students total)
Matthew Whaley Elementary	562	506	468	489
Berkeley Middle School	861	775	718	729
Jamestown High School	1,389	1,250	1214	1228
<i>For proposed enrollment, the breakdown of the 46 additional students was assumed to occur in the following manner: 45 percent of total elementary, 24 percent of total middle school, and 31 percent to high school. These percentages are based on a study that was done by the Department of Financial and Management Services.</i>				

The County’s adequate public school facility test considers the design capacity of the schools and based on the numbers presented in the chart, the schools currently have adequate design capacity to absorb the additional students that would be expected from Prestonwood. This application “passes” the adequate public schools facility test.

While the test addresses the capacity of the schools, it does not address the capital costs associated with the additional school children generated by the proposed development. Figures provided by FMS suggest that each townhouse and apartment unit generates an average school capital cost of \$5,356. Using this figure, Prestonwood would generate a capital cost of \$910,520 (\$5,356 x 170 units). The Board of Supervisors has no adopted policy regarding proffers mitigating school capital costs and the applicant has not proffered a financial contribution to mitigate the capital costs associated with schools.

Summary of Fiscal Impacts

Staff concurs with the conclusions of the fiscal impact study that:

- (1) a 170-unit condo development built and marketed similarly to LaFontaine would have a net positive fiscal impact due to the low number of public school children. With an average unit cost of under \$100,000 (LaFontaine currently has 160 units averaging \$96,000 each), one may assume that the development will be similar to LaFontaine. However, the applicant has referenced Bristol Commons in the proffers and Bristol Commons units’ sale prices range from \$96,000 to \$130,000.
- (2) “building new retail space using the existing B-1 zoning, instead of building condos under the proposed rezoning, would have a greater fiscal benefit. Property, sales and business license taxes would provide significant new fiscal benefit.”

While staff would concur with the conclusions, we would question several of the assumptions used in the study.

“The first assumption open to question is that the fiscal impact statement is a forecast of one alternative. What finally results from the developer’s choices about construction, marketing, pricing and timing could have a different fiscal impact than what is presented. This is one scenario and should be considered as such.”

“The second assumption, that the current zoning would allow the construction of a big box retailer may be flawed. VDOT will not allow access to Route. 199 and access would be a major consideration in a corporate decision to locate a big box on this site.” Staff does expect that the Williamsburg Commons Shopping Center site will be developed with commercial retail in accordance with the approved master plan.

The Board of Supervisors has no formal policy related to mitigation of water supply, school capital costs and affordable housing. In considering rezonings, the Planning Commission and Board are not limited in their ability to ensure adequate mitigation. As noted in earlier sections, the applicant has proffered \$82,500 in a format not legally acceptable to the County Attorney to mitigate the negative impact of the development on the County's water supply. The applicant does not address the impact of this development on school capital costs nor does he address the issue of affordable housing.

Comprehensive Plan

The site is designated Mixed Use on the Comprehensive Plan Land Use Map and is within the Primary Service Area (PSA). The principal suggested uses are commercial and office with Moderate Density Residential accommodated as a secondary use. The proposed Master Plan designates 71.3% (61 acres) of the total Williamsburg Crossing site to commercial and office uses, while 28.7% (25 acres) is designated for residential use (La Fontaine and Prestonwood). Under the proposed Master Plan, a majority of the site remains designated for commercial and office use. **Staff believes that the proposed townhouse community and the respective revisions to the Master Plan are generally consistent with the property's Mixed Use land use designation and the development standards of the Comprehensive Plan.**

RECOMMENDATION:

Staff believes that the proposed townhouse community and revisions to the Master Plan are generally consistent with the property's Mixed Use land use designation. Staff also believes that the proposed development is consistent with the surrounding zoning and development. However the plan as submitted does not meet the Zoning Ordinance unless the DRC recommends approval of the perimeter buffer modification. When site plans are submitted, a landscape modification request would be required which staff does not support at this time.

Regarding fiscal impacts, staff recognizes that the impact upon the County's water supply is mitigated through proffers that are not in a legal format. The applicant does not mitigate the impact of this development on school capital costs or address the issue of affordable housing. Finally staff cannot ensure that a comprehensive sidewalk system for pedestrian movement within the shopping center can be constructed as presented on the sidewalk and rezoning exhibit. Therefore, staff recommends the Planning Commission deny this application.

Should the Planning Commission wish to approve this case, staff recommends the following conditions:

SUP Conditions for SUP-17-01. (These conditions replace SUP-2-93.)

1. No more than 484,640 square feet of commercial and/or office square footage, including existing development, and 330 multifamily residential units, shall be constructed on-site.
2. A minimum 50-foot undisturbed buffer shall be provided along the common property line of the Winston Terrace subdivision. The buffer shall have enhanced landscaping, that meets or exceeds 133% of the Zoning Ordinance requirements and effectively screens the adjacent property. The Planning Director shall approve the enhanced landscaping plans prior to final site plan approval. Upon approval from the Development Review Committee, utilities and drainage structures may be placed in the buffer if no other practical alternative locations exist.
3. A minimum 50-foot undisturbed landscape buffer, free of structures and paving, shall be

provided along the Route 199 right-of-way. The buffer shall be landscaped, at a minimum, in accordance with the landscaping requirements of the Zoning Ordinance and such landscaping shall be approved by the Planning Director. The landscaping shall be installed concurrently with the development of each of the parcels along Route 199.

4. All lighting, including the building lighting for the residential units, shall be directed so as not to produce glare on any adjacent property or public right-of-way. All lighting for the Williamsburg Crossing site, except for ground-mounted pedestrian lighting which is less than 10 feet in height, shall be luminaries mounted horizontally and shall have 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 a manner that all light will be directed downward and the light source is not visible from the side. Modifications to this section may be approved by the Planning Director if it is determined that the modifications do not have any negative impact on the property or surrounding properties.
5. A pedestrian access shall be provided to the vacant R-1 zoned parcel located to the west of the site. The location of such access shall be approved by the Development Review Committee. Such access shall be installed prior to final site plan approval.
6. All onsite drainage from Parcel 20 shall be directed to the stormwater management facilities serving Williamsburg Crossing Shopping Center with no increase in stormwater flows to the Winston Terrace subdivision. The Director of the Environmental Division may grant an exception to this for the stormwater runoff from the buffer area left between Prestonwood and Winston Terrace.
7. Drainage facilities for Parcel 20 shall be sized appropriately to adequately carry "offsite" developed stormwater flows from those portions of Williamsburg Crossing Shopping Center that drain through Parcel 20. However, nothing herein contained shall alter the previously submitted drainage plans for Williamsburg Crossing Shopping Center.

Karen Drake
Planner

Attachments:

1. Site Location Map
2. Existing Mater Plan
3. Preliminary Site Plan (Separate)
4. Proposed Master Plan (Separate)
5. Sidewalk & Rezoning Exhibit (Separate)
6. Proposed Elevations
7. Citizen Comment Letters
8. Applicant's letter dated October 25, 2001
9. Proffers dated October 25, 2001

104 Hurst Street
Williamsburg, Virginia 23185
September 12, 2001



Mr. Marvin Sowers
Director of Planning
James City County
P.O. Box 8784
Williamsburg, Virginia 23187

Dear Mr. Sowers,

Please disregard our previous letters of support for Mr. Calvin Davis, who wants to rezone the area adjacent to the Food Lion on 199 from commercial to residential use. The letters were sent on August 28 to Mr. Marvin Garrett and Mr. John McGlennon.

After the letters were sent, we discussed the issue with other residents of Winston Terrace. We and the residents agree: we do not want Mr. Davis to put up 17 buildings with 10 units per building --170 units-- in an area smaller than that of La Fontaine.

Thank you very much. We regret this inconvenience and appreciate your help.

Sincerely,

A handwritten signature in cursive script that reads "Jim + Nickie Whitehead".

Jim and Nickie Whitehead

Martin Garrett
P.O. Box 8784
Williamsburg VA 23187



Subject: Winston Terrace response to "Prestonwood", a 170-unit residential community plan by University Square Ass.

Dear Martin Garrett,

I am writing to you as a representative of the residents of Winston Terrace.

Calvin Davis of University Square Associates approached me with his plans for Prestonwood and asked for a letter from our neighborhood civic league that supports rezoning of lot #20 at Williamsburg Crossing from commercial to residential.

Residents of our neighborhood met to discuss the situation. We prepared a petition and collected signatures.

We are mostly concerned about the consequences for traffic. Even though nothing is mentioned in the plans, we do not ever want the addition of an emergency access road or any other road for vehicles other than bicycles and pedestrians that cuts into or through our neighborhood. We already have to deal with the traffic problem at the exit of our neighborhood onto Jamestown Road, next to the Chickahominy House, and just 50 yards from the crossing of Route 199 and Jamestown Road. The issue of increased traffic related to development in Williamsburg must get highest attention.

It is hard for us to evaluate Mr. Davis' plan on all its merits. Not all of us necessarily oppose rezoning but we think that a high-density condominium community is not desirable at this location. Truthfully none of the residents support any development in this field. We prefer to see a community park on this side of town!

Some of our residents will be present at the hearings and will be glad to participate in a discussion. Thank you for your attention.

Sincerely,

Lianne Van De Ven
104 Winston Drive
Williamsburg, VA 23185
(757) 258-0898

Enclosed: 4-page petition Winston Terrace

Cc: A. Joe Poole, W. Wilford Kale, John F. Hagee, Donald C. Hunt, Peggy Wildman, Joseph R. McCleary, Ronald A. Nervitt, Bruce C. Goodson, James G. Kennedy, Jay T. Harrison, John J. McGlennon, Calvin Davis.

108

PETITION BY WINSTON TERRACE RESIDENTS

September 2001



As residents of Winston Terrace we DO NOT support the current site plan for the high density condominium community "Prestonwood" as proposed by University Square Ass., and we therefore DO NOT at this moment support the proposed rezoning of parcel 20 from commercial to residential.

We do not want the integrity of our neighborhood violated. We oppose any plan for the addition of an emergency access road or any other road for vehicles other than bikes and pedestrians that would cut through or into our neighborhood.

name	address	signature
Brenda Knight Riscilla Myers	121 Winston Dr 123 Winston Dr.	Brenda Knight Riscilla Myers
Scott Bruner	125 Winston Dr.	Scott Bruner
Betty Taylor	126 Winston Dr.	Betty Taylor
Judith W. Pugh	127 Winston	Judith W. Pugh
Corine J. Sprigle	129 Winston Dr.	Corine J. Sprigle
GARRETT FESLER	129 Winston Dr.	Garrett Fesler
VIONA J. FARNSWORTH	131 Winston Dr.	Viona J. Farnsworth
Edna E. Murphy	133 Winston Dr.	LINDA CIFELLI
Linda Cifelli	134 Winston Dr.	DAVID HERRING
David Herring	134 Winston Dr.	
Diane Tracy	138 Winston Dr.	Diane Tracy

PETITION BY WINSTON TERRACE RESIDENTS

September 2001

As residents of Winston Terrace we DO NOT support the current site plan for the high density condominium community "Prestonwood" as proposed by University Square Ass., and we therefore DO NOT at this moment support the proposed rezoning of parcel 20 from commercial to residential.

We do not want the integrity of our neighborhood violated. We oppose any plan for the addition of an emergency access road or any other road for vehicles other than bikes and pedestrians that would cut through or into our neighborhood.

name	address	signature
David R. Herring DAVID Robbins Herring	134 WINSTON DR. WILLIAMSBURG VA. 23185	David R. Herring
William Saunders	106 WINSTON	William Saunders
ETHAN SAUNDERS	106 WINSTON	Ethan Saunders
Matt Roberts	112 Winston	Matt Roberts
Effie Sinapfedy	118 WINSTON DR	Effie Sinapfedy
Avis "Charles" Hanned	130 Winston Drive	Avis "Charles" Hanned
SAM FRANK	105 Winston Dr.	Sam Frank
MELISSA Roman	114 Winston Dr	Melissa Roman
Ross Hall	147 Winston Dr	Ross Hall
Michael Adams	151 Winston Dr	Michael Adams
Jake Kribel	155 Winston Dr.	Jake Kribel
Mary Ann Melf	159 Winston	Mary Ann Melf

PETITION BY WINSTON TERRACE RESIDENTS

September 2001

As residents of Winston Terrace we DO NOT support the current site plan for the high density condominium community "Prestonwood" as proposed by University Square Ass., and we therefore DO NOT at this moment support the proposed rezoning of parcel 20 from commercial to residential.

We do not want the integrity of our neighborhood violated. We oppose any plan for the addition of an emergency access road or any other road for vehicles other than bikes and pedestrians that would cut through or into our neighborhood.

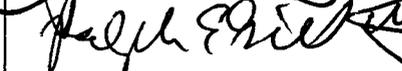
name	address	signature
Christie York	103 Kathryn Ct	
Folny York	103 Kathryn Ct	
Diane Riley	102 Kathryn Ct.	
Faith DeJohn	100 Kathryn Ct	
Chris DeJohn	100 Kathryn Ct	
Minnie R. Dyk	104 Kathryn Ct	
Anne Kramer	109 Kathryn Ct.	Anne Kramer
R.P. Kramer	109 Kathryn Ct.	R.P. Kramer
Andy Keith	105 Kathryn Ct	Andy Keith
Rodney L. Keith	105 Kathryn Ct	Rodney L. Keith
E. H. H. H. H. H.	105 Kathryn Ct	E. H. H. H. H.

PETITION BY WINSTON TERRACE RESIDENTS

September 2001

As residents of Winston Terrace we DO NOT support the current site plan for the high density condominium community "Prestonwood" as proposed by University Square Ass., and we therefore DO NOT at this moment support the proposed rezoning of parcel 20 from commercial to residential.

We do not want the integrity of our neighborhood violated. We oppose any plan for the addition of an emergency access road or any other road for vehicles other than bikes and pedestrians that would cut through or into our neighborhood.

name	address	signature
SEAN TRACY, AIA	138 WINSTON DRIVE	
Ralph E Hill	141 Winston Dr.	
1077 ASNET		
Carol Ann		
Jim + Mikee Whitehead	104 Hazel St	
BARBARA CILLAGH	104 WINSTON DR.	

TANNER, MULKEY & GORDON, P.C.

ATTORNEYS AT LAW

690 J. CLYDE MORRIS BOULEVARD, SUITE A
NEWPORT NEWS, VIRGINIA 23601-1889

ALLEN C. TANNER, JR.
MICHAEL S. MULKEY
RICHARD S. GORDON

DANIEL L. REID

Telephone (757) 595-9000
Telefax (757) 595-2961

October 25, 2001
(Hand Delivered)

Marvin Sowers
Director of Planning
Attn: Accounting
101-E Mounts Bay Road
Williamsburg, VA 23185

Re: Prestonwood at Williamsburg Crossing
JCC Case Z-4-01 SUP



Dear Marvin:

I want to take this opportunity to present the Revised Proffer for the rezoning of the Prestonwood Project at Williamsburg Crossing, together with copies of the Revised Master Sidewalk Plan for Williamsburg Crossing Shopping Center. I have enclosed a lined copy of the Proffer showing all changes. As you can see, we have made many technical changes and several substantive changes. By this side letter, I would like to offer an explanation containing the rationale for two (2) of the substantive matters, as well as clarify an issue in the SUP.

First, with regard to the request for a partial exemption of the Impact Fee. In addition to the rationale set forth in the Proffer Statement itself, the Board making the decision to grant the waiver, should realize and take into consideration the fact that University Square Associates has owned this property for approximately fifteen (15) years. Since its purchase in 1986, it has paid real estate taxes based upon a prospective commercial use. These taxes were paid on vacant land which means that James City County and its citizens received this income without having to provide any commensurate services. At this time, we are asking to effectively downzone the property to residential use. Not only has University Square carried this property for fifteen (15) years without making any substantive demands upon the County, but it has also carried it at what would now be considered an excessive rate.

It should also be appreciated that all of the roads within Williamsburg Crossing are private roads. They were built and maintained without any contribution from the County. Likewise, the County provides no snow removal or other services that it would ordinarily provide to most other business or residential areas located within its boundaries. Therefore, we believe, and we think that you should concur, that University Square Associates has already, in effect, prepaid the Import Fee.

Marvis Sowers
Director of Planning
March 25, 2001
Page 2.

Finally, any additional fees to the owner will naturally result in an increase in the sales price of each unit. This has a very undesirable and unfavorable effect of estranging the prospective buyers of "affordable housing", from being able to purchase within this project. It is not only the sum that is being requested for the Impact Fee but also the rest of the extraordinary expenditures that the owner is willing to undertake with regard to the remainder of the development as set forth in the Proffer that increase the costs. The Impact Fee is just one more increase that we feel is not justified because of all of the services that have been provided by University Square.

The second aspect of the Proffer that I would like to discuss is the alternation of the Master Sidewalk Plan. As you can readily tell, we are now proffering the construction of a sidewalk along most of Road A. There are several reasons for this. Upon reinspection, it became obvious that the sidewalk that was suggested by the County goes along an area that will have significant amount of truck and other traffic. The truck traffic is as a result of servicing the rear of the shopping center. Although the trucks may go through the rear of the shopping center in one way, they will come out in a circular manner along Road A. Road A is not lit and we feel that the entire circumstances of encouraging pedestrians in this area is irresponsible and dangerous.

Furthermore, the sidewalk as suggested by the County, goes by the drainage pond. We feel that encouraging people to walk by this facility would also constitute an unwarranted danger. Again, it is not lit and it is not unreasonable to believe that people might find themselves in the pond area rather than on the sidewalk. This would create an unwarranted danger on the owner's property.

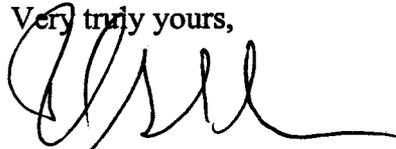
When one looks at the amended sidewalk plan, it is apparent that access is afforded throughout all of the aspects of this project. The people can get from Prestonwood to the shopping center, to Riverside, and, in fact, to King's Way, all by way of sidewalks.

Finally, I do have one comment regarding the revised SUP conditions. Please add the following to the end of Condition 7 in order to clarify what could later be a misunderstanding of that condition's meaning: "However, nothing herein contained alters the previously submitted drainage plan for Williamsburg Crossing Shopping Center." At present, Parcels 27, 28, and parts of 26 and 29 currently drain via the swale constructed by VDOT and we do not want to imply that this feature is being charged.

Marvin Sowers
Director of Planning
October 25, 2001
Page 3.

I look forward to working with you to bring this project to fruition. I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'RSG', with a long horizontal flourish extending to the right.

Richard S. Gordon

RSG/bd
Enclosure:
Cc: Mr. Calvin Davis (w/enclosure)

REVISED PROFFER STATEMENT

Z-4-01 Prestonwood at Williamsburg Crossing

This Proffer Statement is made as of this 12th day of October, 2001, revised as of the 24th day of October, 2001, by UNIVERSITY SQUARE ASSOCIATES (Owner) who owns certain real property (Property) totaling approximately 11.2 acres shown on the James City County Tax Map 48-1 as Parcel 22-20 and more particularly described below:

All that certain lot, piece or parcel of land lying situate and being in James City County, Virginia, known and designated as "Residual Parcel 20" on that certain plat entitled, "RESUBDIVISION OF PARCEL 20, WILLIAMSBURG CROSSING, JAMESTOWN DISTRICT, JAMES CITY COUNTY, VIRGINIA," dated July 30, 1997 made by Langley and McDonald, P.C., and recorded in Plat Book 67, Page 37 in the Office of the Clerk of the Circuit Court for the City of Williamsburg and County of James City, Virginia.

Being part of the property conveyed to the University Square Associates, a Virginia general partnership, by Pilot Life Insurance Company by Deed dated August 6, 1987, and recorded in James City County Deed Book 357, at page 125.

Any previous Proffer Statements made for the above-referenced zoning case are hereby rendered void and of no effect.

RECITALS

A. The County's Comprehensive Plan specifically designates the zoning of the Property as Mixed Use. The James City County Zoning Ordinance states that "mixed use district is the preferred Zoning District for development within Williamsburg Crossings undeveloped areas in the "Comprehensive Plan."

B. The Owner has requested that the Property be rezoned from General Business B-1 to Mixed Use, designation "C" for attached structures of three or fewer stories and containing more than four dwelling units. The Owner anticipates that this development will be similar in construction and design to the Bristol Commons development in the City of Williamsburg, Virginia, which was also developed by the Owner.

C. The Owner desires to offer the County certain Proffers on the develop-

ment of the Property not generally applicable to land zoned Mixed Use MU/C for the protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

D. NOW, THEREFORE, for and in consideration of the approval by the County of the rezoning of the Property, pursuant to Section 15.2-200, et seq. of the Code of Virginia, 1950, as amended, (Virginia Code), and Section 20-16 of the James City Code (County Code), and permits for construction of the Property in substantial conformity with the "Prestonwood, Parcel 20, James City County, Preliminary Site Plan as prepared by Hopke & Associates and dated October 5, 2001 (Preliminary Site Plan), the "Master Sidewalk Plan, Williamsburg Crossing Shopping Center, James City County", October, 2001, revised October 25, 2001, prepared by AES (Master Sidewalk Plan), and the Revised Master Plan, Williamsburg Crossing Shopping Center, James City County, Virginia," dated October, 2001, prepared by AES (Master Plan), the Owner agrees that it shall meet and comply with all the following Proffers in developing the Property. In the event that the requested rezoning is not approved and/or the County does not accept these Proffers, these Proffers shall become null and void.

PROFFERS

1. USES: Within the 11.2 acres of the Property, the use of the Property shall be limited to 170 units, residential in nature, along with recreation facilities for the Property as set forth below.

2. PRELIMINARY MASTER PLAN OF DEVELOPMENT: The Owner shall develop the site in accordance with the Preliminary Site Plan .The Preliminary Site Plan shows the location of proposed internal streets, the location of proposed areas of open space and the location of proposed areas for buildings. The County's Planning Director may permit amendment of Preliminary Site Plan only if such amendments do not: (i) conflict with the other requirements of the Virginia Code and the County Code; or (ii) result in any substantial change of major external access points; or (iii) increase the approved number of dwelling units on the Property.

3. TREE RETENTION AND ADJACENT PROPERTY BUFFERS: In the designated areas herein described, "50-foot Enhanced Landscape Area," as shown on "The Preliminary Site Plan of Prestonwood" shall provide for the preservation of existing trees, to the end that said areas shall be left in their existing natural wooded state in the area fifty (50) feet in depth between the residential pods with the Property, and the adjacent Winston Terrace subdivision, as well as within the fifty foot (50') buffer between the residential pods and improvements to be constructed on Parcel 29.

Notwithstanding the aforesaid, dead, diseased or dying trees and shrubbery, or trees and shrubbery weakened by age, storm or other injury may be removed. Furthermore,

with the approval of the Director of Planning, selective clearing may be performed within all buffers to allow for an attractive appearance, to remove trees that might become a hazard to residents and to enhance the growth potential of trees to remain. The existing native mulch layer and existing grade around the trees in all said buffers shall be retained. Finally, additional mulch may be added to enhance the survivability of trees to remain.

All areas designated for the preservation of trees shall be clearly marked with appropriate colored markings prior to the commencement of any construction on the Property. Additionally, all areas designated for the preservation of trees along the northerly and the easterly perimeter of the property and trees to be retained within the areas designated for dwelling units shall be protected throughout the construction period by installation of orange mesh fencing.

A "transitional buffer" shall be provided between buildings 1 and 8 of the Property, and Parcel 29 of Williamsburg Crossing, whose total or combined easements, shall be equal to a 50-foot enhanced landscape buffer at its closest point of each building so noted. The Owner shall record such easement prior to obtaining a building permit for aforesaid buildings 1 and 8. This buffer shall be effectively landscaped to screen the buildings 1 and 8 on the Property from the adjoining parcel through the effective use of landscape berms, and/or enhanced landscaping, and/or screen fencing, whose sums shall equal to 133% of the minimum requirements of the Zoning Ordinance. The Development Review Committee shall approve the landscape plan and modify the planting requirements as necessary.

The Owner, in its best efforts, shall seek permission from Riverside Health Systems (Riverside), the owner of Parcel 22, to create an additional landscape easement between the existing parking area on Parcel 22, and the common property line to provide additional enhanced landscaping for buildings 13, 15 and 16 that will allow for either landscape berms, and/or enhanced landscaping, and/or screen fencing, whose sums shall equal to 133% of the minimum requirements of the Zoning Ordinance or such lesser amount as may be approved by the Planning Commission. If rejected by Riverside in its efforts, the Owner shall provide additional enhancement landscaping to 133% of the minimum requirements of the Zoning Ordinance with the Property between buildings 13, 15, and 16 and Parcel 22. The Development Review Committee shall approve the landscape plan and modify the planting requirements as necessary.

Following the clearing of those portions of the Property designated for construction of dwelling units, the Owner shall erect a privacy hedge or a privacy fence of such height and density as to prohibit visual or pedestrian access to Winston Terrace and to Riverside, and which would be architecturally and aesthetically designed, keeping in mind Winston Terrace, Riverside, and the future commercial development of Parcel 29 at Williamsburg Crossing. All plantings and fences required hereby for the screening

of any residential pod shall be made or erected before a Certificate of Occupancy is issued for any unit within any such affected residential pod.

As with the current SUP requirements on the Property, utilities and drainage structures may be placed within the buffer if approved by the Development Review Committee. The Development Review Committee shall approve the landscaping plan.

4. LANDSCAPING AND INTERNAL SETBACKS: As shown on the Preliminary Site Plan, all "front-to-front" buildings, (building number 3 and 5; number 6 with 7; and building number 12 with 14), as herein noted, shall be situated with a minimum of 30 feet between associated buildings. Only the "angled buildings" (building number 2 with 6; number 2 with 3; number 10 with 11; number 11 with 12; number 11 with 13, and building number 16 with 17) may encroach within 30 feet of each other at its angled corners. The Owner shall provide for landscaping in such detail as to be approved by staff and the Development Review Committee, on all building, buffers as well as each "front-to-front" courtyard and each of the 30' courtyards on the front-to-front buildings shall contain three (3) "over-story" trees.

The Owner shall construct corner-parking islands ranging from a minimum of 400 square feet to a maximum of 800 square feet. Each of these oversized corner-parking islands shall contain one (1) "over-story" tree. Owner acknowledges that the ratio of parking spaces to dwelling units exceeds that required by James City County codes. Prior to final Site Plan Approval, Owner will determine the location and amount of parking to be directly associated with each unit, as well as guest and recreational parking. All areas not allocated to unit, guest and recreational parking will then be converted to open or planted areas.

All landscaping plans shall be developed by a qualified landscape professional. Plant types, amounts, and locations shall be shown on the Engineering Site Plan, and may be adjusted as needed to protect existing retained vegetation within the residential areas and to provide plants for maximum enhancement of the overall area. All landscaping plans shall be reviewed and approved by the Development Review Committee.

5. DWELLING UNIT DESIGN CRITERIA: All dwelling units shall be fewer than three stories high, or a maximum of thirty-five feet.

Prior to, or in conjunction with, the Owner's application for approval of Prestonwood, Phase One, by The Development Review Committee, the design criteria for all dwelling units to be constructed on the Property shall be included for all residential pods with the Property. Complete exterior of all residential pods will be of consistent construction quality and appearance.

6. PEDESTRIAN WALK SYSTEM: The Owner shall provide a paved pedestrian walk system within the Property as set forth in the attached Preliminary Site Plan of Prestonwood, dated October 5, 2001. The Owner shall provide a five-foot wide paved pedestrian walk from the termination of the existing "shopping center sidewalk" in front unit 67, of Williamsburg Crossing Shopping Center, Phase 2, Part 2, located on the southerly corner of Parcel 30, in proximity to the northerly corner of Parcel 20, and along the frontage of Road A in Parcel 30 to the Riverside entrance nearest to Parcel 20. This sidewalk will be shown in detail on Engineering Site Plan of Prestonwood and shall be installed prior to any occupancy of any dwelling unit within building 16.

Further, University Square Associates shall notify the prospective purchasers of all other unsold parcels of the requirement to provide those sidewalk systems associated with each parcel, as shown on the Master Sidewalk Plan. All such sidewalks shall be installed, prior to obtaining the occupancy permit of any building within said parcel. These unsold parcels currently owned by University Square Associates include Parcels 7, 8, 9, 10, 11, 23, 24, 25, 26, 27, 28, and 29, and exclude Parcel 6, the Bank of Williamsburg. The location of the interior sidewalk within Parcel 29 shall be determined at such time as the site plan for said parcel is finalized, however, it shall afford access from its westernmost corner to the sidewalk system on the Route 199 outparcels. University Square Associates shall notify the prospective purchaser of these requirements via the sales contract form (Agreement to Purchase).

In addition to the above, before any Certificate of Occupancy is issued for Parcel 29 Owner shall be required to install a five-foot wide paved sidewalk on Parcel 30 running from the drive aisle to the southeast of Unit 67 to the westerly corner of Parcel 29 to connect to the sidewalk system to be constructed within Parcel 29.

As to those parcels and/or access roads existing in Williamsburg Crossing and whose ownership is other than University Square Associates, the Owner shall, in its best effort, seek the rights and/or assistance to continue the pedestrian walkways according to "the Third Party Suggested Sidewalk" as shown on The Master Sidewalk Plan, from the southern entranceway on King's Way along King's Way terminating at the shopping center's service road, in front of Parcel 1A, now owned by Riverside.

7. HOMEOWNER'S ASSOCIATION: The Owner shall organize the Prestonwood Homeowner's Association (the Association) in accordance with Virginia law whereby all property owners within the Property, by virtue of their property ownership, must be members. The Articles of Incorporation, Bylaws and Restrictive Covenants (together, the Governing Document) creating and governing the Association shall be submitted to, reviewed and approved by the County Attorney prior to the construction of any dwelling unit on any portion of the property. The Governing Documents shall require the Association to: (i) assess all members owning dwelling unit(s) on the Property for the maintenance and/or replacement as appropriate for all properties owned or

maintained by the Association, including but not limited to, all private roads, driveways, buffers and landscaping and Best Management Practice facilities; and (ii) file liens on said member's properties for nonpayment of such assessments and for the costs of remedying the violations of, or otherwise enforcing, the Governing Documents.

8. RECREATIONAL AMENITIES: A Prestonwood recreation area, as shown on the Preliminary Site Plan, containing a neighborhood pool with support buildings and activity area, shall be provided by the Owner and shall be dedicated to and maintained by the Association and shall be open to all members with support buildings and activity areas now existing within Parcel 12, now known as La Fontaine, which was also built by the Owner. Further, a pedestrian walk trail shall be provided throughout the residential pods of the Property linking each dwelling with the recreational area, as well as with the pedestrian walk system to Williamsburg Crossing Shopping Center and Riverside via Road A.

9. EMERGENCY ACCESS: The Owner shall provide an emergency access entrance (Emergency Access) to the Property. The Emergency Access shall be located on the Property either between the parking lot and Riverside, or between the parking lot and Parcel 29. As a detail topographic survey will be necessary, the Emergency Access shall be shown on the Prestonwood, Phase One, site engineering plan. The final design shall provide a minimum width to accommodate a standard-sized fire truck. The purpose of the Emergency Access is to provide an alternative access to be used only by emergency vehicles. The Emergency Access shall be constructed so that the general public does not use the access for parking or ingress/egress.

The Owner shall construct a short concrete ramp to the entrance of the Emergency Access. Thereafter, the Owner shall construct a substructure base topped with compacted gravel. The Owner shall cover the compacted gravel with soil and grass. The Owner shall design and construct the Emergency Access to withstand the width and weight of a standard-size fire truck.

10. 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 JCSA, no 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 JCSA prior to the approval of the first site plan for the Project Property.

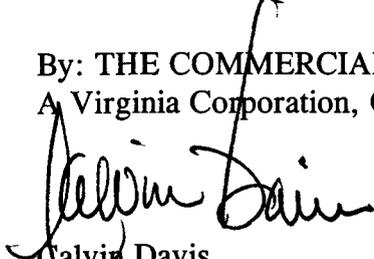
11. CAPITAL IMPROVEMENTS AND IMPACT FEES: The Owner will support an Impact Fee or "Per Unit Contribution" as outlined below, but respectfully requests that the Board of Supervisors and the Planning Commission consider a partial waiver of this fee as calculated and collected as follows.

- The Owner shall make a contribution of \$625 for each unit constructed.
- The Owner received the right to construct 198 dwelling units on Parcel 12, now known as La Fontaine, but elected to construct only 160 dwelling units of the 198 units within this Mixed Use, multi-family project at Williamsburg Crossing. This resulted in 38 units approved, but no constructed.
- Therefore, the Owner proposed that the "Per Unit Contribution" be waived for the first 38 units of the new Prestonwood project (Partial Waiver of Contribution) leaving a contribution to be paid for each of the remaining 132 units in Prestonwood.
- The Owner proposes that this Partial Waiver of Contribution be applied to any three of the ten-unit buildings, and to eight units of a fourth ten-unit building, for a total of 38 units.
- The Per Unit Contribution would be paid or waived upon Owner's securing the building permit for each building. For the first three buildings and for the first eight units of the fourth building, the fees would be waived. Upon receiving the building permit for the fourth building, Owner shall pay \$625 for each of the remaining two units for a total of \$1250. Thereafter, upon securing the building permit for each building, the Owners shall pay to James City County a fee of \$6250 for each and every building until all 17 buildings have been constructed.
- The overall contribution shall not exceed \$82,500 for the 170 units.
- The contribution shall be made by the Owner to James City County to use as it sees fit.

Very truly yours,

UNIVERSITY SQUARE ASSOCIATES

By: THE COMMERCIAL GROUP, INC.
A Virginia Corporation, General Partner


Calvin Davis
President

Commonwealth of Virginia
County of James City:

Subscribed and sworn before me, a Notary Public for the above-mentioned jurisdiction,
this 25th day of October, 2001.



Notary Public
My Commission Expires: 9/30/04

DOCS:UNIVERSITY SQUARE FINAL PROFFER

Special Use Permit 18-01
Waltrip Communications Tower

Staff Report for the November 5, 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: November 5, 2001 7:00 p.m.
Board of Supervisors: December 11, 2001 (Tentative)

SUMMARY FACTS

Applicant/Land Owner: Ms. Mary Waltrip

Proposal: Construct a 165-foot tall communication tower

Location: Adjacent to the Williamsburg-Jamestown Airport

Tax Map ID: (48-2)(1-12)

Primary Service Area: Inside

Existing Zoning: R-8, Rural Residential

Comprehensive Plan: Airport

Surrounding Zoning & North: The Williamsburg Landing retirement community - zoned R-5

Development South: The airport & other Waltrip businesses - zoned R-8
East: Single family detached homes on R-2 zoned property
West: College Creek, with the Kingspoint subdivision located across the creek on property zoned R-1

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

STAFF RECOMMENDATION

Staff finds the proposed tower not consistent or compatible with existing surrounding structures and zoning. Staff also finds that the application is not consistent with the Comprehensive Plan and does not meet the County's performance standards for Wireless Communications Facilities. In consideration of these factors, staff recommends denial of the application.

Description of the Project

Ms. Mary Waltrip has applied for a special use permit to allow for the construction of a 165-foot tall communication tower on property adjacent to the Williamsburg-Jamestown Airport. According to the applicant's consultant, Mr. Waltrip will either attach an antenna to the tower or locate Nextel on the tower in order to meet his communications requirements. Nextel currently plans to co-locate on the tower, so Mr. Waltrip will not need to place an antenna on the tower at this point in time. Should Mr. Waltrip need to place an antenna on the tower in the future, the consultant has stated those needs will be figured out at a later date. The 165 feet is requested for not just Nextel however, the height is desired by the applicant to lease space to additional wireless communications companies (e.g., Ntelos, Sprint, etc.).

On R-8 zoned property, tower mounted wireless communications facilities over 35 feet in height are specially permitted uses.

The monopole design tower would be located on an approximately 81.8 acre piece of undeveloped land situated between the Williamsburg-Jamestown Airport and the Williamsburg Landing retirement community. The tower would be located within a 6,400-10,000 square foot (s.f.) lease compound and would include various accessory support structures and equipment.

The tower would be freestanding (self-supporting) with panel-type antenna array located at the top. The tower would be designed to accommodate at least three different users, including James City County public safety system antenna, if desirable. The lease site would be accessed via a gravel drive that would be constructed off Marclay Road. The property is currently wooded with steep topography leading down to College Creek.

Visual Analysis of the Proposal

To simulate the proposed height of the tower, the applicant conducted a publicly advertised balloon test. A balloon was raised to a height of 165 feet and staff drove on nearby streets and into nearby subdivisions to gauge visual impacts.

Balloon Test Results

The balloon test revealed that the top half of the tower, approximately, would be visible from Route 199, from inside Williamsburg Landing, from College Creek, and from the community recreation area and the dock at the Kingspoint subdivision. Staff believes the tower would also be visible from the rear yards of several residences in Kingspoint as well, although staff did not go onto these properties to verify this. Attached are photos from the balloon test depicting its height above the tree line from these vantage points.

The balloon was not visible from the City's College Creek Park or from within the Port Ann subdivision. Staff determined the balloon was not visible from any point on the Colonial Parkway either. Also attached is a report from the applicant's consultant regarding visibility from nearby historic sites.

Federal Aviation Administration (FAA) requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) should be marked and/or lighted. Owners/developers of all structures greater than 200' AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and white paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium intensity white strobe lighting during the day. Staff's preference on the marking is for the dual lighting system, and not a painted tower. Ultimately, the FAA has approval over the visibility scheme.

Staff has asked the applicant to document whether or not the FAA will permit these tall structures at all, within such close proximity to the airport. According to the applicant's consultant, the FAA is currently conducting a study to determine if the towers will present a hazard. No conclusion has been reached by the FAA as of this date.

Staff has also asked the applicant to document the need for these towers (i.e., that service cannot be provided from another existing tower or tall structure within a 3-mile radius of the site) and to document the need for towers which are so tall (i.e., why service cannot be provided with towers that are more close to the tree canopy - 80-90 feet tall, for example). No information has been submitted as of this writing.

The applicant hired his own consultant to perform a visual analysis from surrounding historic properties (i.e., sites listed as historic by the Virginia Department of Historical Resources). These sites included "Mr. Maupin's House Site," located within the Kingspoint subdivision, "Jockey's Neck Farm," the "Bland Plantation Site," and "College Landing." The results of the analysis and a more particular description and location of these sites is contained within the attached report. The report generally concluded that, of the sites listed, only limited sightings of the tower would be possible from the Jockey's Neck Farm, located near the Williamsburg Winery. While staff reviewed the report, staff can neither confirm nor deny the findings, as these sites were not visited during the publicly advertised balloon test.

Relationship to the County's Performance Standards for Wireless Communications Facilities

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for Wireless Communications Facilities (a copy of these standards are attached for your convenience).

Section 24-124 of the Zoning Ordinance states that "in considering an application for a special use permit for a Wireless Communications Facility, the planning director shall prepare a report identifying the extent to which the application takes into account the "Performance Standards for Wireless Communication Facilities," dated May 26, 1998, and endorsed by the board of supervisors. In general, **it is expected that all facilities shall substantially meet the provisions of the above performance standards.**"

As noted in the performance criteria, in order to maintain the integrity of James City County's

significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, tower mounted wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be recommended for approval.

The standards generally address the need to explore any other co-location alternatives prior to proposing a new tower facility, locating and designing the tower to be consistent with existing and future surrounding development and the Comprehensive Plan, minimizing the visibility of a new tower and appropriately buffering the new tower from adjacent views.

Staff comment on the application with respect to the Performance Standards is below:

A. Co-Location and Alternatives Analysis

Standards A1 and A2 call for the applicant to investigate, and provide verifiable evidence of all possible alternatives for locating antenna prior to making a request to construct a new facility. Generally, this includes co-locating on existing sites or other tall structures (within a 3 miles radius of the site), including replacing existing towers to accommodate new antenna if needed. These performance standards attempt to mitigate the need for new towers.

As mentioned, the application failed to adequately provide this information.

Standards A3 & A4 call for a new tower to be sited in such a manner as to allow for the construction of a second tower, and that the towers be designed to accommodate as many antenna array as possible. Where new towers are ultimately permitted and approved, these standards allow for maximum co-location opportunities possible, thereby minimizing the number of new sites within the County, as a whole.

Should this application be approved, staff will ensure standards A3 and A4 are met through proposed SUP conditions. The preliminary site drawings prepared by the applicant do show the possibility of a second tower, with each tower accommodating at least three separate users.

B. Location and Design

Performance standard B1 states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, that towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, while protecting the character of the County's scenic resource corridors and their view sheds.

As discussed in the sections on surrounding development and zoning, and on the Comprehensive Plan below, staff finds the application does not meet this performance standard.

Performance standard B2 states that new towers should have minimal intrusion on residential areas and on scenic resource corridors. Where a tower will potentially impact a residential area or scenic resource corridors, towers having a camouflaged design or meet the minimal intrusion criteria are recommended. The Impact Criteria state that, when viewed from distances within 1500 feet of the tower, new towers should only be visible through the trees. When viewed from a distance greater than 1500 feet from the tower, no more than the top 25% of the tower should be visible. The policy clearly states that “a tower will meet the minimal intrusion criteria if it is not visible off-site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.”

Based on the results of the balloon test, staff finds the proposal does not meet this performance standard.

Performance standards B3 & B4 state that towers should be less than 200 feet to avoid lighting. While the proposed height is less than 165 feet, staff is unsure as to whether or not the tower would have to be lighted no matter what, given its close physical proximity to the airport. Until such information is submitted by the applicant, staff cannot form a conclusion on the applications consistency with this performance standard.

Performance standard B5 states that towers should be freestanding and not supported with guy wires. Staff finds the application meets this standard.

C. Buffering

These performance standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100 foot wide wooded buffer of existing mature trees around the base of the tower, and that access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

Given the wooded nature of the parcel, these criteria are met and staff will insure this through proposed conditions, should the application be approved.

Surrounding Development and Zoning

To the north of this site is the Williamsburg Landing Retirement Community, on property zoned R-5, Multi-family Residential. To the south of this site is the Airport itself and other businesses owned and operated by the Waltrips (e.g., Waltrip Recycling, the landfill, etc.). These lands are zoned R-8, Rural Residential. To the east of the site, across College Creek, is the Kingspoint Subdivision on land zoned R-2, General Residential. Finally, across Lake Powell Road are low density residential subdivisions on land zoned R-1, Limited Residential. Because of the high visibility from Williamsburg Landing and Kingspoint, and because of the incompatibility of the structures height, staff believes the proposed use is not consistent or compatible with the surrounding land uses.

Surrounding areas are primarily residential and rural in character. Staff does not believe a tower such as the one proposed here, is consistent with structures that are generally located in residential or rural areas. Where such structures are necessary near residential and rural areas, staff believes they should be sited and designed in a manner that increases their compatibility to the maximum extent possible.

Comprehensive Plan

The 1997 Comprehensive Plan Land Use Map designates this property as “Williamsburg-Jamestown Airport.”

The principal suggested uses for the developable land associated with the airport include aviation, with airport-related commercial and office development as clearly secondary uses. Manufacturing, commercial, or industrial activities beyond the scope of what is described are not suggested.

Staff finds that the applicant has not justified the need for a new tower, as required by the Zoning Ordinance, that is 165 feet tall. Staff finds the tower is clearly commercial in nature and not compatible with the Comprehensive Plan designation.

Also important is the Comprehensive Plan’s designation of all the surrounding land as Low Density Residential and the designation of Route 199 as a Community Character Corridor.

Low density residential areas are located in the PSA where natural characteristics such as terrain and soils are suitable for residential development. Examples of acceptable land uses within this designation include single-family homes, duplexes, schools, and very limited commercial establishments. Nonresidential uses should not alter, but rather, compliment the residential character of the low-density residential area in which they are located.

Because of visibility and location, staff feels the proposed tower conflicts with several significant comprehensive plan goals and objects. An objective for retaining community character states that development should be “compatible in scale, size, and location to surrounding existing and planned development.” A general land use standard and objective listed in the Plan states that the county should “permit new development only where such developments are compatible with the character of adjoining uses and where the impacts of such new developments can be adequately addressed. Particular attention should be given to addressing such impacts as incompatible development intensity and design, building height and scale, land uses, etc.” In staff’s opinion, the scale, height, design and location of the tower are inconsistent with the stated goals.

In addition, a goal for retaining community character states that projects should “enhance and preserve the integrity of the historic and unique areas of the County.” An objective for retaining community character states the county should “ensure that development along Community Character Corridors and Areas (i.e., Route 199) protects the natural views of the area, promotes the historic or unique character of the area, maintains greenbelt networks, and establishes attractive County entrance corridors.” The county should “protect environmentally sensitive resources including historic and archaeological resources, designated Community Character Corridors and Areas, and other sensitive resource by locating conflicting uses away from such resources and utilize design features, including building and site design, buffers, and screening

to adequately protect the resource.” As mentioned above, the proposed tower would be clearly visible from Route 199.

Staff believes that given the proposed location of the facility, and the fact that a “standard” monopole will be constructed, that the impacts on surrounding residential subdivisions and the Route 199 Community Character Corridor will not be minimized to the greatest extent possible. Route 199 is a major corridor for both citizens and visitors, and the College Creek view shed is considered one of the most attractive viewsheds in the County. Therefore, staff finds the proposal inconsistent with Comprehensive Plan.

Recommendation

Staff finds the proposed tower not consistent or compatible with existing surrounding structures and zoning. Staff also finds that the application is inconsistent with the Comprehensive Plan and does not meet the County’s performance standards for Wireless Communications Facilities. In consideration of these factors, staff recommends denial of the application. However, should the Commission wish to consider this application, attached is a list of proposed SUP conditions.

Paul D. Holt, III

Attachments:

1. Location Map
2. Master Plan (separate)
3. JCC Performance Standards for Wireless Communications Facilities, dated May 26, 1998
4. Photos taken at the publicly advertised balloon test
5. Visual impact analysis prepared by Stokes Environmental Services, Ltd, dated May 10, 2001
6. Proposed SUP conditions

PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
MAY 26, 1998

Order to maintain the integrity of James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, tower mounted wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
 - a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
 - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.

The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.

3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

1. Towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) Towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the tower would be located; and (2) towers should be located and designed in a manner that protects the character of the County's scenic resource corridors and historic and scenic resource areas and their view sheds.

2. Towers should be located and designed consistent with the following criteria:

Proposed Location of Tower

Impact Criteria

- a. Within a residential zone or residential designation in the Comprehensive Plan

Use a camouflaged design or have minimal intrusion on residential areas, historic and scenic resource areas or roads in such areas, or scenic resource corridor

For areas designated rural lands in the Comprehensive Plan that are within 1500 feet from the tower, the same standards apply. For rural lands more than 1500 feet from the tower, no more than the upper 25% of the tower should be visible

- b. Within a historic or scenic resource area or within a scenic resource corridor

Same criteria as above

- c. Within a rural lands designation in the Comprehensive Plan

Same criteria as above

- d. Within a commercial or in an industrial designation in the Comprehensive Plan

Same criteria as above

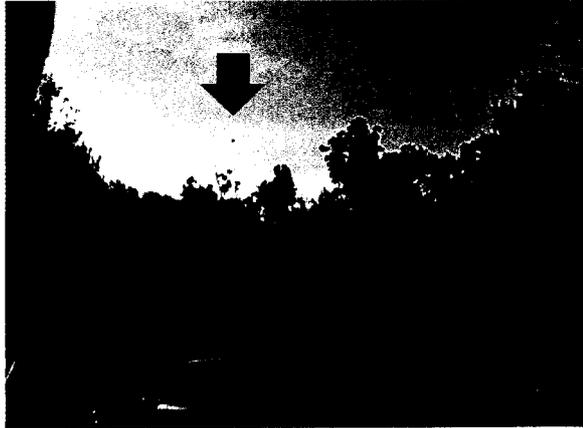
Notes for the above table:

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed tower is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a utility easement.
2. A tower will meet the minimal intrusion criteria if it is not visible off-site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. Towers should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the tower from residential areas and public roads are very limited. At a minimum, towers 200 feet or more in height should exceed the location standards listed above
5. Towers should be freestanding and not supported with guy wires.

C. Buffering

1. Towers should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower base or related facilities.
2. Towers should be buffered from adjacent land uses and public roads as much as possible. The following buffer widths and standards should be met:
 - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the WCF.
 - b. In or adjacent to all other areas, at least a 50 foot wide-vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

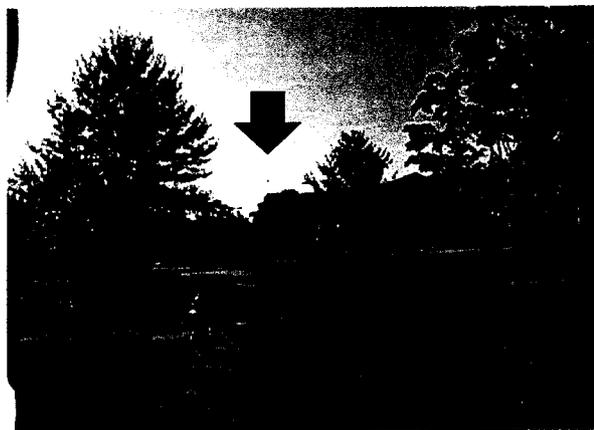
PHOTOS TAKEN DURING THE BALLOON TEST
(October 10, 2001)



Williamsburg Landing Tennis Court



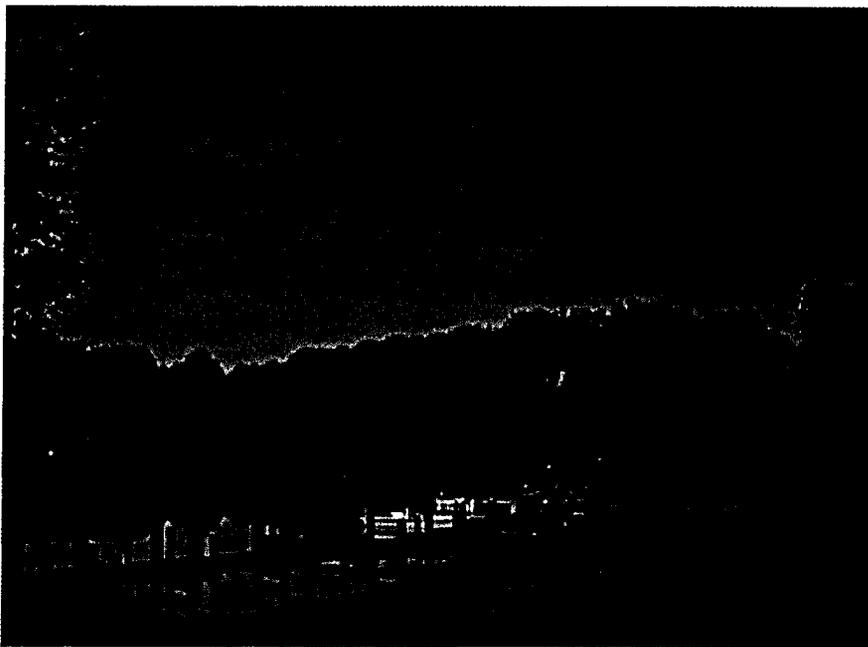
Williamsburg Landing Cul-de-Sac



Williamsburg Landing Community Center



Route 199 Bridge



Kingspoint Dock

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD.**

10 May 2001

Ms. Cara H. Metz
Virginia Department of Historic Resources
Division of Project Review
2801 Kensington Avenue
Richmond, Virginia 23221

RE: Visual Impact Analysis
Williamsburg – Jamestown Airport Site
James City County, Virginia

Dear Ms. Metz:

Stokes Environmental Associates, Ltd. has completed a visual impact analysis of the proposed Williamsburg – Jamestown Airport telecommunications tower site in James City County, Virginia. Specifically, our analysis addressed the potential for the project's visual impact on the following architectural resources located within one mile of the proposed tower site:

Mr. Maupin's House Site, 18th century (VDHR Archives File No. 47-67),
Jockey's Neck Farm, 1st half, 19th century (VDHR Archives File No. 47-74),
Bland Plantation site, 17th century (VDHR Archives File No. 47-88), and
College Landing, established 1699 (VDHR Archives File No. 137-57).

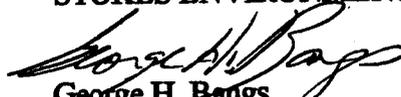
Based on our analysis of the information gathered during this review, it appears the proposed tower may have limited visibility from the Jockey's Neck Farm historic resource. None of the sites were reported to be currently listed on the National Register of Historic Places. It is our opinion that the proposed tower will not significantly or materially affect visual conditions at the investigated resources. The enclosed report documents site conditions and provides information on which our findings are based.

We request your review of enclosed documentation pursuant to section 106 of the National Historic Preservation Act to confirm this project will have "no effect on historic resources" which are listed or eligible for listing on the National Register of Historic Places. Should it be determined that a significant effect on any historic resources may be caused by the proposed activity, your prompt response will allow the alternatives to be addressed in a timely fashion.

Please call if you have any questions or need additional information with regards to the subject site.

With best regards.

Sincerely,
STOKES ENVIRONMENTAL ASSOCIATES, LTD.


George H. Bangs

Enclosure

Attachment 5

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD.**

**Visual Impact Assessment
of**

**SBA Communications Corporation's Proposed Williamsburg – Jamestown Airport Site
165 foot Monopole Telecommunication Tower**

10 May 2001

Stokes Environmental Associates, Ltd. (SEA) has conducted a thorough analysis of the potential for visual impacts from the proposed Williamsburg – Jamestown Airport telecommunications tower on Mr. Maupin's House Site, 18th century (VDHR Archives File No. 47-67), Jockey's Neck Farm, 1st half, 19th century (VDHR Archives File No. 47-74), Bland Plantation site, 17th century (VDHR Archives File No. 47-88), and College Landing, established 1699 (VDHR Archives File No. 137-57). Three of these resources are in James City County and one is in the City of Williamsburg, and may be eligible for listing on the National Register of Historic Places. The assessment included a review of published street and topographic maps and field investigation of the identified historic site, identification of existing visual impacts within the study area, and a determination of potential for visual impact by the proposed tower. The purpose of this investigation is to evaluate any potential visual impacts at these sites which are attributable to the proposed telecommunication tower.

A review of published mapping was conducted prior to the field investigation, in order to determine elevation, bearing and distance relationships between the proposed tower site and the sites of interest. The pertinent information obtained during the preliminary review and field investigation is tabulated in the following table for the sites of interest.

VDHR Nr	Resource Name	Bearing	Distance	Elevation	Angle to top of obstruction
47-67	Mr. Maupin's House Site	N66W	4410'	60'	29°
47-74	Jockey's Neck Farm	N4W	4120'	55'	2°
47-88	Bland Plantation Site	N29E	4380'	55'	4.5°
137-57	College Landing Site, Park	S47W	3680'	10'	6°
137-57	College Landing Site, Park	N34W	3820'	30'	5°
137-57	College Landing, cemetery	N29W	4400'	40'	23°

A field investigation of the site was conducted by SEA on 3 May 2001. Weather conditions during the investigation were clear with unrestricted visibility. Potential visual impact was

determined by measuring the angle, with the use of a clinometer (an instrument used for measuring angles of elevation or inclination), to the top of the obstruction (i.e. structures, trees, shrubs, etc.) in a direct line of sight to the tower. The angle of inclination used to graphically determined whether the proposed tower would likely be visible from the specific resource site. The distance to the tower site was measured on the USGS Hog Island and Williamsburg Quadrangles, Virginia topographic map (enclosed). Using the angle of inclination and the distance from the proposed tower location, the visual shadow zone was projected to the tower location to determined visibility potential.

During the field investigation no area of potential visual impact was identified. Mature and immature mixed needle leaf evergreen and broad leaf deciduous forest stands were present between open areas at the sites of interest and the proposed tower site. Observations were made from locations on or near the properties with observation sites chosen to give the highest probability of visual impact as determined by distances to low objects on a line of bearing toward the proposed tower site. Existing visual impacts in the study area included modern single family residences, house trailers, and electric power service poles. Photographs taken at selected sites of views toward the proposed tower site and marked with approximate tower height are enclosed to aid in your review. The sites' setting is as follows:

Mr. Maupin's House Site, 18th century (47-67) is located in the Kingspoint subdivision approximately 0.83 mile east northeast of the proposed tower site. The house site according to the information provided in the VDHR Archives search appears to be located on the site of an existing modern house. There was no evidence of an historic structure. The surrounding area contains residences, and wooded areas. The proposed tower is not expected to be visible from this resource location, nor is it expected to have an affect, if visible, compared with the existing setting of the buildings. See photographs number 1 and 2.

Jockey's Neck Farm, 1st half 19th century (47-74) is located within the limits of the Williamsburg Winery near the end of Wessex Hundred Road approximately 0.78 mile south of the proposed tower site. The structure appears well maintained, and is occupied. The surrounding area contains vineyards and wooded areas. The structures' setting is among mature and immature trees which brings the focus of attention to the immediate surrounds. The secondary focus is the immediately surrounding vineyards. Both these focal area are without a distance vista which would tend to accentuate any tower visibility. The proposed tower will minimally visible within a narrow gap in the tree line on the far side field to the north of the house. If visible, the line of sight will be through mature trees in the yard around the historic resource and its out buildings, and is not expected to have an affect compared with the existing setting of the buildings and the limited visibility. See photographs number 3 and 4.

Bland Plantation Site, 17th century (47-88) is located in the vicinity of the intersection of The Vineyard and Jockeys Neck Trail approximately 0.83 mile south southwest of the proposed tower site. No historic structures were found in the vicinity of the mapped site, the site appears to be within a vineyard of the Williamsburg Winery. Modern houses are

143

immediately across the street from the site. The proposed tower is not expected to be visible from either resource, nor is it expected to have an affect, if visible, compared with the existing setting of the site. See photographs number 5 and 6.

College Landing Site 1699 (137-57) is located in a wooded area on either side of Henry Street South (SR-132) approximately 0.70 to 0.89 mile northeast of the proposed tower site. The area's current usages include: a city park, Eastern State Hospital Cemetery, modern residences, wooded areas, and a through street. The park and cemetery appear to be the significant historic uses of the area. The cemetery is surrounded by large trees with Henry Street South on the west side. There are overhead electric power distribution lines along the street, and modern house visible through the trees across the street. The park is topographically low at the confluence of College Creek and Paper Mill Creek, presumably where the loading of vessels took place. The proposed tower is not expected to be visible from either area within this resource, nor is it expected to have an affect, if visible, compared with the existing modern setting of the area. See photographs number 7 through 12.

Based on our analysis of these observations and measurements, it appears the proposed tower will not be visible from any of the sites with the possible exception of limited sightings from Jockey's Neck Farm. It is our opinion that the proposed 165 foot free standing tower will not significantly or materially alter the visual conditions at the various historic resources.

GHB/A/SEA-01-1254 Vis Impact Assess



**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD.**

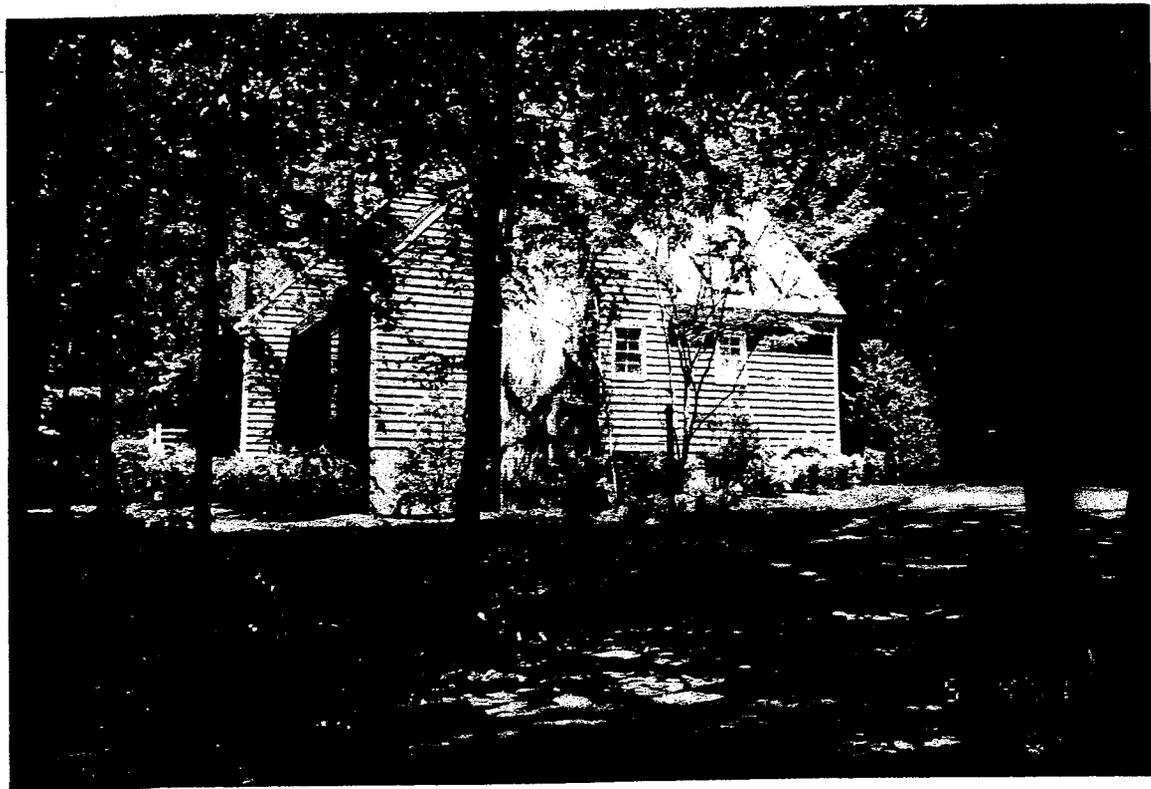
TOPOGRAPHIC MAP

PROJECT NAME: Williamsburg Jamestown Airport
 PROJECT NUMBER: SEA 01-1253
 LOCALITY: James City County, Virginia
 DATE: 1984
 SCALE: 1" = 2,000'
 SOURCE: USGS Hog Island and Williamsburg Quadrangles,
 Virginia 7.5 Minute Series

145



Photograph 1: Approximate tower height (white mark) as viewed from Mr. Maupin's House Site.



146
Photograph 2: Modern house on the approximate site of Mr. Maupin's House (VDHR 47-67).

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

SITE PHOTOGRAPHS

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs



Photograph 3: Approximate tower height (white mark) as viewed from Jockey's Neck Farm. The line is across a small notch in the tree line.



Photograph 4: Farmhouse and out buildings at Jockey's Neck Farm (VDHR 47-74).

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

SITE PHOTOGRAPHS

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs

147



Photograph 5: Approximate tower height (white mark) as viewed from the Bland Plantation Site.

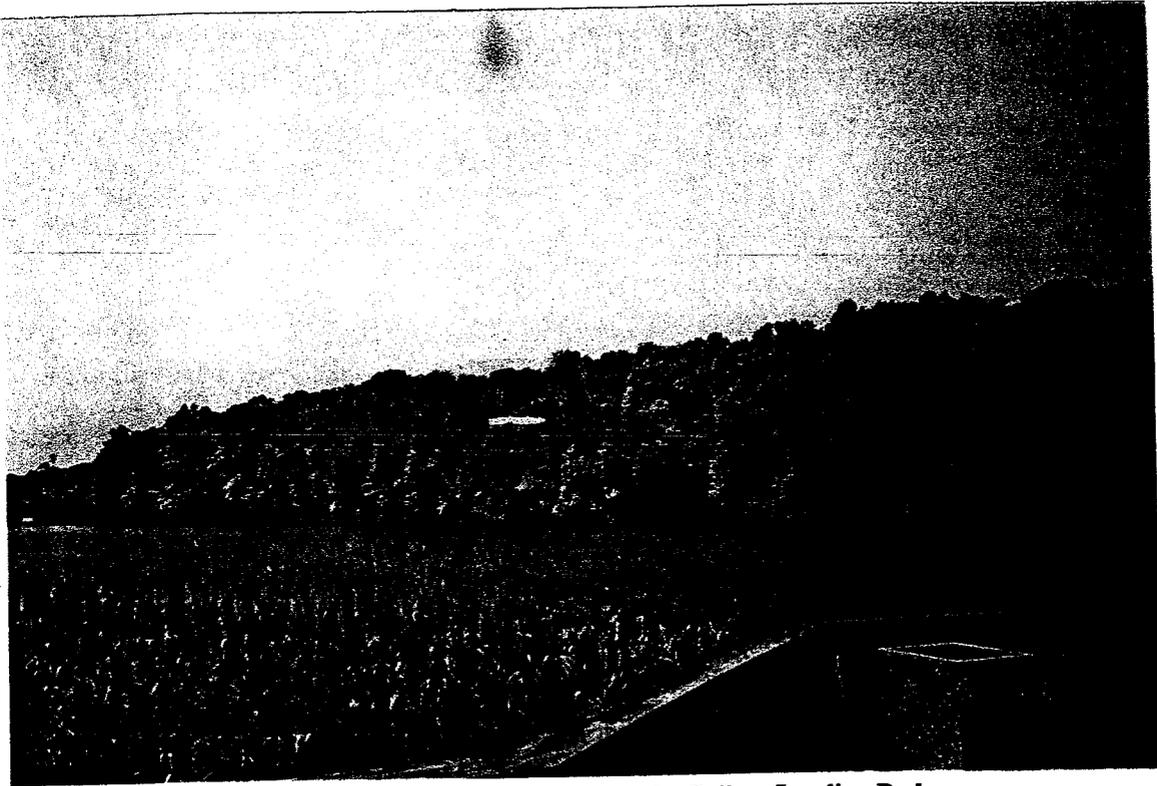


148
Photograph 6: Vineyard in the vicinity of the Bland Plantation Site (VDHR 47-88).

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

SITE PHOTOGRAPHS

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs



Photograph 7: Approximate tower height (white mark) as viewed from the College Landing Park.



Photograph 8: Pier at College Landing Park (VDHR 137-57) . The photo above was taken from where the clipboard in on the pier.

SITE PHOTOGRAPHS

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs

149



Photograph 9: Approximate tower height (white mark) as viewed from the College Landing Park. Note the background tree line continues behind the foreground trees.

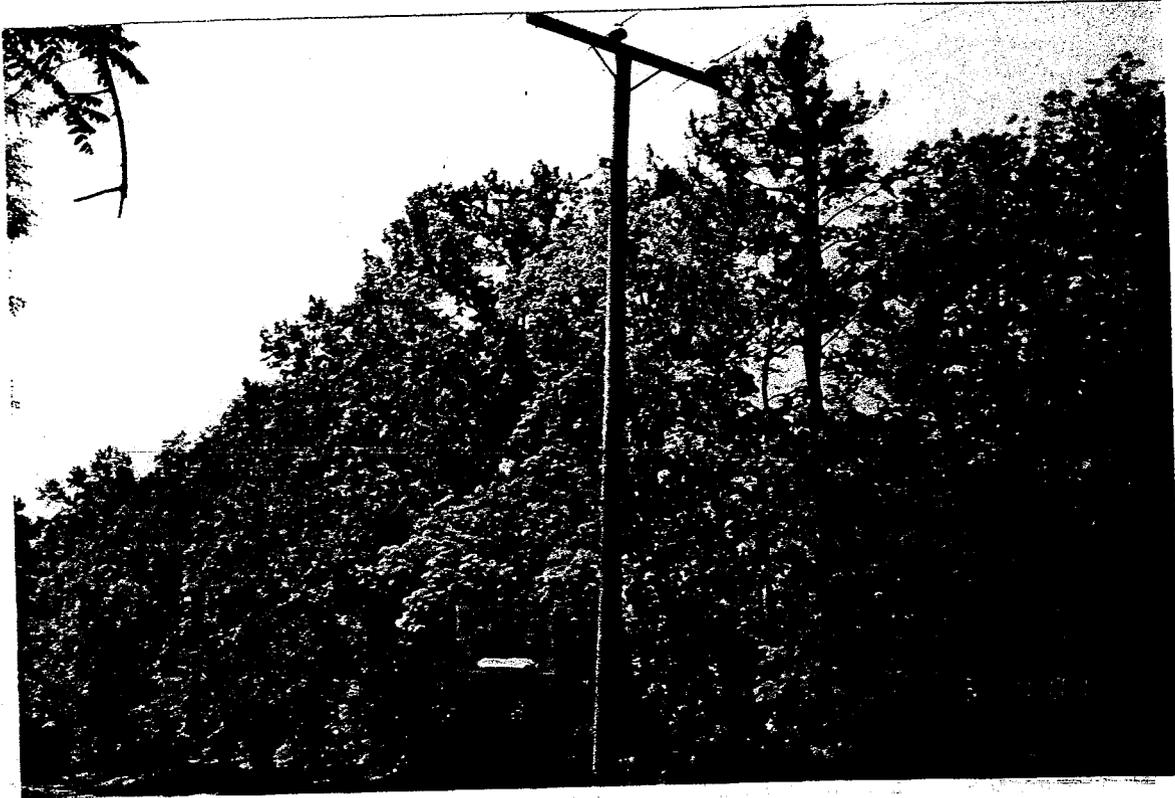


150
Photograph 10: Viewing site and plaque at College Landing Park (VDHR 137-57).

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

SITE PHOTOGRAPHS

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs



Photograph 11: Approximate tower height (white mark) as viewed from the Eastern State Hospital Cemetery, College Landing area.



Photograph 12: The Eastern State Hospital Cemetery, College Landing area (VDHR 137-57).

**STOKES
ENVIRONMENTAL
ASSOCIATES, LTD**

SITE PHOTOGRAPHS

PROJECT NAME: Williamsburg – Jamestown Airport Site
PROJECT NUMBER: SEA 01-1254
PHOTOGRAPHER: George H. Bangs

151

PROPOSED SUP CONDITIONS
CASE NO. SUP-18-01 . WALTRIP COMMUNICATIONS TOWERS

1. This special use permit shall be valid for a total of two (2) towers. The maximum height of all towers shall not be greater than 165 feet.
2. Each individual tower shall be designed and constructed for at least three (3) users and shall be certified to that effect by an engineering report prior to site plan approval.
3. Towers shall be located on the site in a manner that maximizes the buffering effects of trees as determined by the Planning Director. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities as determined by the Planning Director. Access drives shall be designed in a manner that provides no off-site view of the tower's base or related facilities as determined by the Planning Director. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower.
4. A final inspection shall be obtained within one (1) year of approval of this Special Use Permit, or the permit shall become void.
5. Unless otherwise approved by the Director of Planning, all supporting equipment sheds, buildings and huts shall be of a similar design to that generally used on a single-family residence and shall be approved by the Director of Planning prior to final site plan approval. A gable or shed roof shall be used on all equipment sheds, buildings and huts as determined by the Director of Planning prior to final site plan approval.
6. Following construction of the facility, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section 222(D) of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

**SPECIAL USE PERMIT 22-01. JCSA Groundwater Treatment Facility
Staff Report for the November 5, 2001, Planning Commission Public Hearing**

This 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 Center
Planning Commission: November 5, 2001, 5:00 p.m.
Board of Supervisors: December 11, 2001, 7:00 p.m.

SUMMARY FACTS

Applicant: Larry Foster, General Manager, James City Service Authority

Landowner: James City Service Authority

Proposed Use: Construct a 14,725 square foot groundwater treatment facility

Location: 3123 Ironbound Road with access from 4321 John Tyler Highway;
Berkeley District

Tax Map and Parcel No.: (46-2)(1-34) and (46-2)(1-38)

Primary Service Area: Inside

Parcel Size: ± 20.66 acres

Existing Zoning: R-8, Rural Residential

Comprehensive Plan: Low Density Residential

Surrounding Zoning: East: Clara Byrd Baker Elementary School (R-8)
West: St. George's Hundred (R-1); single family residences (R-8)
North: Bright Horizons Day Care (R-8); undeveloped land (R-8)
South: Chanco's Grant (R-8)

Staff Contact: Christopher M. Johnson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Therefore, staff recommends the Planning Commission recommend approval of this application with the conditions listed in the staff report.

Project Description

Mr. Larry Foster, on behalf of the James City Service Authority (JCSA), has applied for a special use permit to allow the construction of a Groundwater Treatment Facility at 3123 Ironbound Road with access from 4321 John Tyler Highway. The site is located behind Clara Byrd Baker Elementary School. The proposed facility, also known as a desalinization plant or reverse osmosis facility, would allow the County to produce up to five million gallons of treated water per day and would be funded with a combination of connection fees, utility revenue funds, and debt financing. Finished water will feed directly into the existing JCSA system via a 12-inch water main along John Tyler Highway once it is treated.

The proposed facility would be approximately 14,725 square feet in size and located approximately 400-feet from the proposed entrance to the site on John Tyler Highway. The building would be similar in size to the reverse osmosis facility in the Lee Hall Water Treatment Facility in Newport News which opened in 1998. The proposed facility would be approximately 35-45 feet high to accommodate a two-ton crane used to assemble the skids which hold the stacked membrane vessels used during the treatment process. Office space and chemical laboratory space are included inside the proposed facility. All chemicals used during the treatment process would be housed inside the proposed water treatment facility.

Water facilities (public and private), including treatment plants, are specially permitted uses in the R-8 Zoning District. The concentrate or brine transmission line from the proposed treatment facility to the James River and the production wells which will be used to serve the treatment facility are also specially permitted uses but are not included with this application. The applicant plans to submit special use permit applications for the brine line and 3-4 satellite production wells once the necessary property and easements have been acquired. The applicant is bringing this application forward at this time in an effort to expedite the engineering and construction process once the required groundwater withdrawal permits have been issued.

History

The JCSA supplies most of the water to James City County and is the largest public water utility in the Commonwealth that is entirely dependant on groundwater. The JCSA currently has groundwater permits from the Commonwealth of Virginia Board of Health (VDH) to withdraw 4.78 million gallons per day. This amount is projected to meet the projected JCSA Central System water demand needs through 2005. An additional 4 million gallons per day is needed to meet the County's needs through 2040.

The JCSA completed a feasibility study of a desalinization facility with assistance from an engineering consultant in February 1998. The study indicated that a membrane treatment facility using reverse osmosis technology is feasible and recommended locating the facility in the Five Forks area. The study evaluated brackish groundwater sources, potential well field locations, and distribution system improvements in selecting the Five Forks location as the most cost effective location. The proposed facility would pull brackish groundwater from the Lower and Middle Potomac aquifers which is not potable without treatment as a water supply.

The Board of Supervisors approved a Water Supply Plan in 1998 which provided that the JCSA procede with obtaining the necessary permits for this treatment facility if the permit for the King William Reservoir was not issued by July 2000. With the King William Reservoir project

experiencing significant obstacles associated with the issuance of a permit, the Board authorized an exchange of a County owned parcel beside the Community Center on Longhill Road for the parcel located behind Clara Byrd Baker Elementary School for location of the treatment facility. In 2001, the Board approved a \$600,000 contract to drill test wells and in September approved an additional \$300,000 contract for Phase 2 of the well drilling program.

Surrounding Zoning and Development

John Tyler Highway borders the site to the north. Development on the north side of John Tyler Highway consists of a day care facility and undeveloped property zoned R-8, Rural Residential, and a variety of commercial uses including a gas station and diner zoned B-1, General Business. West of the site are a few single family residences on large lots zoned R-8 and further to the west is the St. George's Hundred subdivision, zoned R-1, Limited Residential. East of the site is Clara Byrd Baker Elementary School, zoned R-8, and the Saunders Mobile Home Park, also zoned R-8. To the south of the site is the Chanco's Grant subdivision, zoned R-8.

Nearly all operations on the site would occur inside the proposed facility. Chemicals used during the treatment process, such as chlorine and anti-scalant, would be stored inside the facility and deliveries would typically occur monthly based on information provided during a site visit to the Lee Hall Treatment Facility. Staff believes that the facility will not generate negative impacts to adjacent property owners and, with the proposed conditions, believes the proposal is compatible with surrounding zoning and uses. On the site visit, no odors were present and noise levels were similar to that of commercial air conditioning units.

Physical Features & Environmental Considerations

The proposed treatment facility site contains is largely wooded with select areas having already been cleared for several test wells currently located on the site. The facility would be situated on a project area approximately 7.15 acres in size on the northern portion of a 20.66 acre site to the west of Clara Byrd Baker Elementary School. The remainder of the parcel will likely be made available as a public use site, possibly for additional recreational facilities at the school. The majority of the terrain across the project area is rather steep due to a small stream that dissects the property along the northern edge. The stream, a low order branch of Powhatan Creek, has cut a deep ravine and formed steep side slopes throughout much of the project area. The project area contains elevations which range from 20-feet above mean sea level in the stream bottom along the northern edge of the property to 57-feet above mean sea level on the highest terrace in the center of the property, which is the area where the proposed facility would be located.

Traffic Generation

A commercial entrance constructed to VDOT standards is proposed near the eastern edge of the JCSA owned property at 4321 John Tyler Highway. The entrance road and all grading work on the site would be included in the initial phase of construction. An existing gravel access road off the rear of the school site would continue to be used by the JCSA to monitor and maintain the existing test wells on the site until the entrance road from John Tyler Highway is constructed. When the entrance road is constructed, the gravel access road would be converted to provide pedestrian access to the public use area. The JCSA expects six to ten vehicle trips per day to the site when the proposed facility is operating. Staff does not find that any negative traffic impacts would be generated from the proposed facility.

Public Utilities

The site is inside the Primary Service Area and public water and sewer are available to the site.

Comprehensive Plan

Land Use Designation and Community Character

The site is designated as Low Density Residential on the Comprehensive Plan Land Use Map. Low Density Residential areas are located inside the Primary Service Area and where natural characteristics such as terrain and soils are suitable for residential development. Low Density areas are located where public services and utilities exist or are expected to exist within the next twenty years. Nonresidential uses, such as the proposed treatment facility, should not alter, but rather, compliment the residential character of the low density residential area in which they are located. Such uses should be located where buffering and screening can be provided to protect nearby residential uses and the character of the surrounding area. Staff believes that with the proposed conditions, the proposal is compatible with the Comprehensive Plan Land Use Designation.

John Tyler Highway and Ironbound Road are designated as a Community Character Corridors (CCC) in the Comprehensive Plan. Suburban and Urban CCC's are characterized as areas that have moderate to high traffic volumes near major street intersections that may contain some wooded buffers along roads. Given these designations, staff has included a condition which requires that a 250-foot undisturbed buffer be maintained along John Tyler Highway with the exception of the area for the access driveway to the site. Visibility of the proposed facility from Ironbound Road is doubtful given the distance and presence of the school building. Staff has included a condition which requires that the architectural elevations, building materials, and colors be approved by the Director of Planning prior to final site plan approval in order to blend the appearance of the facility in with the surrounding natural features to the extent possible. A condition has also been added which requires that any accessory structures on the site, such as storage tanks, be screened with enhanced landscaping or constructed with materials and colors matching the treatment facility.

Archaeological Impacts

No previously identified archaeological sites are situated within the project area, though 17 have been inventoried within a one-mile radius of the site. These sites include late seventeenth, eighteenth, and nineteenth-century domestic sites, and a lesser number of pre-historic encampments, as well as the Powhatan Historic District located near Five Forks. One architectural resource has been previously recorded in the area, the Powhatan Plantation, which purports to date to the early eighteenth century.

Several sites have been identified in close proximity to the proposed treatment facility. Three sites (44JC431, 44JC432, 44JC433) are all situated to the east and north of the project area, on what is now the Clara Byrd Baker Elementary School property. Though not likely, it is possible that elements related to one or more of these three sites will be encountered within the proposed treatment facility project site. Accordingly, staff has included a condition which requires the applicant to conduct an archaeological survey of the project area in accordance with the adopted

Board of Supervisors policy.

Recommendation:

Staff finds the proposal consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Therefore, staff recommends the Planning Commission recommend approval of this application with the following conditions:

1. Start of Construction on the Groundwater Treatment Facility, as defined in the Zoning Ordinance, shall commence within 36 months of approval of this special use permit, or the permit shall become void.
2. Construction, operation, and maintenance of the Groundwater Treatment Facility shall comply with all local, State, and Federal requirements.
3. Prior to the issuance of a Certificate of Occupancy, a spill containment plan which addresses the chemical handling and storage areas shall be submitted to the Environmental Director and Fire Department for their review and approval.
4. Prior to the issuance of a land disturbing permit for this project, an archaeological survey shall be conducted for the project area in accordance with the adopted Board of Supervisors policy. The results shall be submitted to the Director of Planning for review and approval.
5. 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.
6. Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Director of Planning for review and approval.
7. Any accessory structures on the site, such as storage tanks, shall be screened with enhanced landscaping or constructed with materials and colors matching the treatment facility. Enhanced landscaping shall be defined as either 133% of evergreen trees required by the Zoning Ordinance or 125% of general planting required by the Zoning Ordinance as determined by the Planning Director.
8. All utilities shall stay within the limits of clearing for the access driveway to the site from John Tyler Highway.
9. A 250-foot undisturbed wooded buffer along John Tyler Highway shall be maintained with the exception of the clearing necessary for the driveway providing access to the site. The driveway shall be curved in such a way to minimize views of the site from John Tyler Highway to the greatest extent possible.
10. This special use permit is not severable. Invalidation of any word, phrase, clause,

sentence or paragraph shall invalidate the remainder.

Christopher Johnson

Attachments:

1. Location Map

Rezoning 3-01; Master Plan 5-01

New Town - Sections 2 & 4

Staff Report for the November 5, 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:

October 1, 2001, November 5, 2001 7:00 p.m.

Board of Supervisors:

November 27, 2001 7:00 p.m. (Tentative - see below)

SUMMARY FACTS

Applicants:

Mr. Alvin P. Anderson and Mr. Paul W. Gerhardt of Kaufman & Canoles

Land Owner:

New Town Associates, LLC

Proposal:

To apply Design Guidelines and rezone approximately 80 acres to Mixed Use (MU), with proffers. If approved, proposed construction includes approximately 620,000 square feet of retail space, approximately 122,000 square feet of office and commercial space and approximately 525 residential units

Location:

At the intersection of Ironbound Road and Monticello Road (northwest corner), across from the Courthouse

Tax Map ID:

(38-4)(1-50)

Primary Service Area:

Inside

Existing Zoning:

Rural Residential (R-8), with proffers and an approved Master Plan, and Mixed Use (MU), with proffers

Comprehensive Plan:

Mixed Use

Surrounding Zoning:

North and West: Other undeveloped lands zoned R8, with proffers
East: Undeveloped land within the City limits
South: The Courthouse, AVI, and the new Post Office

Staff Contact:

Paul D. Holt, III Phone: 253-6685

STAFF RECOMMENDATION

This case was presented for informational purposes at the October 1, 2001, Commission meeting and subsequently deferred to the November 5, 2001, Commission meeting.

Staff recommendation (cont'd)

Staff finds that several of the attached proffers do not fully mitigate impacts and do not meet the recommendations of established County policies. Staff has had many discussions with the applicant regarding the proffers and staff's findings. In an effort to better mitigate impacts of the development, the applicant has stated that additional revisions to the proffers are forthcoming. However, as of the date of this writing, revised signed proffers have not been received and the deadline for receiving signed proffers has passed. Therefore, staff recommends deferral of the case. However, the applicant has verbally stated to staff what some of the changes will be and these changes are noted in this staff report. A number of proffer changes are crucial for staff support of this case, including language on affordable housing, community spaces, dedication of right of way, recreation facilities, and school and water mitigation. The specifics of these changes are found in this staff report.

Staff's analysis and recommendations of the currently signed proffers are included in this staff report. Staff does not recommend approval of the application with the currently proffered items. The Planning Commission should be aware however, that the applicant has expressed a strong desire to have this case voted on by the Board of Supervisors by the end of the calendar year. Practically, this would mean the Board would be presented an informational overview of the project at their November 27, 2001, meeting, or their worksession, with a vote anticipated at their only meeting in December (the 18th). A deferral until the December Planning Commission meeting would not provide adequate time for review by the Board of Supervisors this calendar year.

Should the Commission be supportive of the applicant's request, the Commission should act on the case at tonight's meeting. Staff recommendation of approval would be contingent upon receiving revised, signed proffers which adequately address the deficiencies noted in this staff report and which adequately address any issues identified by the Planning Commission.

In the last staff report, fundamental project information was presented. The purpose of this staff report is to provide additional, more specific information on the associated fiscal and traffic impact studies and the proffers, and an analysis of these documents.

Fiscal Impact Study

The Fiscal Impact Study, dated July, 2001, and revised September, 2001, is enclosed for your review.

The fiscal analysis is based on New Town Associate's currently envisioned development plans. More specifically, on 602,500 square feet of retail space, 122,500 square feet of Class A office space, 200 multi-family rental apartments, and 325 multi-family condominium units. Build-out is assumed to occur over the next 6 years.

Based on this construction, key estimates include:

- S a total of \$134 million in construction investment;
- S 893 new residents (based on 1.7 persons a unit);

- S new space for existing and new Williamsburg businesses; current expectations by the developer are that up to 75% of the retail space and up to 50% of the commercial/office space will be occupied by businesses new to the area;
- S an annual increase in County revenue, after build-out, of \$2.9 million (in the form of sales tax, real estate tax, personal property tax, and business license tax); and
- S an annual increase in County expenditures, after build-out, of \$1.5 million.

For Sections 2 & 4, it is projected that the County will realize a net gain of approximately \$1.46 million annually at build-out and beyond on an annual basis.

Regarding the residential units, the market values of the units are projected to average \$150,000, will represent a mix of housing types and sizes, and will accommodate a diverse economic range.

For example, the residential mix might include:

- 1,100 square foot condos at a \$100,000 market value
- 1,800 square foot condos at a \$150,000 market value
- 2,250 square foot condos at a \$200,000 market value

Staff from the County's Department of Financial and Management Services have reviewed the study and have no outstanding comments regarding the methodology or the conclusions. Development Management staff has reviewed the study and offers the two following observations:

- 1.) The Fiscal Impact Study is modeled on the applicant's currently proposed development plan, not what the maximum build-out scenario could be. Please reference the maximum allowable densities on the Land Use Chart on Sheet 2 of the Master Plan. These modeled uses and square footages are not limited in any way by the current proffers. Should Sections 2 and 4 not develop in the manner currently proposed, the Planning Commission and Board will have the opportunity to re-evaluate the project when subsequent requests for rezoning R-8 property to Mixed Use are submitted.

Regarding fiscal impacts, one premise for New Town as a whole, is that the development will be fiscally neutral at build out and fiscally positive in the timing of the development - i.e. the commercial investment will lead the residential investment. By virtue of the anticipated future phased rezonings, this Board, and future Boards, will have the final say whether this is actually what happens.

- 2.) The projected population of 873 may be a low estimate. As noted, the Fiscal Impact Study assumes 1.7 persons per unit. Intuitively, staff believes this may be a low number for the larger residential units, say for the 2,250 square foot condos. The 2000 U.S. Census update shows a James City County average of approximately 2.4 person per unit, among all residential unit types, while preliminary analysis of the Census update shows an average of 2.23 persons per unit for attached, multi-family unit types (as is currently

proposed in Sections 2 and 4). The 1.7 persons per unit number used by the applicant actually comes from the 1993-2000 Parks and Recreation Master Plan and the recommended proffer guidelines for recreation improvements. Another factor that might affect population is the fact that more than 525 units could be constructed under the allowable densities. But again, any differences in actual over proposed development may be considered and balanced by the Planning Commission and Board during future rezoning requests.

Traffic Impact Study

The Traffic Impact Study was prepared using the methodology agreed to by the Board of Supervisors in the 1997 proffers. These proffers require an update of the 1997 traffic impact study using:

- expected traffic from the current rezoning proposal;
- expected traffic generated from all previously approved development in New Town;
- VDOT anticipated daily background traffic for the year 2015; and
- anticipated traffic generated from the Powhatan Secondary development.

The study was performed, and the following recommendations were made to maintain a Level of Service (LOS) "C" or better on existing roads:

- The widening of Monticello Avenue at Ironbound Road;
- The addition of turn lanes into the project where warranted on Ironbound Road and Monticello Avenue;
- The signalization of the following intersections when warranted:
 - S Monticello Avenue at Center Street
 - S Monticello Avenue at Court Street
 - S Ironbound Road at North Boulevard

More road improvements, including additional turn signals and turn lanes may be warranted when future rezonings are proposed. The Virginia Department of Transportation (VDOT) has reviewed the study and does not have any outstanding comments at this time. VDOT has stated that they do reserve the right to require additional traffic analysis at the time site plans and/or subdivision are submitted for development within Sections 2 and 4, and additional requirements may be placed on the development by VDOT at that time.

Planning staff has noted that the Traffic Study analyzes impacts on all major street intersections with Ironbound and Monticello (Center Street, Court Street, and North Blvd), except where the two streets bordering the Civic Green intersect Ironbound and Monticello. Staff believes these roads will accommodate major traffic as an entry way to a main street through the retail/commercial corridor. Additional improvements may be required at this intersection by VDOT at the time of site plan review. The applicant's traffic consultant disagrees with staff that these may be major roadways into the project. The consultant views these roads more as driveway curbs than major streets. No qualitative or quantitative data has been submitted to verify this statement nor any assurances made.

The Commission should note that some of the recommended road improvements are necessary to maintain an intersection LOS of "C" or better. Although LOS "C" is the accepted County standard by both VDOT and staff, a LOS of "C" or better is a very suburban-scale goal. In an effort to reduce the scale of the road network and the related improvements (e.g., dual left hand turn lanes at all intersections), it may be beneficial to try and achieve a LOS "D" or better. A LOS of "D" or better is an accepted urban standard that staff feels would be appropriate for this development and would produce a more pedestrian-friendly design. Staff has asked the applicant to investigate this scenario, to see what impacts it has on the development and on existing public roads, but as of this writing, no response has been received. Therefore, staff will explore this issue further with VDOT and the applicant at the development plan stage.

Proffers

The following has been proffered by the applicant. Staff comment, based on the attached signed proffers, dated October 19, 2001, as well as analysis of the proffer with respect to established County policy, appears when warranted. As stated in the recommendation, the applicant has stated verbally that some of these proffers will be modified.

1. Application of New Town Proffers, Master Plan and Design Guidelines. This proffer sets forth the updated proffers, the updated Master Plan and the updated Design Guidelines as documents which apply to Sections 2 and 4 of New Town.
2. New Town Owner's Association. This proffer subjects all development on the property to an Owner's Association. This Association shall have the authority to: set an annual maintenance budget and assess members for the maintenance, file liens on properties when assessments are not paid, and establishes the Design Review Board (DRB) as the development review authority for the project.
3. Development Process and Land Use (a). The proffer sets certain "fixed" items on the Master Plan which are subject to change by the BOS only. These items include: land uses and densities, "required" streets," as indicated on the Master Plan, and the various civic spaces and buffer areas. Other items shown on the Master Plan remain more flexible and can be modified subject to staff and DRB approval. Some changes may be allowed with the approval of the Development Review Committee (DRC).
4. Development Process and Land Use (b). This proffer sets forth the DRB Authority, Duties and Powers.
5. Development Process and Land Use (c). This proffer re-iterates the Zoning Ordinance requirements for amending the Master Plan or the Design Guidelines.
6. Traffic Study and Road and Signal Improvements/Traffic Signal Preemption Equipment. This proffer sets forth certain road improvements, to be installed when warranted by VDOT. More specifically:

At North Boulevard,

- a northbound left turn lane on Ironbound Road;
- a southbound right turn lane on Ironbound Road;
- on North Boulevard itself, a minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road;
- a traffic signal, including Emergency vehicle preemption equipment.

At Court Street,

- on Court Street itself, two lanes approaching Monticello Avenue and two lanes departing Monticello Avenue;
- a traffic signal, including Emergency vehicle preemption equipment.

At Center Street,

- on Center Street itself, two lanes approaching Monticello Avenue and two lanes departing Monticello Avenue;
- a westbound turn lane on Monticello Avenue;
- a traffic signal, including Emergency vehicle preemption equipment.

Prior to the occupancy of 175,000 square feet of office space (or equivalent traffic generation from other uses), the following road improvements must be complete at the intersection of Monticello Avenue and Ironbound Road:

- a second through lane on eastbound Monticello Avenue and on westbound Monticello Avenue;
- right turn lanes on eastbound and westbound Monticello Avenue.

Staff comment: These proffered improvements are consistent with the recommendations of the 1997 Traffic Study and the 2001 Update to the Traffic Study.

7. Affordable Housing. This proffer sets aside units for Affordable Housing. More specifically:

- a minimum of 15 units priced at, or under, \$105,000 for the first 6 months after the unit is constructed and allowing for inflation;
- a minimum of 25 units priced between \$105,000 and \$140,500 for the first 6 months after the unit is constructed and allowing for inflation;
- the applicant has verbally stated that this proffer will be amended such that the affordable units will be first offered to qualified buyers from the James City County Department of Housing and Community Development waiting list. This revision is necessary for staff support of the proposal.

Staff comment: The provision of affordable housing is referenced in two places within the New Town Documents. Proffer Recital “D” of the adopted 1997 proffers states, in part, “It is the expectation of the Owner and the Board of Supervisors that so long as the future rezonings and accompanying Master Plans comply with applicable ordinance requirements and these Proffers, as amended, the master plans submitted therewith are generally consistent with the R-8 Plan and the design guidelines provided for herein, including the provisions of such design guidelines suggesting a mix of housing types and densities

accommodating a diverse economic range, and there exists at the time of the requested rezoning ... the capacity and/or availability of public facilities ... such rezonings will be approved.”

Also, in the top of paragraph 5.8 of the Design Guidelines, states that “A mix of housing types, characterized by a variety of higher and lower densities should be deliberately located to create places within neighborhoods with a special character and identity while accommodating a diverse economic range.”

The above is proffered by the applicant to address these expectations. Staff finds the methodology of the proffer consistent with proffers previously accepted by other projects in the past. The Commission should note however, that the housing price range does not fall within the County’s definition of “affordable housing”. Based on that definition, the unit price may not exceed approximately \$95,000-\$97,000. Rather, the applicant is proffering more of a low cost housing unit. The Commission should also note that the sales price of the units are impacted by the price inflator language found in the proffer. More specifically, the price of the unit may be adjusted upwards for inflation, with the base year being January 2001. This price inflator means that the \$105,000 unit price is more relative than fixed. Should the Board approve this application in December, the price of the units will be adjusted for inflation the following month, that is, a price greater than \$105,000. Staff had requested the applicant change the base year to January 2003. This would delay the time at which the unit values would increase. The applicant did not agree to adjust the time. Staff believes the base year and the acceptability of the actual number of affordable units proffered is at the Board’s discretion following a recommendation by the Commission.

8. Community Spaces. The proffers require constructing the Civic Green and Civic Square when at least 25% of the development proposed for Section 2 has been approved, constructing the Village Square and Village Green when 60% of the development proposed for Section 2 has been approved, and constructing Pecan Square when 50% of the development proposed for construction immediately along Ironbound Road has been approved.

Staff comment: Staff believes a crucial element to this project is that the Community Spaces be open to the general public. This is consistent with the original intent of the Master Plan and Design Guidelines. There is not yet a firm commitment in the proffers to provide assurances to this effect. The applicant has agreed verbally to continue to work with staff prior to Board action, on developing appropriate assurances and/or proffer language. This revision is necessary for staff support of the proposal.

9. Open Spaces. This proffers the necessary open space to meet Zoning Ordinance requirements.

Staff comment: For Mixed Use Developments, 10% of the net developable area of the project is required to be held in useable open space.

10. Ironbound Road Right-of-Way. This proffer provides additional right of way to allow for the construction and improvement of Ironbound Road, as described in the Design Guidelines.

Staff comment: The current proffer language does not mitigate the need to improve Ironbound Road in a manner consistent with the recommendations of the Design Guidelines. More specifically, the owner has agreed to provide all additional right of way necessary for the Ironbound Road improvements. The current language does not adequately state this intent or specifically state what is proffered. The Commission should note, however, that this proffer, if restated correctly, increases the applicant's required right of way dedication from the 1997 proffers. The applicant has agreed verbally that the proffer language will be clarified and amended such that all right of way necessary to improve Ironbound Road in a manner consistent with the Design Guidelines is provided. This revision is necessary for staff support of the proposal.

11. Streetscapes. This proffer implements the streetscape plans found in the Design Guidelines.

12. Bus/Transit Facilities. This proffer provides at least 3 bus pull-off areas and stops within Sections 2 or 4.

13. Recreation Facilities. The current proffers call for providing at least one playground or urban-scale park in Section 4 for use by the residents. It is proposed that other recreation will come from walking on the otherwise required sidewalks and riding on the bike lanes, and from using the proffered civic spaces.

Staff comment: The Parks and Recreation Master Plan contains proffer guidelines which attempt to address the need for recreation within a new development. The proffer guidelines, which were established for a more traditional suburban development, are based on recreation standards for neighborhood parks and recreation facilities. Each development however, is to be considered on its own merits.

At a proposed 525 units with 2.23 persons per unit, the Proffer Guidelines recommend (rounding to whole numbers where needed):

- 4.1 acres of Neighborhood Park
- 1.8 miles of jogging and bicycle trails
- 2 playgrounds
- 1 playcourt and
- 1 playfield

The standards call for more park acreage for multi-family developments because these homes have little or no yard space for play and other outdoor recreation. Playgrounds should be at least 2,500 square feet in size and contain 5 activities. Biking and jogging trails should be 8 feet wide, asphalt or concrete, and separate from the roadway. Neighborhood parks should be at least 1/4 acre in size.

Per the standards, a developer may proffer cash in lieu of park land set aside or

construction of recreation facilities.

Staff finds that the Neighborhood park requirement will be met with the provision of the civic spaces. More specifically, by the Pecan Square, the Village Green, and the Civic Green. A portion of the park requirement will also be filled with the 10% useable open space requirement of the Zoning Ordinance.

Staff also finds that the jogging and bicycling requirement will be met with the required sidewalks and bikelane locations found in the Design Guidelines.

Under the current proffer language, staff finds the playground requirement has not been met and that a minimum of at least 2 playgrounds or urban parks within Section 4 is necessary to meet the recommendations of the guidelines. The applicant has verbally stated that the proffers will be amended such that at least 2 playgrounds or urban parks are provided within Section 4, but that only one of the facilities will have an equivalent of at least 5 pieces of playground equipment. This proposal is unacceptable to staff and staff does not recommend approval of the application with this proposed language.

Finally, staff finds that the proffer guidelines for a play court (volleyball, basketball, etc.) and a play field (softball, baseball, etc.) may be too suburban for the New Town urban concept and density. Therefore, the applicant has agreed to amend the proffers such that \$75.00 per unit is provided as a cash equivalent to providing these facilities. These funds will go into the Capital Improvements Plan to enable the County to provide similar recreation facilities off-site. Staff concurs that a cash-in-lieu payment for these facilities is appropriate. This proffer is cross-referenced under #14 below, and this revision is necessary for staff support of the proposal.

14. Water Conservation. This proffer provides for developing and enforcing water conservation standards, as approved by the James City Service Authority (JCSA).

Staff comment: The JCSA has reviewed this proffer and finds the language consistent with language provided in previously accepted proffers.

15. Contribution for Affordable Public Housing and Public Facilities (a). Under the current proffer language, the developer will provide \$700 per unit for affordable housing, water, recreation, library, or economic development. Staff does not recommend approval of the proffer language as currently proposed.

Staff comment: *Water and public facility mitigation, and affordable housing*

On September 25, 2001, the Board of Supervisors considered water policy options. The agreed to criteria called for applicants to adequately mitigate impacts to the water source infrastructure. Using an impact calculation used by proffers previously accepted by the Board, \$625 per unit of the \$700 amount proffered will be used for construction of the desalinization plant. The JCSA has reviewed the impact calculation methodology and finds that it sufficiently mitigates impacts from this development.

The second agreed to criteria was that applicants would delay seeking the issuance of

building permits until a draft permit is obtained by James City County from the State for the proposed desalination plant or the applicant provide information on mitigating factors that offset the need for this criteria OR that applicants must demonstrate why this criteria should not be applied to the proposal. The applicant has not submitted any information addressing this policy. The Commission and Board should determine if sufficient demonstration has been made to allow this development to move forward.

This leaves \$75 per unit remaining which, as mentioned above, the applicant has proffered towards recreation facilities. Based on anticipated impacts, staff finds that no additional per unit contribution is warranted for economic development. Staff also finds that another proffer addresses affordable housing and that a supplemental per unit contribution here is duplicative and not warranted. Regarding impacts to the Library system, staff had provided the applicant with information outlining per unit impacts. Based on Comprehensive Plan standards, the impact to the resource needs of the Library is \$249 per unit.

The applicant is not proffering any mitigation of this impact at this time. The Commission should be aware that there is no Board approved policy on mitigating impacts to the Library system. Staff believes that the acceptability of the proffer package is at the Board's discretion following a recommendation by the Commission.

16. Contribution for Affordable Public Housing and Public Facilities (b). Contributing \$220 per unit for the first 370 units for offsetting school impacts.

Staff comment: *Adequate Public Facilities Test*

Per the "Adequate Public School Facilities Test" policy adopted by the Board of Supervisors, all special use permit or rezoning applications should pass the test for adequate public school facilities.

A proposed rezoning will pass the test if the schools which would serve the future development currently have adequate design capacity to accommodate the existing student population plus the additional school children generated by the development. For purposes of this policy, the schools shall be deemed adequate if the projected student population does not exceed 100% of the design capacity at the time of the application's review.

If any of the applicable public schools which would serve the future residential development exceed 100% of the design capacity, then the application will not pass the test for adequate school facilities. However, if the affected public schools currently exceed design capacity, but the school's student population will be brought under design capacity within three years of the time of the application's review through either physical improvements programmed in the Capital Improvements Plan (CIP), and/or through a redistricting plan that was approved by the School Board prior to the application, then the application will be deemed to have passed the test.

Staff finds the following:

<u>Schools serving New Town</u>	<u>2001-'02 enrollment</u>	<u>Design capacity</u>	<u>Effective capacity*</u>
Clara Byrd Baker Elementary	675	804	724
Berkeley Middle	735	1,194	1,075
Jamestown High	1,210	1,388	1,250

The County estimates that approximately 20 children are generated per 100 apartments and approximately 14 children are generated by 100 townhomes. Using an approximate weighted average of 17 children per 100 units for the proposed 525 units, then approximately 89 new school children will be generated by this development (148 new children if the maximum number of units allowed is constructed).

Also based on previous County study, generally, 45% of the school children generated will attend elementary school, 24% to middle school, and 31% to high school. This yields approximately 41 new elementary school children, 22 new middle school children and 28 new high school students. Under these assumptions, none of these additions causes either Design Capacity, or Effective Capacity to be exceeded (The Effective capacity at Clara Byrd Baker and Jamestown High will be exceeded if the maximum number of residential units allowed are constructed. However, staff does not believe this will occur under the applicant's proposal).

* Effective capacity is computed using 90% of the schools design capacity. This number reflects the schools programmatic capacity, rather than the structural (or design) capacity.

While the impact from the residential development proposed for Sections 2 and 4 may be absorbed by the School system, impact from residential development in all of New Town may not be able to be accommodated. To offset the project-wide impacts, the 1997 proffers state that New Town and the County "acknowledge that it is the expectation of the County that at the time of approval of rezoning for residential development that significantly contributes to the need for a new public school, New Town will either contribute an elementary school site, or make cash contributions to the County in an amount and upon terms agreed to."

New Town has chosen to make cash contributions. Therefore, the proffered amount is based on the number of units likely to be constructed in all of New Town and the cost needed to acquire a new elementary school site off-site (approximately \$240,000 based on the Comprehensive Plan standards for acreage and the cost per acre spent on acquiring the Stonehouse elementary site). Most specifically, as reflected in the current proffers, this formula results in a \$110 per unit contribution for all the units within New Town, including the units in Sections 2 and 4. Staff believes the applicants proposal per unit amount to be low, based on some erroneous assumptions in the applicant's methodology. Correcting these assumptions results in a per unit contribution of \$147.55. The applicant has verbally stated that the proffer will be amended to provide \$147.55 per unit. This revision is necessary for staff support of the proposal.

Based on the average number of units allowed to be constructed, the proportional share of the cost for Sections 2 and 4 is \$109,043. The proffered contributions total this amount. However, in an effort to provide the County with this total in a more expeditious manner, the developer has proffered to double the per unit contribution (to \$295 per unit) for the

first half of the average of the number of allowable units within Sections 2 & 4 (739 units) - which results in the same grand total (\$109,043).

17. Private Streets. The proffers state that all streets within New Town have the potential to be private. However, the intention is that all streets will be public and constructed to VDOT standards, unless VDOT will not approve the streets as they are supposed to be constructed by the Design Guidelines, in which case the street will be constructed to the standards listed in the Design Guidelines and will remain private. In such instance the street is private, the developer will begin a street maintenance fund for the Owners association to adequately maintain the street.
18. Archaeological Study and Small Whorled Pogonia. The owner will conduct archaeological and Small Whorled Pogonia identification and preservation studies.

Additional suggested minor modifications, edits, semantic and syntax revisions have been given to the applicant for incorporation into the revised proffers. These revisions are necessary for staff support.

Powhatan Creek Watershed Study

New Town is within the Powhatan Creek Watershed. The County is conducting a study of the Powhatan Creek Watershed since the watershed is potentially threatened by development. This study is not yet complete and has been endorsed yet by the Board of Supervisors.

A 1992 report by the Virginia Department of Conservation and Natural Heritage classified Powhatan Creek as the largest and most biologically significant natural area on the Peninsula (Overall, 25 areas were identified and inventoried).

For Sections 2 and 4 of New Town, potential impacts have been modeled by the Williamsburg Environmental Group and compared with the recommendations of the Draft Powhatan Creek Watershed Study. Current analysis by the applicant concludes that no impact to the Powhatan Creek Watershed will occur. Staff has reviewed the information and impact analysis compiled for Sections 2 and 4, which were only submitted in writing one week prior to the Commission meeting, and do not generally agree with the methodology and conclusions of the study. Staff will continue to work with the applicant to address impacts.

Recommendation:

This case was presented for informational purposes at the October 1, 2001, Commission meeting and subsequently deferred to the November 5, 2001, Commission meeting.

Staff finds that several of the attached proffers do not fully mitigate impacts and do not meet the recommendations of established County policies. Staff has had many discussions with the applicant regarding the proffers and staff's findings. In an effort to better mitigate impacts of the development, the applicant has stated that additional revisions to the proffers are forthcoming. However, as of the date of this writing, revised signed proffers have not been received and the deadline for receiving signed proffers has passed. Therefore, staff recommends deferral of the

case. However, the applicant has verbally stated to staff what some of the changes will be and these changes are noted in this staff report. A number of proffer changes are crucial for staff support of this case, including language on affordable housing, community spaces, dedication of right of way, recreation facilities, and school and water mitigation. The specifics of these changes are found in this staff report.

Staff's analysis and recommendations of the currently signed proffers are included in this staff report. Staff does not recommend approval of the application with the currently proffered items. The Planning Commission should be aware however, that the applicant has expressed a strong desire to have this case voted on by the Board of Supervisors by the end of the calendar year. Practically, this would mean the Board would be presented an informational overview of the project at their November 27, 2001, meeting, or their worksession, with a vote anticipated at their only meeting in December (the 18th). A deferral until the December Planning Commission meeting would not provide adequate time for review by the Board of Supervisors this calendar year.

Should the Commission be supportive of the applicant's request, the Commission should act on the case at tonight's meeting. Staff recommendation of approval would be contingent upon receiving revised, signed proffers which adequately address the deficiencies noted in this staff report and which adequately address any issues identified by the Planning Commission.

Paul D. Holt, III

Attachments:

1. Minutes from the October 1, 2001, Planning Commission meeting
2. Memorandum to the Board of Supervisors, dated September 25, 2001
3. The fiscal impact study (separate)
4. The summary from the traffic impact study (separate)
5. Proffers, dated October 19, 2001 (separate)

MINUTES OF THE OCTOBER 1, 2001, PLANNING COMMISSION MEETING.

CASE NO. Z-3-01/SUP-19-01. NEW TOWN - SECTIONS 2 & 4.

Paul Holt presented a brief overview of this project and its current status. He stated staff recommended deferral of any action until the November 5, 2001, meeting with tonight serving as an introduction and the beginning of the public hearing. He stated the application before them was to rezone approximately 80 acres from R-8, Rural Residential, with proffers to Mixed Use, with proffers. He stated that Sections 2 & 4 were two of 13 Sections identified on the overall master plan for New Town and approved by the Board of Supervisors in 1997. He gave a brief history of the process which had brought these Sections to the Commission tonight. He also summarized the current outstanding issues that the applicant was working on which included: final adjustments to the master sewer and stormwater management plans; final proffers to mitigate recreation, library, transit, and school and water impacts; finalize design plans and right-of-way issues for Ironbound Road; consideration of housing diversities; final update to the Fiscal Impact Study; and determining ownership and basic design elements of the Civic Green and other open spaces. He stated that at the November 5th meeting, staff would be providing updated project proposal information, proffers as submitted as well as an evaluation of those proffers, and an evaluation of the traffic study and the fiscal impact study.

Martin Garrett opened the public hearing.

Alvin Anderson of Kaufman and Canoles, together with his partner Paul Gerheart, and representing New Town Associates, a combination of the Endowment Association of the College of William and Mary and C.C. Casey Limited Company gave a history of how the New Town development progressed since its beginnings in 1995 into the proposal being presented tonight. He spoke of the development of Monticello Avenue Extension, the archeological digs that were a subject of great interest, great study, and great expenditure of funds, all in accordance with the James City County archeological policies. He continued by speaking on the 1997 rezoning that resulted in the Courthouse portion being zoned MU and the remainder being zoned R-8, with proffers. He stated at that time, a master plan was approved with particular densities and uses and said that the densities and uses proposed for Sections 2 and 4 of New Town were identical to those previously approved in the original master plan. He continued his presentation speaking on the Net Fiscal Impact projections to the County and how the master plan of this proposed project dealt with a more urban and humanistic approach to design and how it was practical from an economic and infrastructure standpoint and it was environmentally responsible. He concluded by introducing Paul Milano, a partner with Cooper, Robertson and Partners in New York and the winner of the design competition that resulted in the adoption of the current New Town plan.

Paul Milano gave an overall history on the vision of the design from its beginning, during the design competition, to where it was today. He spoke on the Civic Green that served as a setting for the new Courthouse, the natural wetlands that gave shape to the development in defining the neighborhoods, the civic use area, the village square as the focal community meeting place, and the mixed use Town Center. He continued his presentation with a history of how this type of development, known as "New Urbanism," began in the early eighties primarily on the fame of a town called Seaside, FL, developed in 1979. He also noted historic localities, such as, Savannah, GA; Charleston, SC; Alexandria, Richmond, and Williamsburg, VA, that have this type of design development. He concluded by saying that the purpose of all the aspects of this development was to inspire and encourage a sense of community in which everyone knows and supports one another and feels safe within the community.

Martin Garrett stated that from the beginning he liked the concept and the vision but he had

some concern. He commented on Paul Milano's presentation and felt they were being presented a picture where people could walk to commercial interests, but did not believe there would be enough of a population to substantiate the commercial interests and asked how were they going to generate the demand for them to be there in the first place.

Paul Milano stated that clearly the commercial interests at New Town would have a regional draw because of its location with Monticello and Ironbound Roads. He said there would be sufficient parking for people to come and walk from shop to shop, as well as the people who live within New Town. He believed that the success of the commercial interests would depend on a regional draw.

Martin Garrett stated that much of the commercial interests in Savannah, Charleston, and Williamsburg were not self-contained but came from tourism. He asked Paul Milano to speak about Celebration in FL.

Paul Milano said that Celebration gets a fair amount of traffic from curious observers but by and large, the market that has supported Celebration was the local market. He stated that certainly, the local home buyers, working families, and retirees support the area.

Martin Garrett asked what the population was at Celebration.

Paul Milano said he did not know the total population and that it was much larger than the area he showed on the slide. He stated there were three villages and it's population range was four to five thousand people, at this time.

Don Hunt asked if this was a support unit for Disney World, a place where employees live.

Paul Milano stated that some employees do live there but the market for Celebration had to compete with the Orlando housing market. He added that Celebration did not rely or depend on a specific group of people. He said there was so much interest in the beginning that they held a lottery for the first phase of development with more people than lots. He also noted that Celebration has lead the real estate market since its inception in 1994.

Martin Garrett stated his concern was that New Town would develop as something that was wanted very much but would eventually go more towards residential simply because there wouldn't be a significant demand to justify the commercial interest. He commented on the Monticello Shopping Center down the road and felt that residents of New Town would do a lot of shopping there as opposed to shopping in New Town.

Paul Milano said that was a question for the marketers and developers of New Town and that as an architect, he wanted to see this place function as best as it can, including it economic viability. He felt it was a question of choosing the right type of retail and commercial activity that would set itself apart from a more typical shopping center.

Don Hunt stated that an area like Merchant Square in Williamsburg works because it has a large captive population of the college students and faculty. He said something like New Town did not have a core population and it would need something that would cause people to gravitate to that commercial area.

Paul Milano felt that New Town would have a lasting effect if it is done right and it would be a place that would be revered as a place that people would want to come to live or visit. He said Williamsburg is attractive as a retirement community, it has a university, there is interest in developing more opportunities for research and development, and there are the tourist attractions

of Colonial Williamsburg and Busch Gardens. He said he did not have all the market research and was not sure if it was fully researched but these were solid design principles that would encourage a viable community.

Martin Garrett felt Paul Milano's presentation was something that has not been presented by the proponents before in that they state that New Town was to be self-contained and Paul Milano was stating that it could not be viable unless it had outside support. He said he agreed with Paul Milano.

Joe McCleary agreed in some way with Martin Garrett but said he was also familiar with an area in northern Virginia called Reston and to a certain degree there is a mixture back and forth and some trade that comes in from the outside but, by and large, Reston feeds upon itself. He said he was impressed by the amount of commercial and retail activity that can be supported generally by the population that lives there.

Martin Garrett said his concern was that the people who market New Town would, in 10 to 20 years from now, come back to the Planning Commission and say they can't support the commercial interest and ask to go toward more residential.

Paul Milano believed that the guidelines and master plan have to be flexible enough to shift with changing time, as long as the principles in that vision can be maintained.

Joe McCleary asked if within this community there were covenants to guide them so when there is mixed use development close together there would be an assurance that everyone would be a good neighbor to everyone else.

Paul Milano stated that the guidelines were fairly general and broad in their scope and they try to set the parameters and ground rules. He said as the plans become more developed, they are fine tuned by the Design Review Board. He also said there were ways through business development initiatives, homeowner associations that occur as separate entities that can insure other rules and regulations that would foster good neighbor approaches.

Joe McCleary asked about the 1.7 persons per unit figure that the applicant had estimated since the units ranged from 1,500 sq. ft. up to 2,500 sq. ft. and felt that the population would be greater than 1.7 on average.

Alvin Anderson said the units ranged from 1,100 sq. ft. to 2,250 sq. ft. and the 1.7 per unit was from the County Parks and Recreation figures which anticipates so many people from multi-family units which this project was based upon.

Joe Poole commented that he had continued to be impressed by this project because it represented real innovation in our community and complimented the applicant and those who were involved from various sectors of the community considering what could have been there by right. He stated he was concerned about the planning and sensitivity to some of the existing residents to the northeast of the property and ask the applicant to address those issues. He also requested a graphic showing what trees would remain.

There being no further speakers, the case was deferred to the next meeting and the public hearing remained open.

MEMORANDUM

DATE: September 25, 2001
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Water Policy Options - James City Service Authority Central H₂O System

The Board of Supervisors ("Board") was briefed on September 12, 2001, by Larry Foster, General Manager of the James City Service Authority (JCSA), about current and projected water demands and supply. In conjunction with that briefing, the Board requested staff to prepare water policy options for it to consider in deliberating current and future rezoning and special use permits (SUPs) applications ("applications") until such time as a draft permit is issued by the State Department of Environmental Quality (DEQ) for groundwater withdrawal to support a brackish groundwater treatment facility ("facility"). Once that draft permit is issued, it would be appropriate to review any previous policy.

Staff offers the following options which apply only to pending or future rezoning on SUP applications:

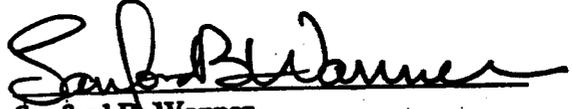
1. Adopt a formal policy tying issuance of building permits to issuance of a draft permit from DEQ to support the facility. There would, in addition, be the added expectation of a proffer addressing future water supply costs. Any application would be processed through the Planning Commission.
2. Continue, in lieu of adopting a formal policy, the review and processing of applications by staff with the expectation that applicants would address these criteria set out in Paragraph 1 or offer, for the Board's consideration, sufficient mitigating factors to offset the need for such criteria. Any application filed would be processed through the Planning Commission.
3. Apply either Paragraph 1 or 2, but grandfather any applications that are currently in process, i.e., those that have a pending application upon which the applicant has relied on existing County policy. (Obviously, the applications would have to gain the normal approvals under our land use policies, regulations, and ordinances.)

Staff recommends the Board endorse Paragraph 3, regarding any pending applications and Paragraph 2, for any applications filed after this date. Staff endorses this approach for the following reasons:

- Grandfathering current applications is consistent with the County's past actions recognizing the reliance by those applicants on existing policy and significant expenditures of funds in reliance thereon.
- It is anticipated that DEQ will issue its draft permit for the withdrawal in the next 12 to 15 months.
- Staff recognizes that there is, from all sources, a current excess of 1.75-million gallons per day in the system. While approval of the existing applications would expedite the time frame in which new water supply sources would need to be identified, this is not atypical, i.e., JCSA is always involved in efforts to expand its water supplies.
- Endorsing the approach set out in Paragraph 2 for future applications gives the Board more flexibility in reviewing cases and would permit the consideration of an application offering significant beneficial impact to the County.

RECOMMENDATION:

I recommend the Board endorse the policy option set forth in Paragraph 3, grandfathering current applications and apply Paragraph 2 to future applications filed prior to DEQ issuing its draft permit for the groundwater withdrawal.


Sanford B. Wanner

SBW/adw
waterpol.mcm

New Town Associates, LLC

**New Town Sections 2 & 4 Mixed Use Plan
Fiscal Impact in James City County, Virginia**

July, 2001

REVISED: September, 2001

Prepared by:

The Wessex Group, Ltd.
479 McLaws Circle, Suite 1
Williamsburg, Virginia 23185
Telephone: (757) 253-5606
Facsimile: (757) 253-2565
e-mail: wessexgroup@wessexgroup.com

New Town Associates, LLC

New Town Sections 2 & 4 Mixed Use Plan Fiscal Impact in James City County, Virginia

EXECUTIVE SUMMARY

On behalf of New Town Associates, LLC and as part of a rezoning application submitted to James City County, this report from *The Wessex Group, Ltd.* (TWG) presents estimates of the fiscal impact of developing Sections 2 and 4 in the county tract known as New Town. These two sections total approximately 83 acres out of the 623 in New Town. . The development plans mirror those approved for these two sites by the New Town Design Review Board and include the following:

- *A Civic Green at the intersection of Monticello Avenue and Ironbound Road to convey the sense of a "gateway" into New Town.*
- *An expansion of Ironbound Road to accommodate a median and large trees*
- *A Northern Civic Focal Open Space at the north end of Ironbound Road to convey the sense of a "sentinel" for New Town.*
- *A Town Center, Village Square, and Regional Retail Center. The Village Square will be the focal point of this mixed-use town center, which linked to the Civic Green and Northern Civic Focal Open Space but protected from the through traffic on Monticello Avenue and Ironbound Road.*
- *An Office District linked to the Village Square that will be located along a wetland edge. This location and layout is designed to facilitate joint efforts between the College of William and Mary and the research and development offices that locate in the Office District. There also may be some residential, or combination of office and residential, located within this district.*
- *Gateway Commercial along Monticello Avenue designed to act as gateways to the residential neighborhoods in New Town, as well as provide a collective gateway to the civic and commercial core of New Town.*
- *Residential Districts with a mix of housing types, lot sizes and densities to accommodate a diverse economic range. The developers will take advantage of wetlands and natural features to create neighborhoods with individual identities. Each will have at least one public open space as its focus and will be organized around an interconnecting overall street system.*

In total, development plans consist of 602,500 square feet of retail space, 122,500 square feet of Class A office space, 200 multifamily rental apartments, and 325 multifamily condominium units. For the purposes of this study, development is assumed to take place in even increments over six years.

All dollar figures contained in this report are expressed in 2001 dollars. No attribution for economic inflation has been made. However, it is assumed that real appreciation on condominium units will be 1% annually.

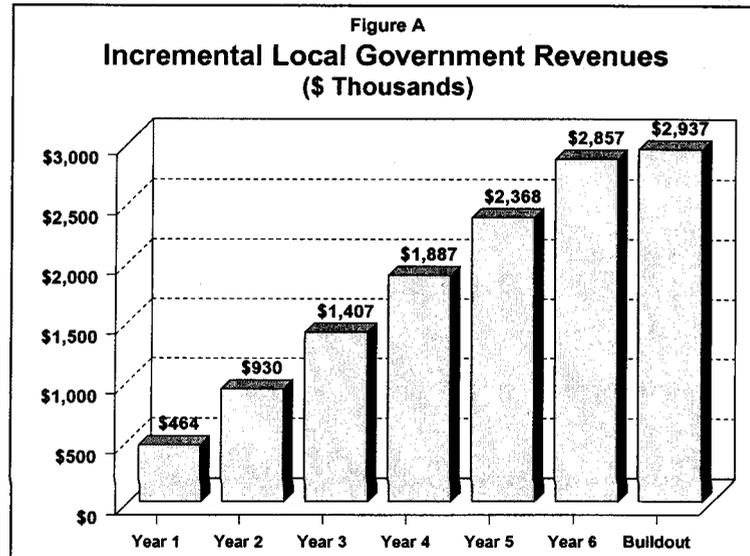
Key Estimates

Construction Investment: The developer anticipates that construction investment on site will be at least \$134 million. The construction activity should generate approximately \$1.8 million per year for six years for county businesses that supply construction materials

Residential Population: The residential population in the multifamily units is estimated to reach 893 persons at buildout, assuming 1.7 persons per household in both the rental apartments and the condominium units.

New Retail and Commercial Businesses: The developer's marketing efforts are sparking the interest of local, regional and national firms. Some firms already operating in James City County are expected to relocate to this new development in New Town. Many of these relocating firms will take this opportunity to expand their businesses. A number of national retailers and commercial firms with no presence in the local market (defined as the Historic Triangle or the Greater Williamsburg Area) also are very interested in this development. Current indications are that 75% of the retail space and 50% of the commercial/office space will be occupied by businesses new to the area.

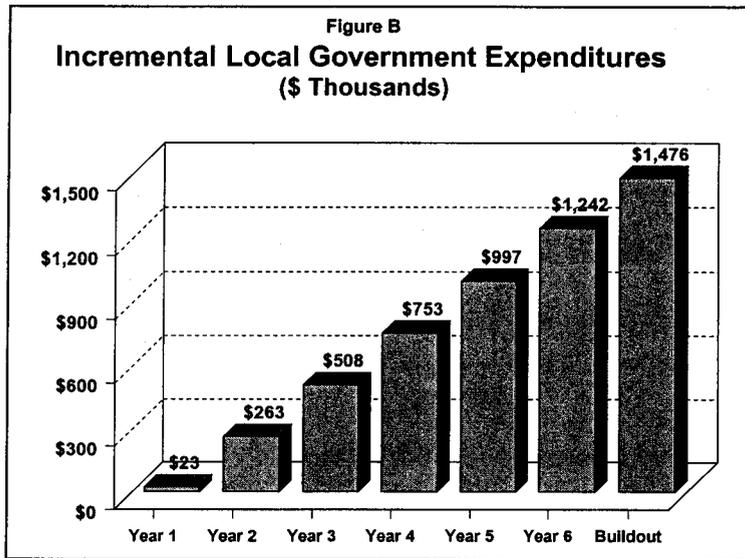
Fiscal Revenues: During the six year development phase, the county's revenues will exceed \$10 million (a net present value of \$8.7 million). Figure A displays the revenue stream. Annually after buildout, revenues are estimated to be more than \$2.9 million. Revenue types includes incremental sales tax, real estate tax, personal property tax, business license tax, and a proffer of \$105 per residential unit from the developer to help offset the capital costs public education in the county.



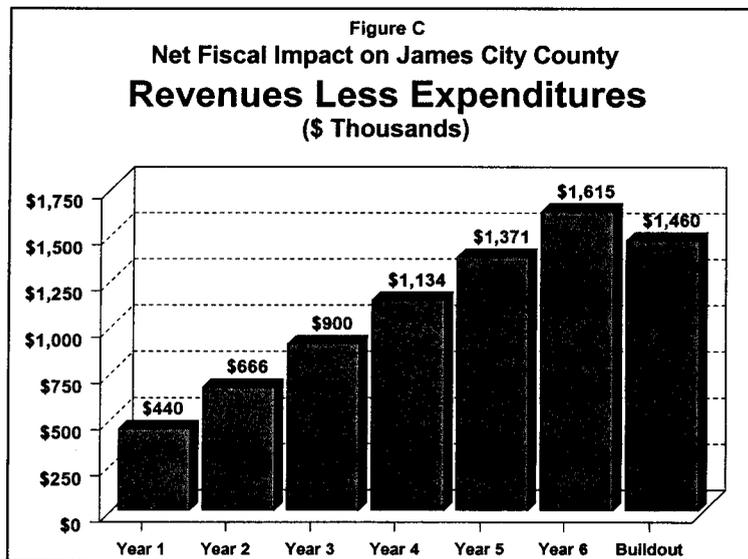
Fiscal Expenditures: The new residents, the construction activity, and the incremental retail and business activity also will generate county expenditures. Important points about expenditures include the following...

- Public safety, which includes police protection, fire protection and emergency medical services, is a major expense category and is expected to total nearly \$246,000 per year at buildout.
- The cost of providing public education to the new residents, both operating and capital costs, are estimated at more than \$540,000 per year at buildout. Data from other Virginia localities indicate that multifamily residences generate far fewer school children than single family homes. To reflect this, conservative adjustments have been made to the per capita costs of education for the residential units in this analysis.

- The county's expenditures are expected to increase each year during development as the residential population and business activity increases. At buildout, expenses are estimated at nearly \$1.5 million annually, as indicated in Figure B.



Net Fiscal Impact: The net fiscal impact is calculated simply by subtracting estimated expenditures from estimated revenues. Figure C illustrates that the net cash flows from this project will be positive during development and after buildout and full occupancy. Revenues such as real estate and personal property tax revenues from a significant amount of retail and commercial development (725,000 square feet) help to offset the costs associated with increases in the county's population from this development. As shown in Figure C, it is projected that the county will realize a net gain of approximately \$1.46 million annually at buildout and beyond. The net present value of the cash flows from Year 1 through Year 20 is estimated at \$18.7 million.



**New Town Associates, LLC
New Town Sections 2 & 4 Mixed Use Plan
Fiscal Impact in James City County, Virginia**

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
EXECUTIVE SUMMARY	i
1 INTRODUCTION	1
OVERVIEW OF THE REPORT	2
2 DEVELOPMENT PLANS AND INCREMENTAL EMPLOYMENT	4
DEVELOPMENT PLAN AND CONSTRUCTION INVESTMENT	4
EMPLOYMENT AND PAYROLL	5
<i>Construction Employment</i>	5
<i>Permanent Employment</i>	6
3 FISCAL IMPACT ON JAMES CITY COUNTY	8
INCREMENTAL RESIDENT POPULATION	8
LOCAL GOVERNMENT REVENUES	8
LOCAL GOVERNMENT EXPENDITURES	12
<i>Adjustment for School Children in Multifamily Condominium Projects</i>	13
NET FISCAL IMPACT	15

New Town Associates, LLC

New Town Sections 2 & 4 Mixed Use Plan Fiscal Impact in James City County, Virginia

Section 1 INTRODUCTION

New Town refers to a 623-acre tract located in James City County, Virginia. This report prepared for **New Town Associates, LLC** focuses on a development plan for Sections 2 and 4 of New Town, which are comprised of approximately 83 acres.

The developer's plans for Sections 2 and 4 closely reflect the initial plans submitted to James City County in 1997 by C. C. Casey Company, Ltd., which subsequently were approved by the New Town Design Review Board, as well as the county's Planning Commission and Board of Supervisors. As specified in the *New Town Design Guidelines* prepared by Cooper, Robertson & Partners and in the *New Town Section 2 and 4 Design Guidelines* by RTKL Associates Incorporated, the plans for Sections 2 and 4, as for all of New Town, are based on development that will " ' encompass a more urban and humanistic approach to the design of buildings and public spaces' than more common suburban spaces." The developer envisions residential, retail and commercial development that portrays a "village character....large enough to convey a sense of place and community to its residents and visitors but small enough to possess definite boundaries or edges." The reader should refer to *New Town Section 2 and 4 Design Guidelines* for additional descriptions of the pedestrian amenities, open spaces, parks, and architectural styles that will be incorporated in the development activity for Sections 2 and 4.

This report from *The Wessex Group, Ltd.* (TWG) presents estimates of the fiscal impact of the proposed development. The development plans are as follows:

- Locate a Civic Green at the intersection of Monticello Avenue and Ironbound Road to convey the sense of a "gateway" into New Town.
- Expand the width of Ironbound Road to accommodate a median and large trees "in the manner of a linear town common or parkway" (*New Town Design Guidelines*).
- Locate a Northern Civic Focal Open Space at the north end of Ironbound Road to convey the sense of a "sentinel" for New Town.
- Develop a Town Center, Village Square, and Regional Retail Center. This retail and commercial area "will be protected from the through traffic of Monticello Avenue and Ironbound Road but linked to the Civic Green and Northern Civic Focal Open Space" (*New Town Design Guidelines*). The Village Square will be the focal point of this mixed-use town center.
- Establish an Office District linked to the Village Square. This District "travels up along a wetland edge toward the lands of Eastern State Hospital" to facilitate joint efforts between the College of William and Mary and the research and development offices that locate in the Office District. "Residential, or some combination of office and residential may be located within this district as long as the connectivity to the town center is maintained" (*New Town Design Guidelines*).
- Construct Gateway Commercial along Monticello Avenue "to serve as gateways to the neighborhoods beyond them and collectively as the gateway to the Monticello-Ironbound civic and commercial core" of New Town (*New Town Design Guidelines*).
- Develop Residential Districts with a mix of housing types, lot sizes and densities to accommodate a diverse economic range. Wetlands and natural features will be used to create places, parks and

addresses that give character and identity to the town. Each neighborhood will be designed to have an individual identity. Each will have at least one public open space as its focus and will be organized around an interconnecting overall street system.

For the purposes of this fiscal impact study, the development plans are assumed to be as follows:

- 602,500 square feet retail
- 122,500 square feet office/commercial
- 200 multifamily residential units – rental apartments
- 325 multifamily residential units – condominium units
- Buildout in six years

The market values of the residential units are projected to average \$150,000 per unit. However, as stated previously, the residential development will represent a mix of housing types and sizes and will accommodate a diverse economic range. For example, a plausible development scenario for the condominium residential units would be...

<u>Multifamily Condominium Units</u>	<u>Market Value per Unit</u>	<u>Number of Units</u>	<u>Total Market Value</u>
Product 1 – 1,100 Square Feet	\$100,000	80	\$8,000,000
Product 2 – 1,800 Square Feet	\$150,000	140	\$21,000,000
Product 3 – 2,250 Square Feet	\$200,000	100	\$20,000,000
Average Market Value per Unit	n/a	n/a	\$150,769

The market value of the units labeled as **Product 1** fall well within the range of \$90,000 to \$105,000, which can be defined as *affordable housing* (*Mandating Affordability*, The Virginia Gazette, 5 September, 2001). As outlined in the county's New Town design guidelines, the development plans will be flexible enough to serve the evolving needs of the marketplace. The developer also notes that the architectural and engineering requirements meeting the county's New Town design guidelines place a variety of restrictions on the types of housing that can be developed. Again, the reader should refer to *New Town Section 2 and 4 Design Guidelines* for more details and descriptions.

Overview of the Report

The purpose of this report is to describe estimates of the **fiscal** revenues and expenditures that the development will generate for the local government of James City County. Fiscal impacts are those that directly affect a municipality's budget, including the costs of public services, such as emergency medical services, police and fire protection, and public school costs. The major portion of the county's revenues from this development will be generated by real estate taxes. The cost of public education for the school children who will live in New Town constitutes the major portion of the county's new expenditures.

Section 2 of this report presents more details of the development plan. *The Wessex Group* uses the Employment Anticipation Method (Burchell) to estimate the amount of fiscal expenditures that can be attributed to incremental employment in a municipality. Therefore, Section 2 also includes estimates of the number of employees that will be generated by the construction of the site and by the permanent retail and commercial activity.

Section Three describes the estimated fiscal revenues and expenditures that are likely to be generated by this development. The section also lists the assumptions underlying these estimates.

All dollar figures contained in this report *are expressed in 2001 dollars*. In other words, no attribution for economic inflation has been made. Assumptions have been made about the rate of real appreciation, which excludes economic inflation. In this case, a conservative estimate of 1% annual real appreciation has been applied to the multifamily condominium units, but not to the multifamily rental apartments. Appreciation is not attributed to retail or commercial development.

New Town Associates, LLC

New Town Sections 2 & 4 Mixed Use Plan Fiscal Impact in James City County, Virginia

Section 2 DEVELOPMENT PLANS AND INCREMENTAL EMPLOYMENT

The plans and estimates described in this section of the report include an assumed development and sales schedule, construction investment and the associated temporary employment, and permanent employment from retail and commercial activities. Estimates of Full Time Equivalent (FTE) employment are required to apply the Employment Anticipation Method (Burchell) for attributing fiscal expenditures to incremental employees in a municipality. No assumptions are made about the municipalities where these employees will reside. However, the residential population of the development is considered and discussed in detail in Section 3.

Development Plan and Construction Investment

As described in more detail in Section 1 of this report, this development is projected to consist of 602,500 square feet of retail space, 122,500 square feet of office/commercial space, 200 multifamily rental apartments, and 325 multifamily condominium units. Specifically, the development plans include...

- A Civic Green at the intersection of Monticello Avenue and Ironbound Road
- Expansion of Ironbound Road to accommodate a median and large trees
- A Northern Civic Focal Open Space at the north end of Ironbound Road
- A Town Center, Village Square, and Regional Retail Center
- An Office District linked to the Village Square
- Gateway Commercial along Monticello Avenue
- Residential Districts with a mix of housing types, lot sizes and densities to accommodate a diverse economic range

The market values of the residential units are projected to average \$150,000 per unit. However, since the residential development will include a mix of housing types and sizes and will accommodate a diverse economic range, the range of market values is expected to vary. For example, some may qualify as affordable housing while others may reflect a more upscale market. The plans for all of this mixed-use development, including retail, commercial and residential, will be flexible enough to serve the evolving needs of the marketplace and will be structured to meet the county's design guidelines for New Town.

All construction is assumed to begin in Year 1 of this scenario with buildout by Year 6 and full occupancy in Year 7. The developer estimates the construction costs of these two sections of New Town will be more than \$134 million. Table 1 on the next page provides the development schedule. For these estimates, it is assumed that retail and commercial square footage and residential units will be developed evenly over the six-year period of construction.

**Table 1
 Development Schedule**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Annually After Buildout
Residential Units							
Multifamily Condominiums	54	54	54	54	54	55	0
Multifamily Rental Units	33	33	33	33	33	35	0
Total Residential Units	87	87	87	87	87	90	0
Cumulative Residential Units	87	174	261	348	435	525	525
Residential Population (Cumulative)	0	148	296	444	592	740	893
Retail & Commercial Development							
Retail Sq. Ft. (Cumulative)	100,417	200,834	301,251	401,668	502,085	602,500	602,500
Commercial/ Office Sq. Ft. (Cumulative)	20,417	40,834	61,251	81,668	102,085	122,500	122,500
Annual Construction Investment							
Site Preparation	\$4,960,000	\$0	\$0	\$0	\$0	\$0	\$0
Retail Development	10,041,700	10,041,700	10,041,700	10,041,700	10,041,700	10,041,500	0
Office/Commercial Development	3,062,600	3,062,600	3,062,600	3,062,600	3,062,600	3,062,300	0
Multifamily Residential Development	8,352,000	8,352,000	8,352,000	8,352,000	8,352,000	8,640,000	0
Total Construction Investment	\$26,416,300	\$21,456,300	\$21,456,300	\$21,456,300	\$21,456,300	\$21,743,800	\$0

Area contractors have indicated, when asked by TWG, that construction materials account for approximately 50% of all construction costs. For this study, it is estimated that 8% of materials are purchased in James City County, resulting in average sales of nearly \$1.8 million a year for county businesses.

The developer estimates that site preparation costs for retail/commercial development will be \$100,000 per acre. The retail structures are expected to cost an average of \$100 per square foot to construct, and the commercial structures \$150 per square foot, on average. The residential development costs are estimated at \$80 per square foot.

Employment and Payroll

The number of incremental FTE employees is included in this fiscal impact analysis because it is the basis of local government expenditure estimates attributed to new industrial and commercial activity. Table 2 on the next page contains annual employment estimates for the construction activity, as well as the incremental retail sales and incremental commercial/office businesses generated in this development.

Construction Employment

Assuming that payroll is approximately 35% of construction costs (as estimated by area contractors) and that construction workers earn an average annual full time wage of \$30,923 (Virginia Employment Commission) plus an additional 20% for benefits, the construction efforts should provide 330 positions in the first year of construction and approximately 270 thereafter through Year 6. It is assumed that 50% of construction workers are full time and 50% part time.

Table 2
Employment Schedule

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Annually</u> <u>After Buildout</u>
Annual Construction Employment							
Annual Full Time Jobs	110	90	90	90	90	90	0
Annual Part Time Jobs	<u>220</u>	<u>180</u>	<u>180</u>	<u>180</u>	<u>180</u>	<u>180</u>	<u>0</u>
Total Annual Construction Jobs	<u>330</u>	<u>270</u>	<u>270</u>	<u>270</u>	<u>270</u>	<u>270</u>	<u>0</u>
Annual Construction Payroll	\$8,186,000	\$6,599,000	\$6,599,000	\$6,599,000	\$6,599,000	\$6,682,000	\$0
Incremental Permanent Employment							
Annual Full Time Jobs	0	70	150	220	290	360	440
Annual Part Time Jobs	<u>0</u>	<u>90</u>	<u>180</u>	<u>260</u>	<u>350</u>	<u>440</u>	<u>530</u>
Total Incremental Permanent Jobs	<u>0</u>	<u>160</u>	<u>330</u>	<u>480</u>	<u>640</u>	<u>800</u>	<u>970</u>
Annual FTE Employment	220	290	410	530	650	770	700

Permanent Employment

In this study, incremental permanent employment is attributed to the incremental retail and commercial development. It is assumed that some portion of the retail and commercial components of this development will represent a shift of activity from one part of the county to another and, therefore, will not generate new permanent jobs. Table 2 above shows only the incremental employment positions that are expected.

Relocating Businesses: The developer's marketing efforts for Sections 2 and 4 of New Town indicate that 5% of both commercial and retail space is likely to be occupied by tenants who are relocating from another part of James City County. No incremental activity is attributed to these tenants.

Relocating Business with Expansion Plans: The developer's marketing staff finds that, at this point in time, approximately 45% of the commercial and office space will be occupied by businesses that are relocating from other areas of James City County and will be expanding their operations. For retail development, indications are that 20% will be occupied by existing county retailers who are taking this opportunity to expand. The expansions are expected to generate net new revenues for the county in the form of retail sales tax and business license tax. More details on county revenues are in Section 3 of this report.

New Commercial/Office Businesses: Several regional and national commercial firms, which currently have no presence at all in the Historic Triangle (James City County, Williamsburg, and northern York County), have expressed interest in this development. Current indications are that approximately 50% of the commercial and office space in Sections 2 and 4 of New Town will be occupied by firms that will be new to the market. All of this new business is expected to generate new employees (and the additional county expenditures associated with that employment) and new county revenues from business license tax and business personal property tax. Reports from the U. S. Bureau of Economic Analysis indicate that commercial businesses in James City County report gross revenues of

\$74,000 per employee, on average. The estimated ratio of employees to square footage is one Full Time Equivalent (FTE) position for every 250 square feet (Burchell), with 50% full time and 50% part time.

New Retail: Several large national retailers with no presence at all in the Historic Triangle market are interested in bringing their retail operations to this development. Indications are that these potential tenants will use approximately 75% of the retail space in Sections 2 and 4 of New Town. For this analysis, *The Wessex Group* estimates that 50% of the sales of these retailers will be net new sales in James City County (rather than retail sales shifted from one part of the county to another). The portion of retail sales that is incremental in James City County will generate new employees, new county expenditures, and new county revenues. Details on county revenues and expenditures are in Section 3 of this report. For retail development, major retailers indicate that average employment is 2.2 positions for every 1,000 square feet. TWG estimates that 50% of retail labor will be full time and 50% part time. For this analysis, it is assumed retail sales per square foot will be \$235.52 (*Dollars and Sense of Shopping Centers*, Urban Land Institute, 1999).

New Town Associates, LLC

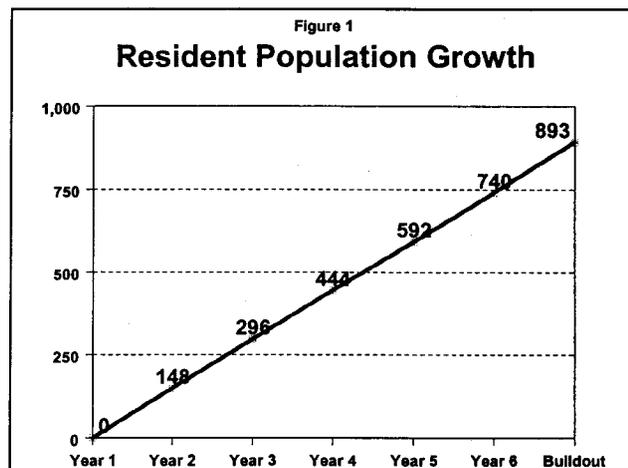
New Town Sections 2 & 4 Mixed Use Plan Fiscal Impact in James City County, Virginia

Section 3 FISCAL IMPACT ON JAMES CITY COUNTY

The financial effects of new development on a municipality include new revenues, such as property taxes, as well as new expenditures for public services such as police protection and public education. Net fiscal impact is the result of subtracting new expenditures from new revenues. This section of the report describes these financial impacts that would occur for James City County's government if Sections 2 and 4 of New Town are developed as planned.

Incremental Resident Population

Residential growth is a major driver of new government expenditures, particularly for the cost of public education, which will require 55% of James City County's revenues for the 2001-2002 fiscal year. In this analysis, it is assumed that all of the residential units planned for New Town Sections 2 and 4 will generate incremental county residents. Figure 1 illustrates the population growth. Previous studies by *The Wessex Group* and by county staff indicate that the average household size for multifamily residences is 1.7 persons. With approximately 525 dwelling units, the development's population will grow to an estimated 900 persons at 100% occupancy (Table 1 in Section 2 and Figure 1).



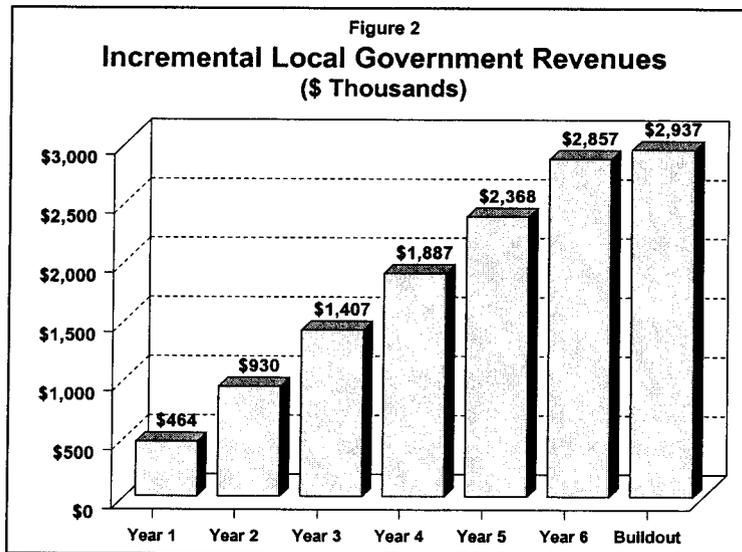
Local Government Revenues

New development in James City County generates several types of revenues, including real estate tax, personal property tax, and retail sales tax. The various components of the revenue stream are described below. Annual estimates are in Tables 3 on the next page. Figure 2, also on the next page, illustrates these estimated revenue flows for the county.

In total for Years 1 through 6, the county will realize nearly \$10.0 million in new revenues from this development. The discounted present value of this six-year revenue stream (at 3% to exclude the effects of economic inflation) is more than \$8.7 million. The ongoing, annual revenue stream at buildout is estimated at \$3 million, although this amount does not account for new county expenditures. The net present value of the revenue stream over 20 years is \$36.8 million.

Table 3
Local Government Revenues

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Annually After Buildout</u>
Incremental Government Revenues:							
Sales Tax	\$0	\$106,400	\$212,900	\$319,300	\$425,700	\$532,100	\$638,600
Real Estate Taxes	281,100	510,100	740,500	972,300	1,205,600	1,444,400	1,448,900
Personal Property Tax	0	59,400	118,900	178,300	237,700	297,200	357,300
Building Permits	112,600	112,600	112,600	112,600	112,600	114,400	0
Business License Tax	34,300	81,200	128,100	174,900	221,800	269,200	281,200
Developer Proffers	5,700	5,700	5,700	5,700	5,700	5,800	0
Other Local Revenues	29,800	54,100	88,900	123,700	158,500	194,300	210,500
Total Government Revenues	\$463,600	\$929,500	\$1,407,400	\$1,886,800	\$2,367,700	\$2,857,300	\$2,936,500



- Sales Tax:** Incremental retail sales taxes have been attributed to the proposed retail development. As described previously in Section 2 of this report, several large national retailers with no presence at all in the Historic Triangle market are interested in bringing their retail operations to this development. In addition, a number of retailers already serving the local market plan to relocate to New Town, and most plan to expand. The chart on the next page illustrates the type of retail tenants anticipated and the portion of these retail sales that are assumed to be net new retail sales in James City County. For this analysis, it is assumed retail sales per square foot will be \$235.52 (*Dollars and Sense of Shopping Centers*, Urban Land Institute, 1999).

Type of Retail Tenant Anticipated	Percentage of Retail Square Feet	Percentage of Sales Assumed to be Net New in James City County
Relocating from other county location – No expansion	5%	0%
Relocating from other county – Expanding	20%	50%
New Retailers in market	75%	50%

The county will realize 1% of incremental retail sales, which is returned by the State of Virginia. By buildout, the development should be generating nearly \$640,000 annually in retail sales tax revenue.

- Real Property Taxes:** James City County’s 2001-2002 Adopted Budget indicates that the current real estate tax rate is \$0.87 per hundred dollars of assessed value, and no change in this rate is assumed for this analysis. The market value of non-residential property planned for this site, as well as the rental apartments, is assumed to be the total development cost with no appreciation in value. For the condominium units, a real property appreciation rate of 1% annually is assumed. Real property taxes account for nearly half of the estimated revenue for the county that would be generated by this development. While roll back taxes have been paid recently for the specific parcels considered in this study, county staff feels that roll back taxes should not be considered an incremental revenue from this development because of the likely difficulty of keeping the land in the Agricultural/Forestral District in the future, no matter what development does or does not occur.
- Personal Property Tax:** James City County’s budget indicates that the personal property tax rate is \$4.00 per \$100 of assessed value and no increase is anticipated in this analysis. (Although there was no system in place to reduce car tax in 1997, the state government currently is compensating cities and counties for the loss of revenue.) The county’s budget indicates that it expects to receive \$15,062,891 from personal property tax collections and from state reimbursements. Assuming that 80% of this revenue category is from residential households for individual personal property, the per capita figure is \$238.66.

Further, business personal property is assessed at 25% of capitalized cost and taxed at \$4.00 per \$100. Revenue from business personal property tax is attributed to the new retail and commercial development planned for Sections 2 and 4 of New Town. Business personal property values have been estimated at \$32.00 per square foot (8\$ per square foot capitalized over four years). This estimate is based on the annual reports of selected major retailers and corporations. By buildout, this development is expected to generate over \$350,000 per year in residential and business personal property taxes for the county.

- Building Permits:** Building permit fees are estimated at \$0.50 per square foot of development for non-residential construction and \$600 per unit for residential construction. This is based on attempts by *The Wessex Group* to quantify these fees by using developers’ plans for various types of construction and county fees. Using these estimates, this revenue category will provide over \$112,000 per year for the county while development is in progress.
- Business License Tax:** The estimated business license tax is based on three items: (1) the value of construction on the site, (2) the incremental retail sales that this development will generate, and (3) the revenues of commercial and office businesses that are assumed to be net new to the county. The chart on the next page provides estimates of the type of commercial/office businesses expected to locate in the study area of New Town.

Type of Commercial/Office Tenant Anticipated	Percentage of Commercial/Office Square Feet	Percentage of Business Revenues Assumed to be Net New in James City County
Relocating from other county location – No expansion	5%	0%
Relocating from other county – Expanding	45%	50%
New Retailers in market	50%	100%

The county's tax rate for retailers is \$0.20 per \$100. Contractors doing business in James City County pay a rate of \$0.16 per \$100 of the total construction investment. For the new business revenues from the office/commercial tenants, the tax rate for professionals of \$0.58 per \$100 has been attributed in the proportions described in the chart above. The incremental revenue from this tax will provide annual revenues to the county of nearly \$300,000 at buildout.

- Developer Proffers:** For this specific project, the developer has proffered \$105 per residential unit to help offset the capital costs of public schools in the county. It is assumed that this proffer is paid at the time each unit receives certain government approvals (e.g., subdivision plat approval). Therefore, after buildout, no additional revenue is expected from developer proffers. Additional proffers may be made by the developer as part of the complete submission for rezoning, such as cash proffers to help offset the cost of a desalinization plant for James City County; however, other than the \$105 for schools, no attribution of new revenue is made in this fiscal impact study.
- Miscellaneous Taxes and Revenues:** Other taxes and revenues collected by James City County include recording taxes, public service taxes, meals taxes, a variety of licenses, permits and fees, fines and forfeitures, revenues from the use of money and property, revenues from the Commonwealth and the Federal government, and charges for services. For any of these revenues attributable to residential development, unless otherwise noted the revenues are attributed on a per capita basis. The average household size in New Town Sections 2 and 4 is estimated at 1.7 persons, as all planned units are multifamily rather than single family detached dwellings.

The county anticipates that approximately 30% of its meals tax revenues will be generated by local residents rather than by tourists. Of the \$3.6 million in meals taxes budgeted for the 2001-2002 fiscal year, nearly \$1.2 million is expected to come from local residents dining out in restaurants located in the county. With 50,491 estimated residents in the county, this equates to a per capita revenue of \$21.38.

James City County collects recording taxes on real estate transfers. These include a deed recording tax of \$0.05 per \$100 of the selling price, an additional recording tax of \$0.05 per \$100 of the selling price, and a deed of trust recording tax of \$0.05 per \$100 of the face value of the mortgage. Because of turnover in existing homes (estimated at 5% annually after a home has existed at least 5 years), the county should continue to receive recording tax payments after buildout. This ongoing revenue stream is attributed only to the condominium (for-sale) residential units.

The county's 2001-2002 budget includes approximately \$10.1 million of other revenues, as detailed in the chart below. These miscellaneous revenues exclude revenue from the Commonwealth for the State "Car Tax" Initiative, as well as any state or federal funds dedicated to public education. These two types of revenue are dealt with separately.

<u>Budget Line Items</u>	<u>Budget Figure</u>
Public Service Assessments	\$1,370,142
Penalties and Interest (Property Taxes)	492,700
Bank Franchise Tax	141,400
E-911 Emergency Tax	760,000
Motor Vehicle Licenses	47,241
Dog Licenses	7,000
Cable TV Franchise Fee	387,000
Fines and Jail Committals	170,000
Interest on Short Term Investments	1,815,890
HB 599 Payments	1,036,866
ABC Profits	94,157
Wine Tax	63,707
Rolling Stock Tax	35,628
Shared Expenses (excluding Sales Tax for Education)	1,171,437
Categorical Aid (excluding School Resource Officer)	68,080
Miscellaneous Categorical Aid	60,000
Payments in Lieu of Taxes	4,645
Charges for Current Services	2,268,065
Miscellaneous Revenue	<u>123,720</u>
TOTAL	<u>\$10,117,679</u>

For this analysis, 90% of the miscellaneous revenues in the chart above (plus \$1,077,966 for meals taxes) has been attributed to incremental county residents in this development at a per capita figure of \$199.56. The remaining 10% has been attributed to new employment on site. The VEC's most recent data indicates that there are 25,220 people working within the county. On a per employee basis, 10% of the listed revenues (including meals tax from "locals") is \$44.39. This figure has been attributed to incremental employees generated by the construction and the new retail and commercial development.

Along with recording taxes, this group of miscellaneous revenues will provide the county with annual revenues ranging from estimates of \$29,800 in Year 1 when only construction activity is taking place to more than \$210,000 annually at buildout and beyond.

Local Government Expenditures

To estimate the incremental expenditures that this residential development will generate for James City County's government, the current per capita costs, as reported in the county's budget, have been applied to the estimated population for the households in this scenario. New retail and commercial activity also generates new government expenditures, and this has been incorporated in this analysis by the Employment Anticipation Method (Burchell).

The operating costs and debt service for public education have been adjusted because multifamily condominiums do not generate the same number of school children as single family housing (see below.) Based on the county's 2001 household population projection of 50,491, the non-school per capita costs of government in the county's budget are as follows:

<u>Expenditure Category</u>	<u>Per Capita Budget</u>
General & Administrative	\$180.27
Public Safety	\$252.40
Public Works	\$ 69.55
Health & Welfare	\$ 52.06
Recreation & Culture	\$164.49
Statutory & Unclassified	\$ 57.64
Capital Projects (Non-School)	\$ 97.27

Adjustment for School Children in Multifamily Condominium Projects

When asked by *The Wessex Group*, Williamsburg-James City County Public Schools indicated that they do not calculate the number of school children projected by type of housing unit. Some larger cities, such as Virginia Beach City Public Schools, do track these figures. In Virginia Beach, multifamily condominium developments (versus rental apartments) generate only about one fourth as many school children per unit as single family dwellings. Previous studies of multifamily housing in James City County conducted by *The Wessex Group* also show that very few school children will be generated in this New Town development.

To develop a reasonable adjustment for multifamily condominiums in James City County such as those proposed for this project, *The Wessex Group* looked at the county’s actual 2000-2001 public school enrollment by grade and applied the per-housing unit proportions documented by Virginia Beach. This calculation indicates that the condominium units proposed for this development would generate only about one third as many school children as the “average” household in James City County. This results in the following per capita average expenditure:

	<u>Expenditure Per Capita</u>	<u>Adjusted Expenditure Per Capita</u>
School Operating Costs (net of Sales Tax for Education and funding for School Resource Officer)	\$793.18	\$246.92
Debt Service – Schools	\$150.62	\$ 46.89

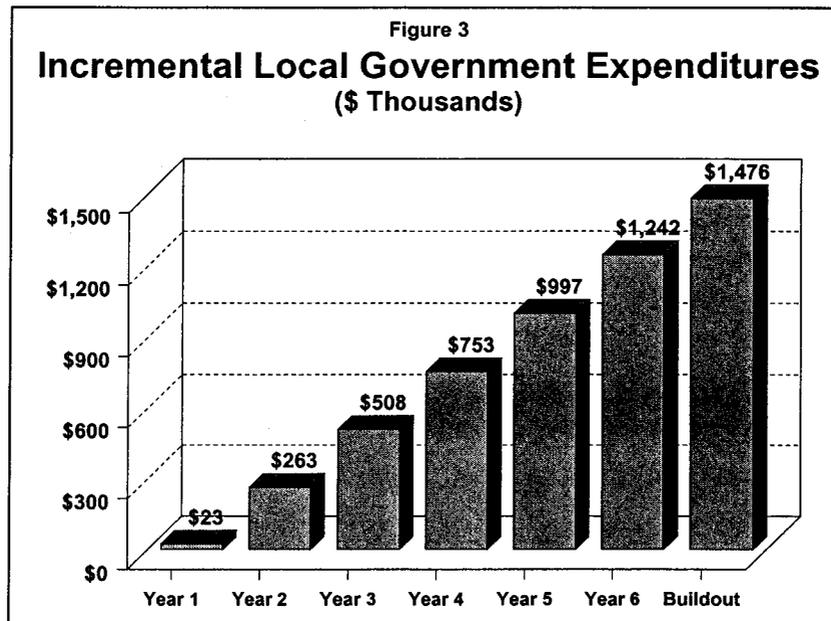
For the 200 residential units that are expected to be rental apartments, no adjustment has been made to per capita spending for schools.

The construction effort to build these homes and the supporting infrastructure, along with permanent retail employment generated by the new residents in the development, also will generate some incremental county expenditures. Dr. Robert W. Burchell’s Employment Anticipation Method has been used on a per FTE employee basis. This is a method of marginal costing that is based on an extensive study of the increase in a locality’s government costs generated by new, non-residential development. The Employment Anticipation Method predicts the change in municipal costs by using the coefficients developed in the study by Dr. Burchell, the per capita cost of government, and the number of incremental FTE employment positions.

Table 4 and Figure 3 illustrate the annual estimated expenditures. The incremental expenditures start at only about \$23,000 in Year 1 when there are no new residents or commercial activity, then increase steadily as the development proceeds. Expenditures are estimated at nearly \$1.5 million at buildout when the residential population is expected to be nearly 900 people.

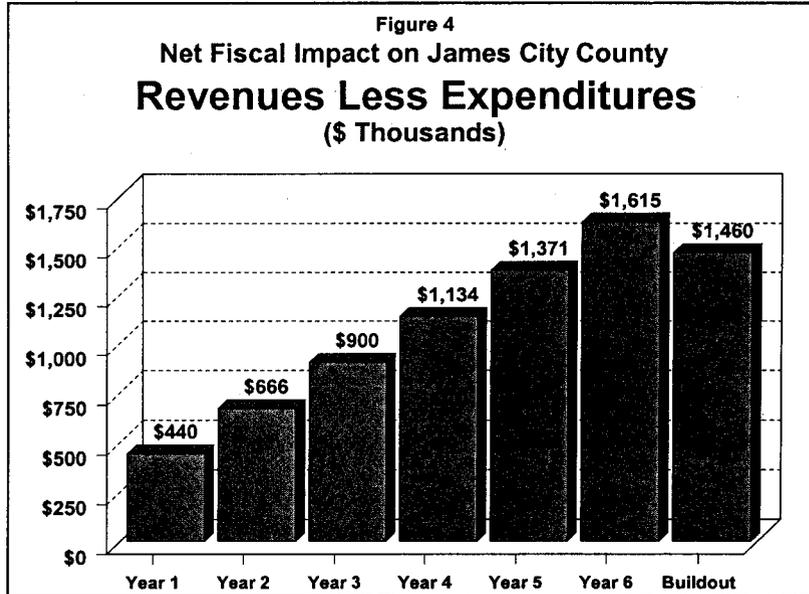
Table 4
Local Government Expenditures & Net Fiscal Impact

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Annually After Buildout</u>
Local Government Revenues	\$463,600	\$929,500	\$1,407,400	\$1,886,800	\$2,367,700	\$2,857,300	\$2,936,500
Government Expenditures							
General Government	\$1,000	\$29,100	\$57,300	\$85,600	\$113,900	\$142,100	\$170,500
Public Safety and Corrections	12,100	50,500	91,300	132,000	172,800	213,700	245,900
Public Works	500	11,600	22,800	34,000	45,200	56,400	67,500
Health and Welfare	0	7,700	15,400	23,100	30,800	38,500	46,500
Recreation and Culture	1,600	38,200	75,100	111,900	148,800	185,700	222,100
Statutory and Unclassified	3,000	13,900	25,400	36,900	48,500	60,000	69,400
Debt Service: Non-Education	5,000	22,900	41,800	60,600	79,500	98,400	113,700
Education	0	67,200	134,300	201,500	268,700	335,800	406,100
Debt Service: Education	0	22,300	44,600	66,800	89,100	111,400	134,400
Total Expenditures	\$23,200	\$263,300	\$508,000	\$752,600	\$997,200	\$1,242,100	\$1,476,100
Net Fiscal Impact	\$440,400	\$666,200	\$899,500	\$1,134,300	\$1,370,500	\$1,615,300	\$1,460,400



Net Fiscal Impact

The projected net impact of the development is calculated simply by subtracting the estimated incremental county expenditures from the estimates of incremental county revenues. Throughout the six years of planned development, as well as at buildout and beyond, the net fiscal impact estimates are projected to be positive, meaning that the county will collect more in government revenues than it will spend. The estimates are shown in Figure 4 below, and details in are Table 4 on the previous page.



Looking only at the development phase, the net present value of the stream of cash flows over six years (discounted at 3% - assumed to be the county's cost of capital less the effect of economic inflation) is \$5.4 million. Over 20 years, the net present value totals \$18.7 million.

Traffic Study For Sections 2 & 4 Of New Town (Casey Property)

JAMES CITY COUNTY, VIRGINIA

For:
New Town Associates LLC

By:
**DRW Consultants, Inc.
Midlothian, VA**

June 2001

Attachment 4

INTRODUCTION

The Casey Property New Town project was approved by the James City County Board of Supervisors in December 1997. The approval involved rezoning to R-8 with proffers, rural residential, and rezoning to MU with proffers for Section 1 of the project (encompassing the new courthouse area). The 1997 rezoning approval incorporated a traffic study dated April 15, 1997 and an executive summary with technical appendix dated July 2, 1997.

1997 proffers included section "4. Traffic Study" (see Appendix Exhibit P series for pages 12 through 16 of the 1997 proffers covering the traffic study criteria). These proffers require an update of the 1997 traffic studies for any further rezoning from R-8 with proffers, rural residential, to MU. This traffic study has been prepared for rezoning from R-8 with proffers, rural residential, to MU for Sections 2 & 4 of the New Town project (Casey property).

The location of the Casey property (as defined in the 1997 traffic studies) with respect to regional roads is shown on Exhibit 1. The Casey property is divided by Rt. 199 into two areas hereinafter referred to as Casey East and Casey West. Casey West will have a single access on Monticello Avenue west of Rt. 199. Casey East will have access on Monticello Avenue from Rt. 199 to east to Ironbound Road, and on Ironbound Road. The 1997 traffic studies also included the Beamer property (Monticello Marketplace and other development) as shown on Exhibit 1.

The first traffic study update under the New Town proffers was for WindsorMeade, dated July 24, 2000. The WindsorMeade study included several update elements as follows:

1. In 1999, the McCardle office park component of Section 1 (included in 1997 MU zoning) triggered a review of Section 1 access and background traffic on Old Ironbound Road. The 1999 McCardle study area is shown on Exhibit 2a. Access changes for Section 1 and modifications to background traffic from the McCardle study were included in the WindsorMeade study.
2. The boundary of Casey West was modified to reflect the sale of land to Ford's Colony. This is shown on Exhibit 2b.
3. Traffic for WindsorMeade, a retirement and elderly care community, was included.

This traffic study for rezoning of Sections 2 and 4 includes the following update elements

1. All updates in the WindsorMeade traffic study.
2. Traffic for the AVI and Post Office sites (located on Exhibit 2b) has been incorporated into 2015 background traffic forecast used in the 1997 studies.
3. Traffic for Sections 2 & 4 development (located on Exhibit 2b).

2015 BACKGROUND TRAFFIC

In the 1997 studies, 2015 daily background traffic was specified by VDOT in a January 16, 1997 letter, and is shown on report Exhibit 3. Background traffic is forecast traffic assuming no development of the site or sites in question.

The 1997 studies made adjustment to the Exhibit 3 2015 daily background traffic to account for existing and other future development as follows:

1. Eastern State Hospital at Ironbound Road/Longhill Connector.
2. Watford Lane residential area on Ironbound Road (to align with Center Street).
3. Tewning Road light industrial area on Ironbound Road.
4. Other development traffic on Old Ironbound Road intersections with Strawberry Plains Road and Monticello Avenue extended.

The 1997 traffic studies estimated daily traffic for these four areas as shown on Appendix Exhibit B3. The 1997 traffic studies used 2015 daily background traffic with the inclusion of these four areas as shown on Exhibit 4.

The 1997 traffic studies derived 2015 peak hour background traffic from the Exhibit 4 2015 daily background traffic in the following manner:

1. Two-way daily traffic turning movements at each intersection is derived from the total daily traffic on each link volume.
2. Directional splits are defined, generally 55%/45%. (See Appendix Exhibit C series for two way daily traffic turning movement volumes and directional splits.)
3. A k-factor (peak hour to daily traffic ratio) of 8% is used.
4. The two daily traffic turning movements are then multiplied by the directional splits and 8% k-factor.

Appendix Exhibits A2 and A3 show the resulting 2015 peak hour background traffic used in the 1997 studies.

In 1999, the McCardle property on Old Ironbound Road was submitted for site plan approval, and VDOT requested an examination of traffic forecasts on Old Ironbound Road to account for other development potential. Exhibit 2a shows the development area inventory on Old Ironbound Road. The resulting June 22, 1999 memo report and exhibits for the McCardle property included a reassessment of background traffic generated by other development on Old Ironbound Road. The Appendix Exhibit Q series presents trip generation, distribution and assignment of background traffic for other development on Old Ironbound Road.

The 1999 reassessment of other development on Old Ironbound road showed somewhat higher traffic in the AM and PM peak hours. Appendix Exhibits Q6 and Q7 show the resulting increase over the 1997 traffic studies in 2015 peak hour background traffic due to other development on Old Ironbound Road.

A traffic study was prepared for the AVI and Post Office sites by Wilbur Smith and Assoc. (WSA), dated October 15, 1999. The WSA study was not an update of previous Casey property studies, and the sites are not part of the 1997 rezoning area. Consequently, traffic for these two sites has been incorporated into 2015 background traffic.

For the AVI and Post Office sites, Appendix Exhibit R1 shows trip generation, Appendix Exhibits R2 and R3 show traffic assignment, and Appendix Exhibits R4 and R5 show adjustment to 2015 background traffic both for the 1999 McCardle study and the 1999 AVI and Post Office study. These increases have been added to the 2015 background traffic forecast used in the 1997 traffic studies (shown on Appendix Exhibits A2 and A3), and the resulting 2015 peak hour background traffic volumes are shown on report Exhibits 5 and 6.

TRIP GENERATION FOR BEAMER PROPERTY

The 1997 traffic studies used Trip Generation, 5th Edition (TG5) by the Institute of Transportation Engineers (ITE). Since the 1997 traffic studies, ITE has published Trip Generation, 6th Edition (TG6). Trip generation for the Beamer property development has been recalculated using TG6.

The development inventory for the Beamer property in this traffic study is the same as that in the 1997 traffic studies. Detailed trip generation for each section of the Beamer property using TG6 is shown in the Appendix Exhibit D series, and summarized on Exhibit 7.

This traffic study uses the same on site capture/pass by trip criteria as that in the 1997 traffic studies as follows:

- 15% on site capture of the lower of residential versus non-residential uses. The remaining trips are defined as off site trips.
- 15% pass by trips is used for sections where no on site capture is applied, and
- 10% pass by trips is used for sections where on site capture is applied.

On site capture trips, off site trips, pass by trips and resulting primary trips are shown in detail on the Appendix Exhibit E series.

The resulting total trips, on site capture trips, off site trips, pass by trips and primary trips for the Beamer property are shown on report Exhibit 7.

TRIP GENERATION FOR MU ZONING TO DATE

Section 1 of the Casey property has been included in this study in the same manner as the previous WindsorMeade study.

Exhibit 7a shows trip generation for the WindsorMeade development. Table 1 shows various trip generation rates for the types of uses in WindsorMeade. Table 2 shows the inventory for development in WindsorMeade. The inventory for development is translated to specific trip

generation land uses in Table 3 (both assisted living and special care are treated as congregate care).

SECTION 2 & 4 TRIP GENERATION

- The development for Sections 2 & 4 is the same as in the 1997 traffic studies:
- Section 2: 245,000 sq. ft. shopping center
- Section 4: 176,875 sq. ft. general office building
- Section 4: 176,875 sq. ft. shopping center
- Section 4: 669 apartments

For all Beamer and Casey property traffic, total trip generation for each section is shown in the Appendix Exhibit D series and internal trip and pass by capture calculations are shown in the Appendix Exhibit E series. Total trip generation for the Casey and Beamer properties is shown on Exhibit 7.

TRIP DISTRIBUTION AND ASSIGNMENT

Trip distribution for Casey and Beamer property primary trips is shown on Exhibit 8 and explained as follows:

1. North: 30 % via Rt. 199 north and the Longhill Connector (providing access to Rt. 199 at the Longhill Road interchange).
2. South: 30% via Rt. 199 south and Strawberry Plains Road (providing access to Rt. 199 at the Rt. 5 interchange).
3. East: 10% via Monticello Avenue and Ironbound Road.
4. West: 30% via Alt. Rt. 5, Ironbound Road and News Road.

This is the same trip distribution used in the 1997 traffic studies.

Trip distribution and assignment for all development presented in this study are presented in the Appendix Exhibits as follows:

- Trip distributions for each development section are in the Appendix Exhibit F series.
- Casey property trip assignments are shown in the Appendix Exhibit G and H series.
- Beamer property trip assignments are shown on the Appendix Exhibit I and J series.

TOTAL 2015 PM PEAK HOUR TRAFFIC AND LEVEL OF SERVICE RESULTS

Exhibits 9 and 10 respectively show total 2015 AM and PM peak hour traffic:

- 2015 background traffic with Old Ironbound development area and AVI/Post Office updates.
- All Beamer traffic using TG6.
- Casey Sections 1, 2, 4 and 14 using TG6 and 1999 McCardle trip assignment for Section 1.

The intersection lane configurations shown on Exhibits 9 and 10 are the same as those shown in the WindsorMeade study for intersections of concern except for Monticello/Ironbound and Ironbound/North Boulevard. The lane configuration for Monticello/Ironbound includes the planned widening of Monticello at Ironbound as approved by the General Assembly (without widening Ironbound Road to four lanes). At Ironbound/North Boulevard, a right turn lane and a left turn lane are added.

LOS calculations are provided for the following intersections:

- Monticello Avenue/Casey West
- Monticello Avenue/Rt. 199
- Monticello Avenue/Center Street
- Monticello Avenue/Court Street
- Monticello Avenue/Ironbound Road
- Old Ironbound Road/Strawberry Plains/Section 1

Overall intersection LOS results are shown on Exhibits 9 and 10.

The 1997 proffers require:

- signalized intersection LOS C for each intersection and each lane group as isolated intersections, or
- signalized intersection LOC C for each intersection and LOS D for each lane group as part of a coordinated traffic signal system.

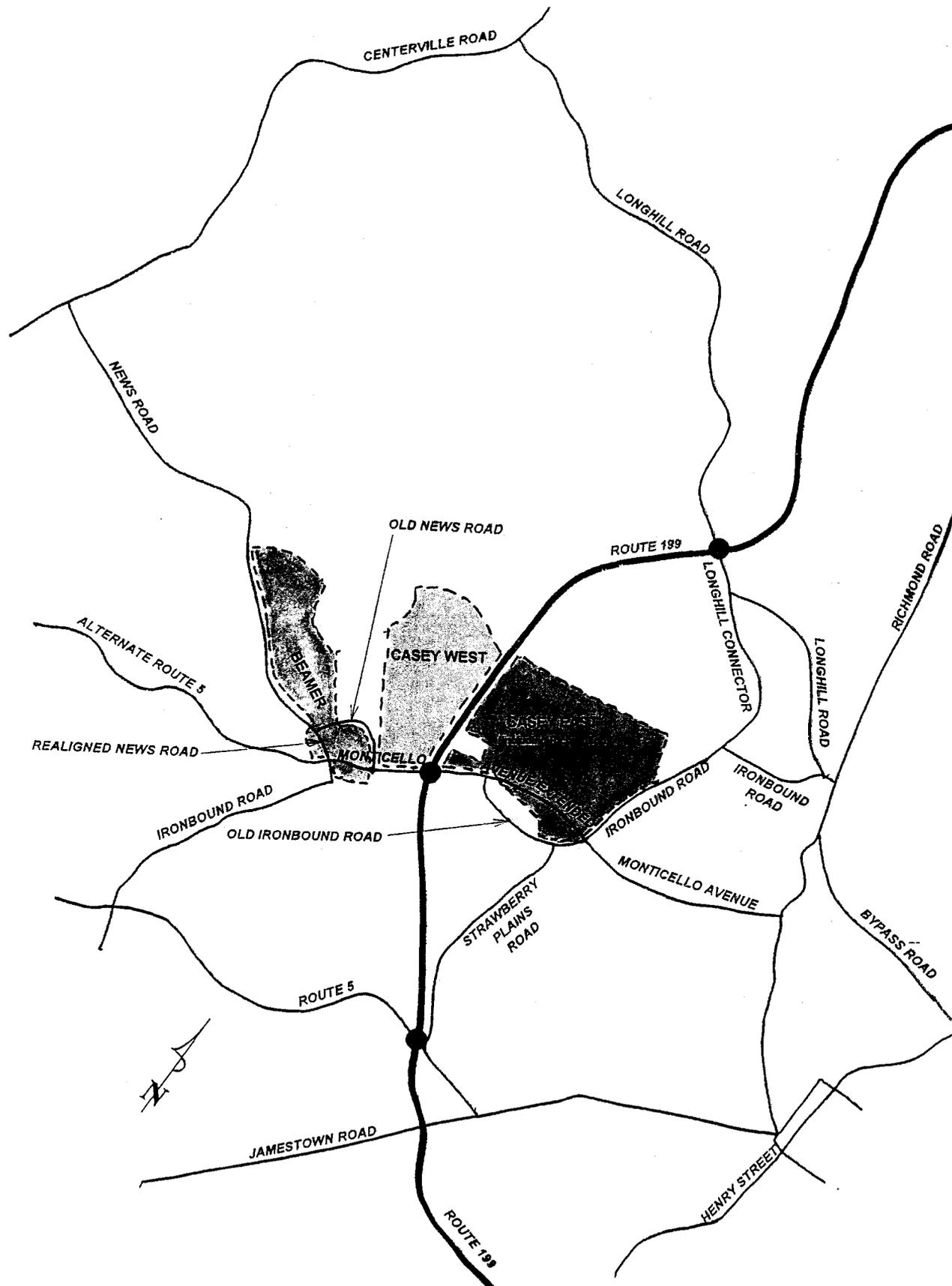
The LOS calculations in this traffic study are for isolated intersections.

The Appendix Exhibit M series shows the AM peak hour LOS calculations, and the Appendix Exhibit N series shows the PM peak hour LOS calculations. LOS C or better is achieved for each lane group at each intersection.

SUMMARY AND CONCLUSIONS

LOS C is achieved in accordance with the proffer requirements. In accordance with the 1997 proffers, the only improvements required for the addition of Section 2 and 4 development traffic are:

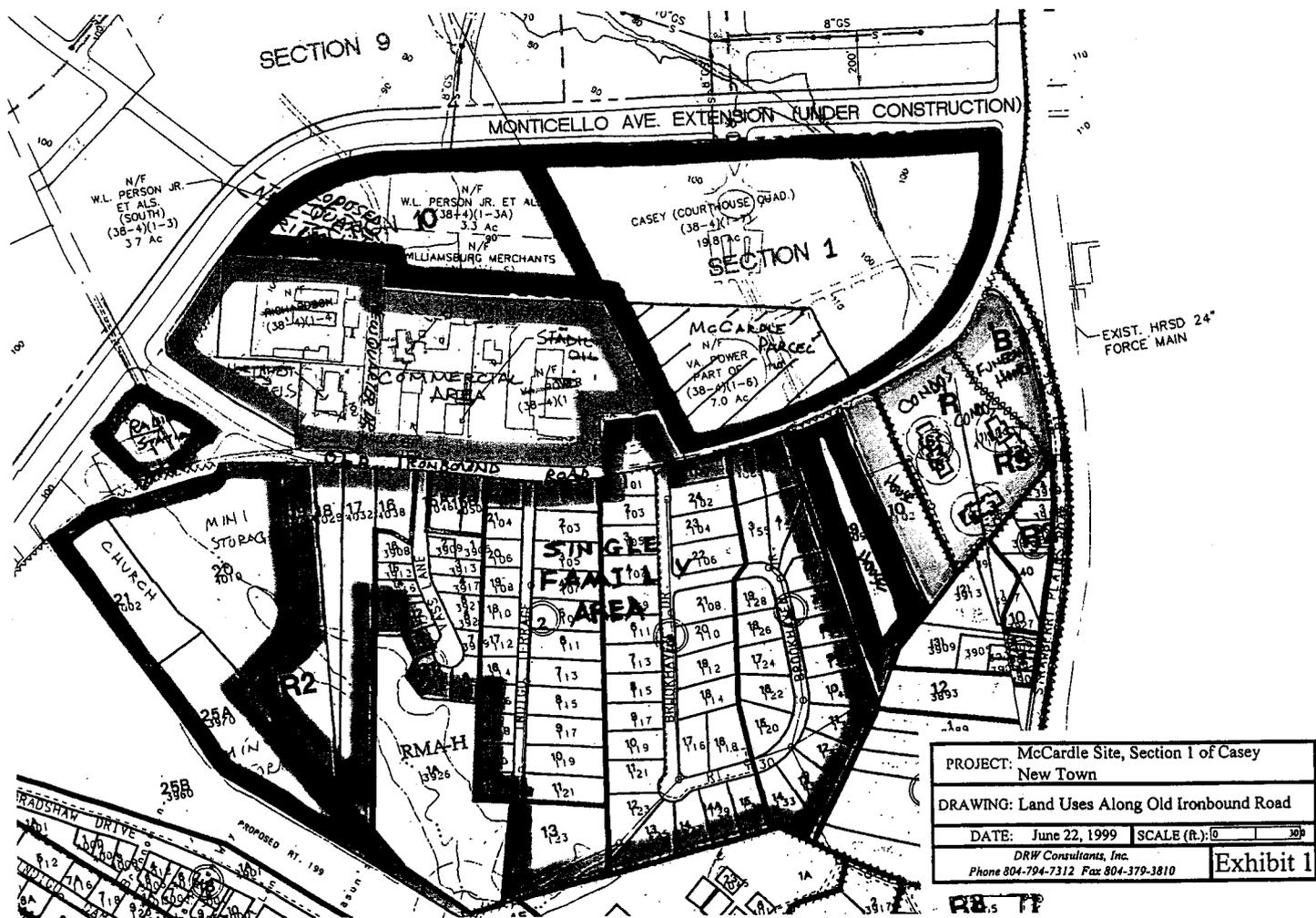
1. The widening of Monticello Avenue at Ironbound Road as approved by the General Assembly.
2. The addition of right turn and left turn lanes on Ironbound Road at North Boulevard.
3. Signalization of the following intersections when warranted:
 - Monticello/Center St.
 - Monticello/Court St.
 - Ironbound/North Boulevard



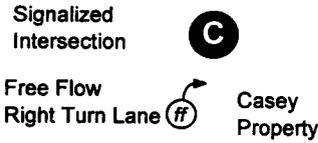
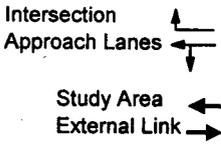
LOCATION OF CASEY AND BEAMER PROPERTIES
WITH RESPECT TO EXISTING AND PLANNED ROADS

DRW Consultants, Inc.
804-794-7312

Exhibit 1



LEGEND

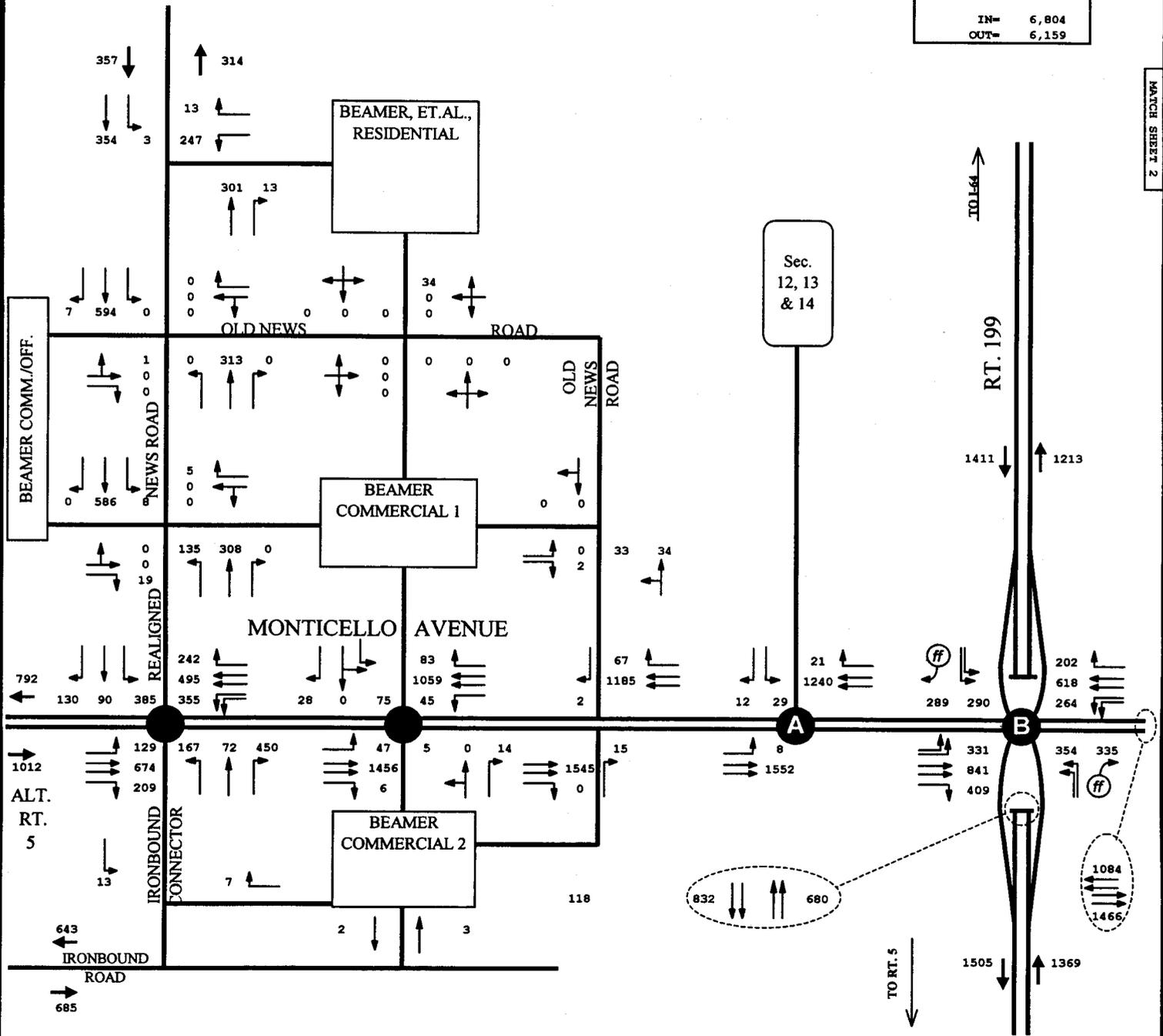


Sec. 2



EXTERNAL LINK TOTAL SHEETS 1 & 2	
IN=	6,804
OUT=	6,159

Ex. 6 Background	
IN=	5,442
OUT=	5,184
EX. H15 Casey	
IN=	951
OUT=	561
EX. J6 Beamer	
IN=	411
OUT=	414
IN=	6,804
OUT=	6,159



WATCH SHEET 2

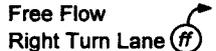
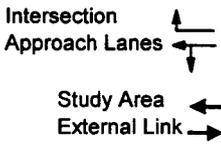
TOTAL 2015 AM PEAK HOUR TRAFFIC
BACKGROUND TRAFFIC WITH BEAMER
AND CASEY SECTIONS 1, 2, 4 AND 14
JUNE 2001

DRW Consultants, Inc.
804-794-7312

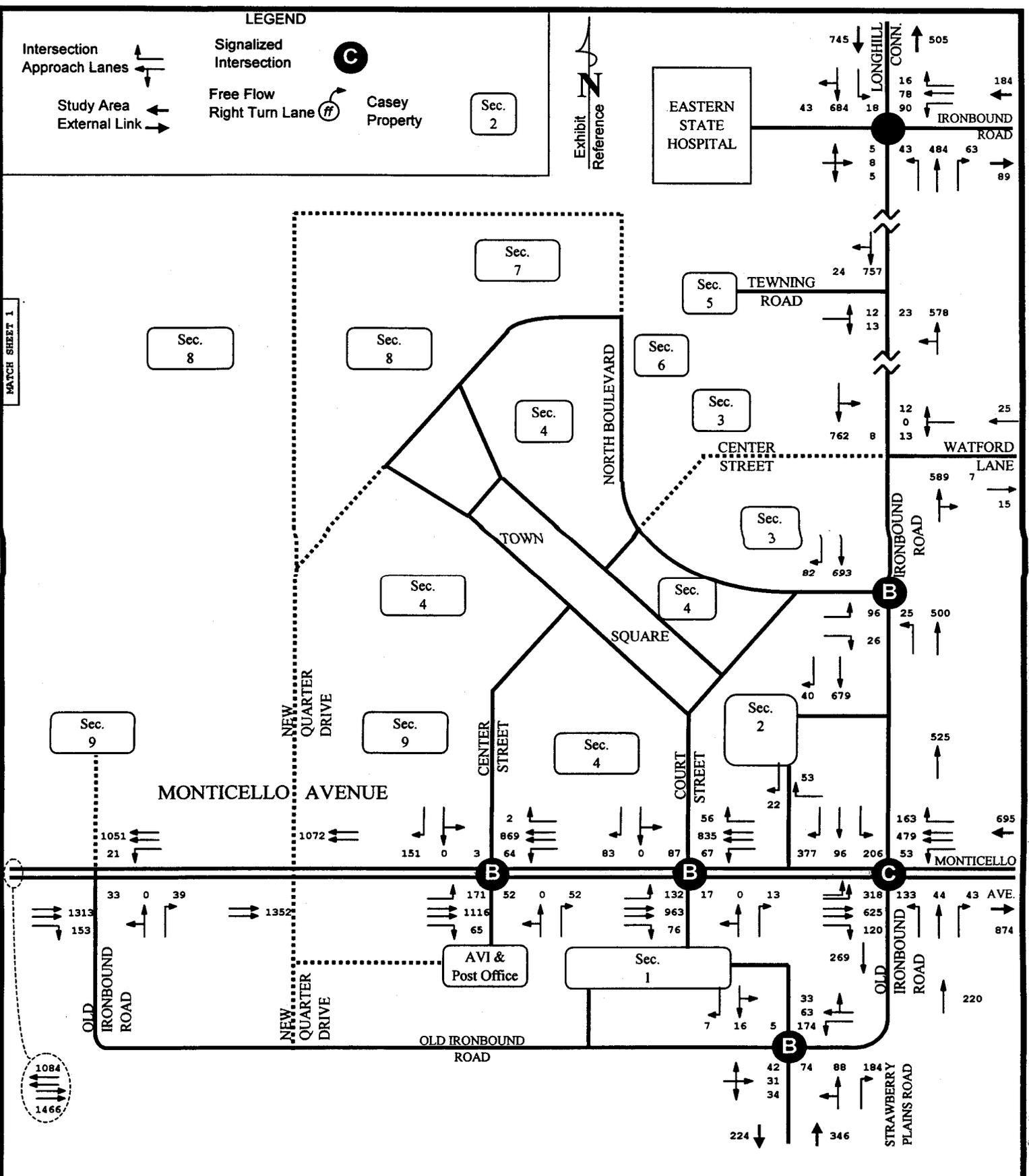
Exhibit 9

Sheet 1 of 2

LEGEND



MATCH SHEET 1

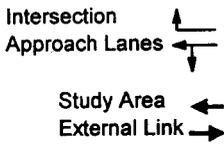


TOTAL 2015 AM PEAK HOUR TRAFFIC
 BACKGROUND TRAFFIC WITH BEAMER
 AND CASEY SECTIONS 1, 2, 4 AND 14
 JUNE 2001

DRW Consultants, Inc.
 804-794-7312

Exhibit 9
 Sheet 2 of 2

LEGEND



Signalized Intersection



Free Flow Right Turn Lane



Casey Property

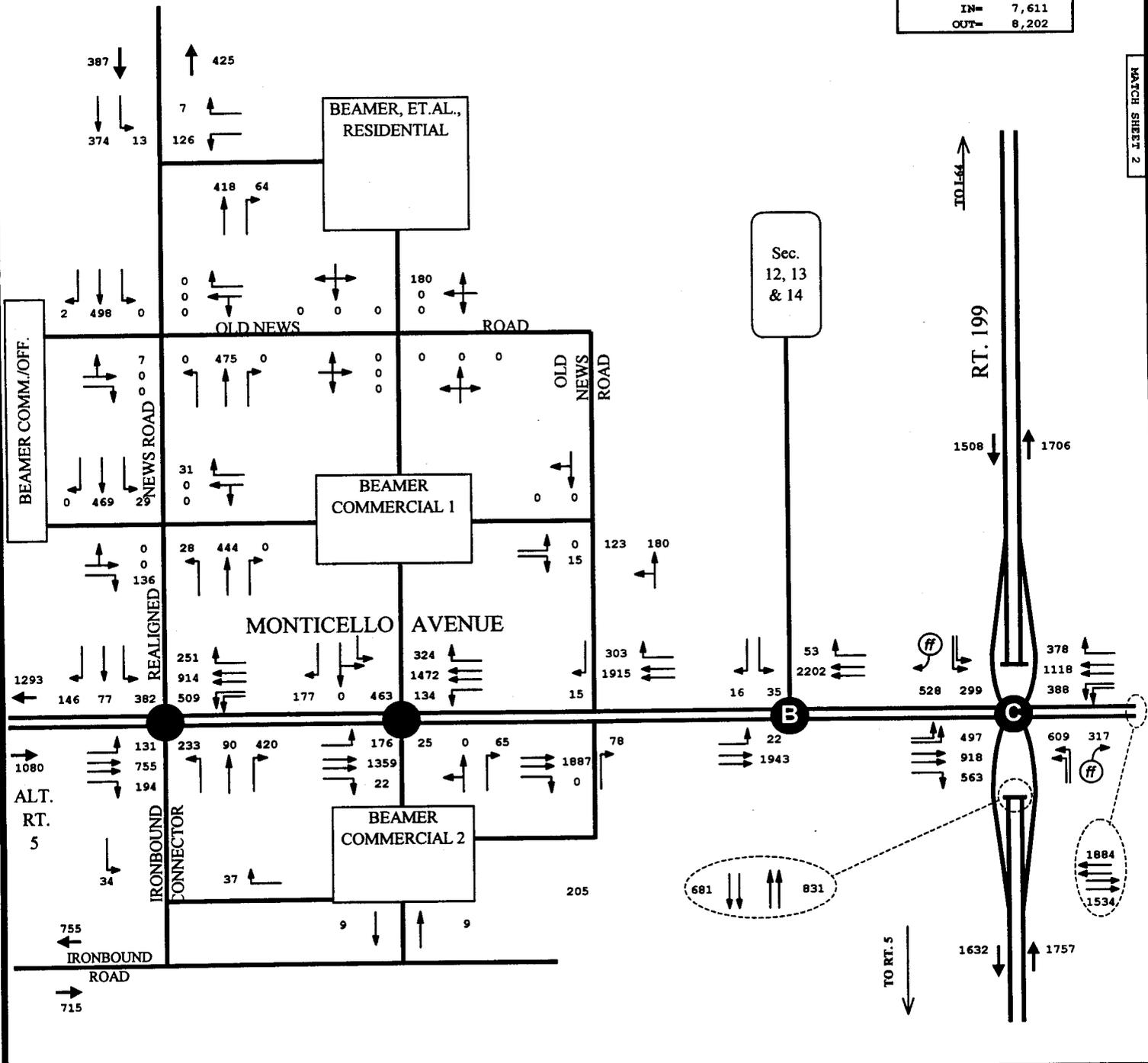
Sec. 2

Exhibit Reference

EXTERNAL LINK TOTAL SHEETS 1 & 2	
IN=	7,611
OUT=	8,202

Ex. 6 Background	
IN=	5,207
OUT=	5,441
EX. H15 Casey	
IN=	1,362
OUT=	1,681
EX. J6 Beamer	
IN=	1,042
OUT=	1,080
IN=	7,611
OUT=	8,202

MATCH SHEET 2

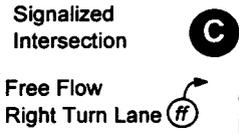
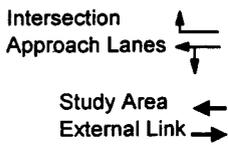


TOTAL 2015 PM PEAK HOUR TRAFFIC
BACKGROUND TRAFFIC WITH BEAMER
AND CASEY SECTIONS 1, 2, 4 AND 14
JUNE 2001

DRW Consultants, Inc.
804-794-7312

Exhibit 10
Sheet 1 of 2

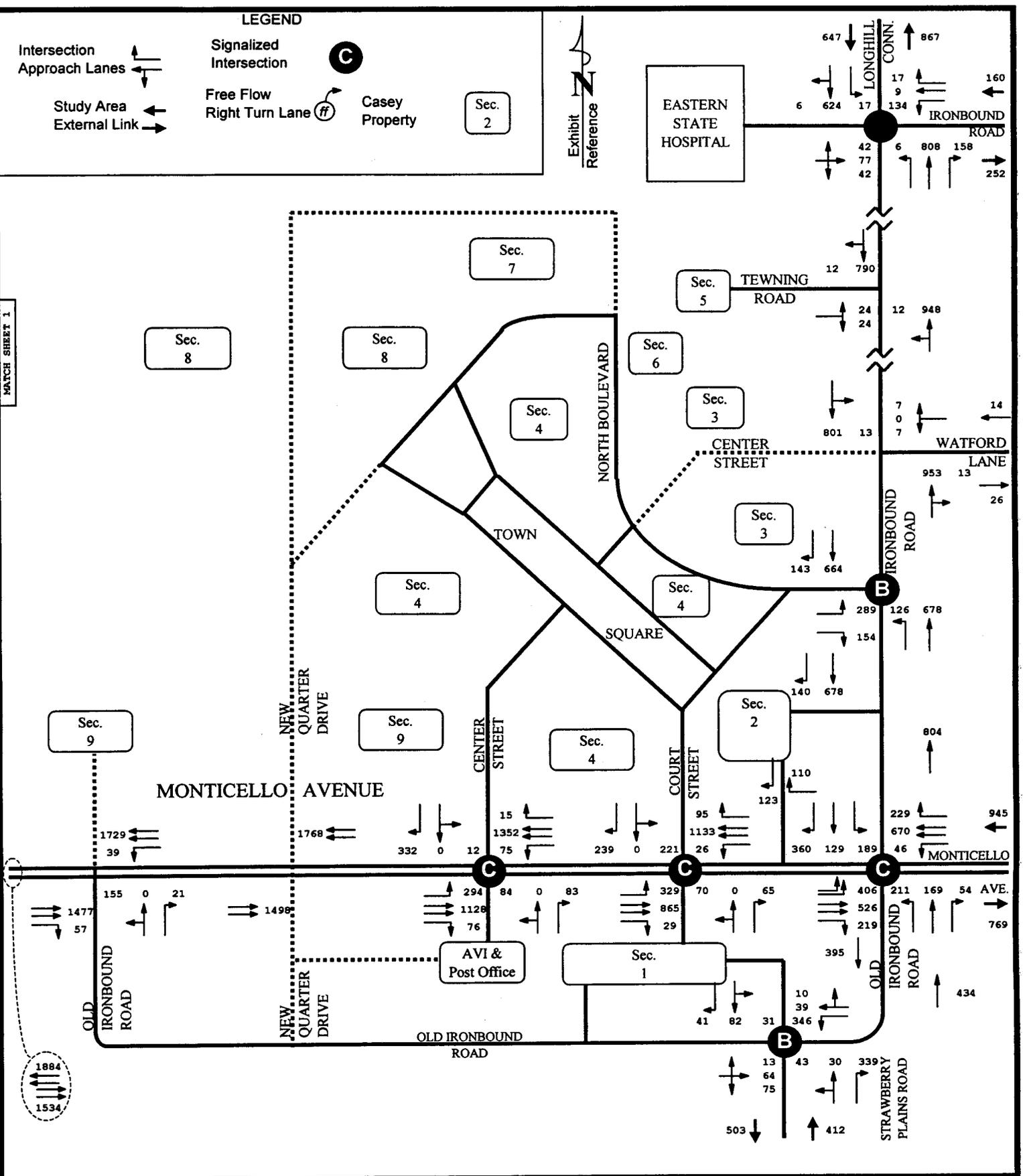
LEGEND



Sec. 2



MATCH SHEET 1



**TOTAL 2015 PM PEAK HOUR TRAFFIC
BACKGROUND TRAFFIC WITH BEAMER
AND CASEY SECTIONS 1, 2, 4 AND 14
JUNE 2001**

DRW Consultants, Inc.
804-794-7312

Exhibit 10
Sheet 2 of 2

NEW TOWN - SECTIONS 2 and 4 - PROFFERS

THESE PROFFERS are made as of this 19th day of October, 2001, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Associates") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

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

R-2. The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no. 980001284.

R-3. The New Town Proffers provide for development of the Property in accordance with (i) 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"), and (ii) 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-4. In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Associates, as the owner of the Property, has applied for a rezoning of the Property from MU, Mixed-Use, in part, and R-8, Rural Residential, in part, to MU, Mixed-Use, with proffers. The rezoning of the Property to MU, with proffers, 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 in effect on the date hereof (the "Zoning Ordinance").

R-5. Associates has submitted an update to the Community Impact Statement previously filed with the County's Director of Planning which satisfies the requirements of Section 24-515(c) of the Zoning Ordinance and the New Town Proffers, which update to the Community Impact Statement includes, without limitation, an updated Fiscal Impact Study which has been reviewed and accepted by the County in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the Community Impact Statement, are on file with the County's Director of Planning.

R-6. 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-7. 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-8. Associates 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, a master plan entitled "NEW TOWN SECTIONS 2 & 4 MASTER PLAN", dated June, 2001, revised September 14, 2001 (the "Sections 2 and 4 Master Plan") and design guidelines entitled "NEW TOWN SECTIONS 2 & 4 DESIGN GUIDELINES", dated June 21, 2001 (the "Sections 2 and 4 Guidelines") for the Property, copies of which Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines are on file with the County's Director of Planning.

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

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

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Sections 2 and 4 Master Plan, the Sections 2 and 4 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, Associates agree that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

PROFFERS APPLICABLE TO ALL THE PROPERTY

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. New Town Owner's Association. Either a supplemental declaration (the "Supplemental Declaration") shall be executed and recorded in the Clerk's Office to submit all or a

portion of the Property to the New Town Master Association, a Virginia non-stock corporation (the "Commercial Association"), and to the Master Declaration of Covenants, Easements and Restrictions for New Town, dated June 22, 1998, recorded in the Clerk's Office as documents no. 980013868, the articles of incorporation and the bylaws governing the Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof, or, in the alternative, for any of the Property not submitted by the Supplemental Declaration, a separate association (the "Residential Association") shall be formed. In addition to the Commercial Association and Residential Association, one or more separate owners or condominium associations may be organized for the Property (each individually a "Separate Association") and supplemental restrictive covenants may be imposed on the Property. The Supplemental Declaration and any articles of incorporation, bylaws and declaration associated with separate owner's associations for the Property (collectively, the "Governing Documents"), if any, shall be submitted to and reviewed by the County Attorney for general consistency with this proffer. The Governing Documents shall (i) require that the applicable association adopt an annual maintenance budget and assess all members for the maintenance of the properties owned or maintained by such association, (ii) grant such association the power to, and require that such association, file liens on member's properties for non-payment of such assessments and for the cost to remedy violations of, or otherwise enforcing, the Governing Documents, and (iii) provide that the DRB is to serve as a design review board for each association formed with respect to the Property.

3. Development Process and Land Use.

(a) Development. All the Property shall be developed, in one or more phases, generally in accordance with the Sections 2 and 4 Master Plan and the Sections 2 and 4 Guidelines; provided, however, there are two categories of certain specifically identified development items

depicted on or described by the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines. These categories and their respective development items are as follows:

“Fixed Development Items”:

- (i) land uses,
- (ii) densities,
- (iii) streets designated on Sections 2 and 4 Master Plan as “REQUIRED” (“Required Streets”)
- (iv) “Civic Green”, “Court Square”, “Pecan Square”, and “Village Community Spaces” (as those terms are defined in Section 6 hereof), and
- (v) buffer areas

“Flexible Development Items”:

- (i) pedestrian connections,
- (ii) streets other than Required Streets,
- (iii) areas of commercial use, office use, residential use, parking placement zones, view triangles, “build-to zones” and frontage zones and all other structures and improvements that are not Fixed Development Items.

The Sections 2 and 4 Master Plan provides for the location of the Fixed Development Items, but only the general location of the Flexible Development Items. Flexible Development Items are shown on the Sections 2 and 4 Master Plan for illustrative purposes only, and may be altered, moved or eliminated subject to DRB review and approval pursuant to subsection 3(b) below. Notwithstanding the aforesaid, 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 and/or provided such changes are in compliance with the Zoning Ordinance are reviewed by the County Planning Director pursuant to subsection 3(c) below and receive DRB review and approval.

(b) DRB Authority, Duties and Powers. All subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual

entitled "NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY", as the same may be amended by the DRB from time to time, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines. Evidence of DRB approval of plans required to be submitted to the County for approval shall be provided with any submission to the County Department of Development Management of such plans. 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 Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines. 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 Sections 2 and 4 Guidelines and/or the Sections 2 and 4 Master Plan and the reasons for such finding and suggestions for curing the inconsistencies. The DRB may approve development plans that do not strictly comply with the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 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 and open space, wetlands and other natural features on the Property shall be constructed, improved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

(c) Procedures for Changes to Sections 2 and 4 Master Plan and Sections 2 and 4 Guidelines. Applications to change the Sections 2 and 4 Master Plan and/or the Sections 2 and 4 Guidelines are to be made to the Planning Commission or the Board of Supervisors, as appropriate, as hereinafter provided and in accordance with the Zoning Ordinance.

In accordance with Section 24-518 of the Zoning Ordinance, all of such amendments shall be subject to the approval of the County Planning Commission if, after reviewing written confirmation from the County's Director of Planning, the Planning Commission concludes that the changes do not significantly alter the character of the land uses or other features or conflict with any conditions placed on the approval of the rezoning.

No amendment of the Sections 2 and 4 Master Plan and/or Sections 2 and 4 Guidelines which significantly alters the character of land uses or other material features or conflicts with any conditions placed on approval of the rezoning as determined by the County's Director of Planning, and, if applicable under Section 24-518 of the Zoning Ordinance, the Planning Commission, shall be effective unless approved by the County Board of Supervisors.

Any change or amendment shall apply after its effective date but shall not require modification or removal of any previously approved construction.

(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 or modifications, nor for ensuring compliance with building codes or other governmental requirements, or ordinances or regulations. Neither the Associates, 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.

4. Traffic Study and Road and Signal Improvements/Traffic Signal Preemption Equipment.

(a) In accordance with the requirements of Section 4 of the New Town Proffers, Associates has submitted to the County an updated traffic study entitled "TRAFFIC STUDY FOR SECTIONS 2 & 4 OF NEW TOWN (CASEY PROPERTY), JAMES CITY COUNTY,

VIRGINIA”, dated June 2001, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County’s Director of Planning.

(b) The following entrance and road improvements shall be completed (or bonded) for the “North Boulevard” (as designated in the Traffic Study) connection to Ironbound Road when warranted by VDOT:

- (i) A northbound left turn lane on Ironbound Road
- (ii) A southbound right turn lane on Ironbound Road
- (iii) On North Boulevard, a minimum of two lanes approaching Ironbound Road and two lanes departing Ironbound Road.

A traffic signal shall be designed and installed (or bonded) as required by the Virginia Department of Transportation (“VDOT”) when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the James City County Fire Department.

(c) There shall be completed (or bonded) on “Court Street” (as designated in the Traffic Study) two lanes approaching Monticello Avenue and two lanes departing Monticello Avenue, when warranted by VDOT. A traffic signal shall be designed and installed as required by VDOT when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the County Fire Department.

(d) For the “Center Street” (as designated in the Traffic Study) connection to Monticello Avenue, the following entrance and road improvements shall be completed (or bonded) when warranted by VDOT:

- (i) On “Center Street” (as designated in the Traffic Study), two lanes approaching and two lanes departing Monticello Avenue.
- (ii) A westbound right turn lane on Monticello Avenue at Center Street.

After opening of the Center Street connection to Monticello Avenue, a traffic signal shall be designed and installed (or bonded) as required by VDOT when warranted at the intersection, which traffic signal shall include, subject to VDOT approval, traffic signal preemption equipment meeting VDOT design standards and acceptable to the County Fire Department.

(e) Prior to occupancy of greater than 175,000 square feet of office space or, if sooner, equivalent p.m. peak hour trip generation from the Property, the following road improvements shall, subject to section 23-4.01 of the Virginia Code, as applicable, be completed (or bonded) at the intersection of Monticello Avenue with Ironbound Road:

- (i) A second through lane on eastbound Monticello Avenue and on westbound Monticello Avenue.
- (ii) Right turn lanes on eastbound and westbound Monticello Avenue.

(f) The road improvements identified in items (b), (c), (d) and (e) above shall be installed to VDOT standards and specifications.

5. Affordable Housing. A minimum of fifteen (15) residential dwelling units constructed in Sections 2 and 4 of the Property combined shall be initially offered for sale for a period of six (6) continuous months after the issuance of a building permit for such units at a price at or below \$105,000, subject to adjustment as set forth herein, and a minimum of twenty-five (25) residential dwelling units constructed in Sections 2 and 4 of the Property combined shall be initially offered for sale for a period of six (6) continuous months after the issuance of a building permit for such units at prices between \$105,000 and \$140,500, subject to adjustment as set forth herein. The \$105,000 and \$140,000 prices set forth herein shall be increased by adjusting such price by the cumulative rate of inflation as measured by the Consumer Price Index – Urban, U.S. City Average annual average change for the period from January 2001 until the date of the settlement for the dwelling unit in question. The Director of Planning shall be provided with a copy of the listing

agreement and sales literature for each residential dwelling unit offered for sale at a price at or below the adjusted price set forth above.

6. Community Spaces. The Sections 2 and 4 Master Plan and the Sections 2 and 4 Guidelines set forth (i) a “Village Green” and a “Village Square” or such alternative centrally located village community space as the DRB may approve as consistent with the Sections 2 and 4 Guidelines (collectively, the “Village Community Spaces”), (ii) a “Civic Green” (“Civic Green”), (iii) a “Court Square” (“Court Square”), and (iv) “Pecan Square” (“Pecan Square”). The construction of the Civic Green and Court Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising twenty-five percent (25%) of the allowable non-residential density of Section 2. The construction of the Village Community Spaces shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising sixty percent (60%) of the allowable non-residential density of Section 2. The construction of Pecan Square shall be completed within ninety (90) days of the date building permits have been issued for the construction of building improvements comprising fifty percent (50%) of the allowable residential or non-residential density of that portion of Section 2 identified on the Sections 2 and 4 Master Plan as fronting Ironbound Road, lying between Pecan Square and the Civic Green, and bounded on two sides by Required Streets. In lieu of such completion, but in order to provide completion assurances, an agreement may be made with the County and the County may be furnished with a certified check, bond with surety or letter of credit in an amount equal to one hundred fifty percent (150%) of the estimated cost to complete the respective improvements based upon preliminary site development plans approved by the DRB, 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 Civic Green, the Court Square, the Pecan Square, the “Neighborhood Green” (as designated on the Sections 2 and 4 Master Plan), and the Village Community Spaces (collectively, the “Community Spaces”) are subject to the provisions of paragraph 3(c) hereof, and shall be further expressly subject to such changes in configuration, composition and location as required by governmental authorities, other than the County, having jurisdiction over said areas, provided such changes are in compliance with the Zoning Ordinance are reviewed by the County Planning Director and receive DRB review and approval. The Community Spaces shall be maintained by the Commercial Association, the Residential Association and/or a Separate Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the responsible association; provided, however, no permanent barriers shall be erected or maintained to prohibit pedestrian access to such Community Spaces.

7. Open Spaces. The Property shall comply with applicable County open space requirements, including Section 24-524 of the Zoning Ordinance. The applicable open space requirements in developing the Property may be met by specifically designating open space on the remainder of the “R-8 Property” (as defined in the New Town Proffers) as and when the Property is developed and such open space requirements applicable to the Property cannot reasonably be met by identifying open space located on the Property. Such designation of open space on the remaining R-8 Property may be subject to change with the prior written approval of the County’s Department of Development Management. At the request of the County, Owner shall subject that portion of the Property designated on the Sections 2 and 4 Master Plan as the “Woodland Preserve” to an open space (for Section 24-524 compliance) or a natural open space easement, as appropriate, to ensure compliance with open space requirements with respect to such area. Further, Associates may utilize Community Spaces, in part, to meet the open space requirements for the Property.

8. Ironbound Road Right-of Way. At such time as VDOT is prepared to improve at its sole cost and expense Ironbound Road, there shall be conveyed, free of charge to the County or VDOT, in a single conveyance, up to an additional _____ (____) feet in width of the adjacent portion of the Property and the adjacent portion of the R-8 Property both areas lying adjacent to, and along, Ironbound Road, which property to be conveyed is necessary for the upgrade of Ironbound Road to a variable width four lane road with medians and bikeways generally as described in the Sections 2 and 4 Guidelines.

9. Streetscapes. All site development and subdivision plans for development within the Property shall include streetscape plans for adjacent streets within the Property and pedestrian connections on the Property, or the portion thereof so developed, along main roads adjoining the Property, consistent with the Sections 2 and 4 Guidelines applicable to the Property. The approved streetscape plan, including, where required, street trees, the town wall or fence, sidewalks, walking trails, crosswalks, street lighting, street furniture, and bike lanes, and any other miscellaneous improvements required by the Sections 2 and 4 Design Guidelines and approved by the DRB shall be implemented when the adjacent portion of the Property is developed.

10. Bus/Transit Facilities. At least three (3) bus pull-off areas and bus stop shelters shall be constructed on the Property, one each on the proposed Court Street and North Boulevard within Sections 2 and 4, respectively, of the Property and the third elsewhere on the Property, or at such reasonable alternative locations as approved by the County Transit Administrator. Design of the pull-offs and shelters shall be approved in advance by the DRB. The pull-offs and shelters shall be installed when the adjacent roadways are constructed.

11. Recreation Facilities. The Property is being developed in furtherance of a comprehensive town plan that is subject to the Section 2 and 4 Guidelines and the Section 2 and 4 Master Plan which provide for a more urban approach to the design of buildings and public spaces

to avoid conventional suburban patterns and promote a walking environment, and implementation of such development design will provide for a network of sidewalks, alleyways and community areas. Specifically, in furtherance of the County Comprehensive Parks and Recreation Plan proffer guidelines, as in effect on the date hereof, recreation facilities in the form of the Community Spaces to be established at the Property shall be provided, open to all residents of the development, and maintained and regulated by the Commercial Association, the Residential Association and/or a Separate Association. Further, prior to issuance of certificates of occupancy for more than one hundred (100) residential dwelling units in Section 4 of the Property, there shall be installed in Section 4 at least one (1) playground or such alternative neighborhood recreation or urban park area(s) as approved by the DRB.

12. Water Conservation. The owner(s) of the Property, the Residential Association and the Commercial Association shall be responsible for developing and enforcing, as to the Property, water conservation standards to be submitted to and approved by James City Service Authority (the "JCSA"). The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to reduce the total irrigated area of the Property in order to accomplish the limitation on use of public water and groundwater. The standards shall be approved by the JCSA prior to approval of the first site plan for development of the Property or any portion thereof.

13. Contribution for Affordable Public Housing and Public Facilities.

(a) Affordable Housing; Water; Recreation; Library; Economic Development; Miscellaneous. A contribution shall be made to the County in the amount of Seven Hundred

Dollars (\$700), for each individual residential dwelling, house, condominium or other residential unit (individually, a "Residential Unit", and collectively, the "Residential Units") developed on the Property (the "Per Unit Facilities Contribution"). The County shall make these monies available for either affordable housing initiatives, development of water supply alternatives, public library purposes, economic development, recreational facilities, or, in the discretion of the Board of Supervisors of the County, any other project in the County's capital improvement plan, the need for which is deemed by the County to be generated by the development of the Property. In the event the monies are not used by the County for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts not used shall be returned to Associates or to its assignees without interest. The Per Unit Facilities Contribution shall be payable for each of the Residential Units developed within the Property at the time of issuance of a building permit by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

(b) School Facilities. A contribution shall be made to the County in the amount of Two Hundred Twenty Dollars (\$220), for the initial 370 Residential Units developed on the Property (the "Per Unit School Contribution"). The County shall make these monies available for acquisition of school sites and/or construction of school facilities. In the event the monies are not used by the County for the purposes designated within twenty (20) years from the date of receipt by the County, the amounts not used shall be returned to Associates or its assignees, without interest. Such contributions shall be payable for each of the initial 370 Residential Units developed within the Property at the time of issuance of a building permit by the County for the particular Residential Unit or grouping, phase or section of Residential Units.

(c) The Per Unit Facilities Contribution and Per Unit School Contribution (collectively, the "Per Unit Contributions") 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 respective Per Unit Contributions be adjusted to a sum less than the amount initially established by this Proffer Agreement. The adjustment shall be made by multiplying each of the Per Unit Contributions 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 Contributions 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 (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the Per Unit Contributions to approximate the rate of annual inflation in the County.

15. Private Streets. As stated on the Sections 2 and 4 Master Plan, all streets within Sections 2 and 4 of the Property have the potential to be private; however, the intention is that all streets within the Property be public and constructed in conformance with VDOT construction standards unless VDOT will not approve any streets as substantially described in the Sections 2 and 4 Guidelines, in which event such streets not approved as public shall be private. Pursuant to Section 24-528 of the County Code, private streets within the Property shall be maintained by the Residential Association, Commercial Association and/or a sub-association, as applicable. The party responsible for construction of a private street shall deposit into a maintenance fund to be managed by the applicable Residential Association, Community Association, or sub-association responsible for maintenance of such private street an amount equal

to one hundred fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT – Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee amount at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the street to be designated as private.

16. Archaeological Study. Pursuant to the New Town Proffers, a Phase I Archaeological Study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning. A further Phase II study was conducted for all sites at the Property that were recommended in the Phase I study referenced above for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places, the results of which Phase II study shall be submitted to, and approved by, the Director of Planning. Based upon the Phase I and Phase II studies, a Phase III Treatment Plan has been prepared and submitted to, the Director of Planning and work pursuant to that Phase III Treatment Plan has commenced at the Property. All Phase I, Phase II and Phase III studies referenced in these Proffers 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 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.

17. Small Whorled Pogonia. The owner of the Property shall cause a survey to be conducted of the Property for small whorled pogonias. The location of any small whorled pogonias located on the Property shall be shown on all subdivision or other development plans of the

Property. Before any land disturbing activity is allowed in the vicinity of the small whorled pogonias identified, if any, on the Property, a conservation plan shall be prepared by the owner of the Property in accordance with state and federal laws applicable to the Property at the time of development of the conservation plan and said conservation plan shall be submitted for information purposes to the Director of Planning.

MISCELLANEOUS PROVISIONS

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

19. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged 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.

20. Conflicts. In the event there is a conflict between: (1) these Proffers, the Sections 2 and 4 Guidelines, and/or the Sections 2 and 4 Master Plan; and (2) the New Town Proffers, the New Town Master Plan and/or the New Town Guidelines, then these Proffers, the

Sections 2 and 4 Guidelines and the Sections 2 and 4 Master Plan 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.

21. Signature by the 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.

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

23. Conditions Applicable Only To The Property. Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Associates and its successors in interest to develop its other property in accordance with the other applicable provisions of the County Zoning Ordinances.

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By: 
James D. Franklin
Its: Authorized Representative

THE COUNTY OF JAMES CITY, VIRGINIA

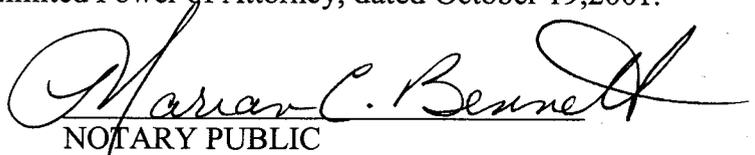
By: _____
Its: _____

APPROVED AS TO FORM:

County Attorney

STATE OF VIRGINIA
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 22 day of October, 2001 by James D. Franklin as Authorized Representative of New Town Associates, LLC, a Virginia limited liability company, on its behalf, under Limited Power of Attorney, dated October 19, 2001.


NOTARY PUBLIC

My commission expires: September 30, 2004

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

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

NOTARY PUBLIC

My commission expires:

EXHIBIT A

I

That portion of that certain piece or parcel of land located in James City County, Virginia, shown and set out as "Southern Civic District Section 1" on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997, lying north of Monticello Avenue.

II

Those certain pieces or parcels of land shown and set out as Sections 2 and 4 on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997.

Parcels I and II above comprise approximately 82.8 acres.

PLANNING DIRECTOR'S REPORT

NOVEMBER, 2001

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

1. NEW HIRES. We successfully hired two new individuals in the Planning Division during October. On October 17TH, Leah Nelson began her new duties as a Development Management Assistant. Leah will provide direct customer service to our citizens and assist the professional planning staff by conducting reviews of site plan and subdivision submittals. Dave Anderson began work with us as a Planner on October 29TH. Dave comes to us from Connecticut and replaces Ben Thompson in our Comprehensive Planning Section. Dave's primary responsibilities will include work on long term transportation projects, limited work on current planning cases, and a primary role in updating the County's Comprehensive Plan. Both Leah and Dave are graduates of the College of William and Mary.
2. Master Greenways Plan. The Greenways Advisory Committee continues its efforts to garner greater public participation in the Committee's draft plan. There will be another focus group meeting for citizens on Wednesday, November 14th at 7 p.m. in the James City/Williamsburg Community Center. Several steps are being taken by Parks and Recreation staff to increase public participation at this strategically important meeting.
3. Purchase of Development Rights. The PDR Administrator has completed a draft of the proposed Administrative Manual, County Ordinance, Deed of Easement, and Ranking Criteria which have been forwarded to the County Attorney for review. The administrator is currently running a trial of the ranking criteria and appraisals on four selected properties which are to be completed the week of October 29th. The PDR Program will be presented to the Board of Supervisors at a work session on November 28. It will be requested that the BOS vote on the proposed ordinance at the Dec. 11th or Jan. 8th meeting.
4. Architectural Survey. The consultant, MAAR Associates, terminated the contract arrangement with the subcontractor who had been handling this project and notified VDHR that a final report would not be ready by October 23 as scheduled. An architectural historian from the VDHR Portsmouth field office has been assigned to complete the remaining work on this project. The survey coordinator expects that this project will be completed in early December.
5. Casey New Town. The DRB met in October to discuss two proposals: an office building within Sections 2 & 4 and a proposed bank to be located adjacent to the Courthouse. A rezoning application for development of Sections 2 & 4 across from the Courthouse was submitted to the Planning Department and will be presented to the Commission at its November 5, 2001, meeting.
6. Citizens Survey. Staff implemented its communications plan with advertisements in the newspapers and other publications, on the Internet, and in flyers and mailings. The consultant conducted a pre-test, finalized the survey instrument, and is currently fielding the survey. Data collection is expected to continue through mid-November.
7. U.S. Census. The Census Bureau continues to release data that staff is incorporating 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.

8. Strawberry Plains Bikeway. This joint project by VDOT and the County began construction in September and was completed in October. The project was funded by a federal and state grant which was obtained by the Planning Division.
9. 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 has sent comments to VDOT and is awaiting their reply.
10. Cash Proffers Policy. The Board of Supervisors considered a draft cash proffer at its October 9th meeting and deferred it to the Planning Commission for Commission and citizen input. Staff will schedule a meeting with the Commission in the future. The Planning Commission was previously sent a copy of the draft.
11. Reservoir Protection Measurers. Staff has sent requested information to Newport News Waterworks for its review.
13. Green Spring Master Plan Amendment/Centerville Road Closure. The Board of Supervisors held a work session on September 26th with the National Park Service, Friends of Green Spring and staff to discuss the Green Spring Master Plan Amendment. One of the key recommendations of the amendment is to close Centerville Road between Route 5 and Monticello Avenue. A public information meeting will be held November 14th at 7 p.m. at the James Blair Middle School.
14. Planning Commission/Board of Supervisors Work Session. The Commission and Board held a joint work session on October 2nd at 7:00 p.m. in the Board Room.
15. Other Board Action. At its October 9th meeting, the Board deferred Case No. Z-4-00/MP-1-01 Colonial Heritage of Williamsburg and Case No. AFD-6-86 Cranston's Pond Agricultural and Forestal District - Ware Withdrawal to its November 13th meeting and Case No. Z-2-01/MP-2-01 WindsorMeade to its October 23rd meeting. At its meeting of October 23rd, the Board approved Case No. Z-1-01/MP-2-01 WindsorMeade and denied Case No. SUP-12-01. Annette Haden Manufactured Home.
16. Upcoming Cases. New cases that are tentatively scheduled for the December 3, 2001, Planning Commission meeting.

CASE NO. SUP-23-01. COLONIAL READY MIX CONCRETE EXPANSION. Mr. John Thayer-Smith has applied for a special use permit to allow the expansion of the current facility at 1571 Manufacture Drive onto an adjacent property located at 1563 Manufacture Drive. The site is zoned M-2, General Industrial, and is further identified as Parcel No. (5-2) and Tax Map No. (59-2). The site at 1571 Manufacture Drive received a special use permit (SUP-32-97) in February 1998 under the name Virginia Trusses.

CASE NO. AFD-1-89. ARMISTEAD AFD - RENEWAL. Last reviewed in 1998, the Armistead Agricultural and Forestal District (AFD) must now be reviewed for continuance of the AFD. The existing Armistead AFD is comprised of four parcels totaling approximately 312 acres and is generally located north of Longhill Road and east of

Centerville Road.

CASE NO. AFD-1-93. WILLIAMSBURG FARMS AFD - RENEWAL. Last reviewed in 1998, the Williamsburg Farms Agricultural and Forestal District (AFD) must now be reviewed for continuance of the AFD. The existing Williamsburg Farms AFD is comprised of two parcels totaling approximately 302 acres and is generally located east of Lake Powell Road south of the Williamsburg-Jamestown Airport.

O. Marvin Sowers, Jr.