

# **A G E N D A**

## **JAMES CITY COUNTY PLANNING COMMISSION**

**December 2, 2002 - 7:00 P.M.**

1. ROLL CALL
2. MINUTES
  - A. November 4, 2002
3. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee Report
  - B. Comprehensive Plan 2003–Community Conversations Presentation
4. PUBLIC HEARINGS
  - A. SUP-20-02 Nationwide Transmission Auto Sales
  - B. Z-03-02. US Homes Proffers Amendment  
Z-04-02. Boy Scout Property Rezoning  
MP-01-02. US Homes Amended Master Plan
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 FOURTH DAY OF NOVEMBER, TWO-THOUSAND AND TWO, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

A. Joe Poole, III  
George Billups  
John Hagee  
Don Hunt  
Joe McCleary  
Wilford Kale  
Peggy Wildman

ALSO PRESENT

Greg Dohrman, Asst. County Attorney  
Marvin Sowers, Planning Director  
Cynthia Grom, Administrative Services Coordinator  
Christopher Johnson, Senior Planner  
David Anderson, Planner

2. MINUTES

The Commission approved the minutes of the October 7, 2002 meeting as is with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. John Hagee presented the DRC report stating there were four cases that were heard at the last meeting: the Ford's Colony Williamsburg West/Country Club Dr. Road Improvements, Ford's Colony Section 12, Colonial Heritage, Phase I, Section 2, and Colonial Heritage, Phase I, Sections 3 and 3A. For the Ford's Colony Proffers case, the DRC found the plans consistent with the preliminary intersection plan which was included with Case No. Z-5-01 and recommended that preliminary approval be granted subject to agency comments. The plans will be revised to fully address the conditions of approval submitted by the Williamsburg West Civic Association, including a note which states that the Ford's Colony HOA will assume responsibility for maintaining the landscaped median from Williamsburg West Drive to Lexington Drive. The DRC recommended preliminary approval of Sect 12, subject to agency comments. For the Colonial Heritage cases, there was concern about the safety of the roads, so all the cases were deferred to the November 26<sup>th</sup> meeting.

In a unanimous voice vote the Commission approved the DRC report.

4. PUBLIC HEARINGS

A. CASE NO. SUP-18-01 WALTRIP TOWER

Mr. Christopher Johnson presented the staff report stating the applicant had requested an indefinite deferral. Staff concurred with this request.

Mr. Joe Poole reopened and closed the public hearing. Hearing no further questions, the Planning Commission deferred the case indefinitely.

B. CASE NO. AFD-9-86 GORDON CREEK KANE ADDITION

Mr. David Anderson presented the staff report. In February of 1995 the Board of Supervisors approved the addition of the Kane property to the Gordon Creek AFD. The Kane property is comprised of five parcels totaling 164.33 acres and further identified as Tax Map Nos. (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1) and (36-1)(1-2). Four of the parcels are located off of Jolly Pond Road and one parcel is located off of Deerwood Drive. During the 2002 renewal period, Mr. Kane inadvertently withdrew his property from the Gordon Creek AFD. Upon realizing his mistake, Mr. Kane contacted the County immediately and requested the addition of his property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Gordon Creek AFD contains 3,111.340

acres. If the 164.33-acre addition is approved, the district will have 3,275.67 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Commission approve the Kane addition to the Gordon Creek AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members.

Mr. Donald Hunt asked how the applicant unintentionally withdrew his land from the AFD.

Mr. David Anderson replied that the client filled out the withdrawal form and sent it in without understanding what it was for. If they wanted to keep their land in the AFD designation, they didn't have to send it in.

Mr. Joe Poole opened and closed the public hearing.

Mr. Joe McCleary made a motion to approve.

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

C. CASE NO. AFD-6-86 CRANSTON'S POND MARSTON ADDITION

Mr. David Anderson presented the staff report. This property is located at 308 Bush Springs Road and was part of the original Cranston's Pond AFD formed in 1986. During the 1998 renewal period, the property owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. The owner now wishes to place the property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Cranston's Pond AFD contains 1,073.579 acres. If the 14.00-acre addition is approved, the district will have 1,087.579 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Committee approve the Marston addition to the Cranston's Pond AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened then closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Donald Hunt seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

D. CASE NO. SUP-17-02 GATEHOUSE FARMS ACCESSORY APARTMENT

Mr. David Anderson presented the staff report. Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as parcel (7-40) on James City County Real Estate Tax Map No. (47-3). Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. The covenants governing the Gatehouse Farms subdivision do not restrict accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions.

Mr. Joe Poole opened up the questioning from commission members.

Mr. Joe McCleary questioned the enforceability of the conditions, particularly limiting the renting only to one person.

Mr. Donald Hunt inquired about the owner occupied condition.

Mr. David Anderson stated the owner must live in the home in order to rent the accessory apartment.

Mr. John Hagee noted that enforceability of limitation of renters is not enforceable in any part of the county, even in rental apartment complexes.

Mr. Marvin Sowers noted the county would have to rely on a complaint basis.

Mr. Joe McCleary commented even in that event, it is still very hard to enforce because one can claim the extra person was a guest.

Mr. John Hagee asked if there was some kind of provision that could be put on the special use permit to void it out if the owner sold the property.

Mr. David Anderson replied that we are unable to do that.

Mr. Joe Poole opened the public hearing.

Mr. Reed Wier, the President of the Gatehouse Farms Home Owners Association, spoke on behalf of the neighbors that signed a petition not in favor of the accessory apartment. The list represented about 75% of the neighborhood. He urged the planning commission members to take into consideration their opinions.

Mr. Shane Reed, a member of the Gatehouse Farms Home Owners Association, also spoke on behalf of all the home owners in the neighborhood. They believe that granting the special use permit would be negative in many ways and listed the negative impacts they felt this would have on the neighborhood, such as traffic, privacy and trash concerns, affect on the property value of the homes, the unenforceability of the owner occupied condition and the alteration of the character of the neighborhood.

Mr. Vance Elkins, the applicant, presented the background on how this case came about and why he wanted to build the accessory apartment. He also addressed many of the negative impacts that Mr. Reed had spoke about, such as property upkeep and improvements, since he has to live with the renter, has no desire to rent to an undesirable person, that the Gatehouse Farms covenants were not being violated, and that he was not looking to make a profit, only wanted to help out someone in need. He also noted that there were a few houses in the neighborhood that were rental properties.

Mr. Joe Musica, a resident of Gatehouse Farms, voiced his concern about what happens when Mr. Elkins leaves and sells his property, or if someone else decides they want to build an accessory apartment in their home also.

Mr. Joe Poole closed the public hearing.

Mr. Wilford Kale asked if property owners could ask for an elimination of a special use permit.

Mr. Greg Dohrman answered that it was possible, but they would have to go through the process to amend the special use permit.

Mr. Donald Hunt asked if you can put an expiration date on a special use permit.

Mr. Greg Dohrman answered that a sunset clause could be put on as a condition of the



special use permit, especially if the applicant asks for it and agrees to it.

Mr. Billups asked about what the justification for denial would be if another special use permit came up again. He questioned the equity of treatment of these types of cases.

Mr. Donald Hunt answered that the Planning Commission's function is oversight, and that they make judgments on individual cases.

Mr. Joe Poole stated that he thought the conditions as is were good with the addition of the sunset clause. He proposed to add a five year sunset clause to the special use permit.

Mr. Joe McCleary noted that the Planning Commission members had all been involved with drafting the Zoning Ordinance. A special use permit needs a special reason for why it should be approved. He stated that he was not comfortable with this.

Mr. Donald Hunt made a motion to approve the special use permit with the inclusion of a five year sunset clause.

Mr. Wilford Kale seconded.

Mrs. Peggy Wildman noted that she was not in agreement with it, being that the property is zoned R-1.

Mr. Joe Poole noted that the motion and seconded for approval of the special use permit with the five conditions was on the floor.

Mr. Marvin Sowers listed the five conditions.

Mr. Joe Poole called for a roll call vote. In a roll call vote, motion passed (4-3). AYE: Hagee, Hunt, Kale, Poole (4); NAY: Wildman, Billups, McCleary (3).

E. CASE NO. SUP-18-02 WELLSPRING ADULT DAY CARE CENTER.

Mr. Christopher Johnson presented the staff report. Ms. Linda Tompkins has applied on behalf of Wellspring United Methodist Church to operate an adult day care center out of the existing church building at 4871 Longhill Road. The adult center would be operated by professionals currently working with senior adults. The center would provide a safe environment for elderly adults, allowing their children and care providers to keep their employment and provide a much needed break for families who provide round-the-clock care. Given the growing retired and elderly population in the area, the demand for adult day care centers will likely increase in the coming years and facilities such as the one proposed clearly meet this growing community need. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan and recommends that the Planning Commission recommend approval of this application with conditions.

Mr. Joe Poole opened the public hearing.

Ms. Margaret Kutz, Pastor of Wellspring Church, stated that the day care served two purposes, one for the church's own use and second for the community's use. They were very excited about the prospect of this day care center and comfortable with the conditions set forth by staff.

Mr. Wilford Kale asked her if any building additions were needed. He also noted that he lives in the adjacent neighborhood and neighborhood reaction has been very positive.

Ms. Margaret Kutz answered that it looked like no changes would be needed.

Mr. Joe McCleary noted that he visited the facility and it is very well set up.

Ms. Lynn Warner, one of the two registered nurses that will be running the day care

center, stated that the day care center was licensed by the Department of Social Services and it would be strictly regulated.

Hearing no further questions, Mr. Poole closed the public hearing.

Mr. Joe McCleary made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

F. CASE NO. SUP-19-02 JCSA WATER TREATMENT FACILITY CONCENTRATE MAIN.

This case was withdrawn per the request of the James County Service Authority. Mr. Greg Dohrman, Assistant County Attorney, stated that the property owner failed to sign the application. On behalf of the applicant, Mr. Dohrman withdrew the application.

G. CASE NO. Z-03-02 US HOMES PROFFERS AMENDMENT.  
CASE NO. Z-04-02 BOY SCOUT PROPERTY REZONING.  
CASE NO. MP-01-02 US HOMES AMENDED MASTER PLAN.

Mr. Christopher Johnson presented the staff report and requested a deferral of this application until the December 2<sup>nd</sup> meeting. The applicant notified staff that they would not be present this evening. Staff will continue to work with the applicant to address outstanding issues and areas of concern and anticipates being able to offer a recommendation at the December meeting.

A general discussion ensued about concerns the Planning Commission members had that they wanted to be covered when the case came to the next meeting. Questions were asked about the previous proffers, the Greenway master plan, extension of the PSA, and development of the Boy Scout property.

Mr. Joe Poole opened the public hearing and noted it would be continued in December.

H. CASE NO. ZO-03-02 ZONING ORDINANCE AMENDMENT – PLANNING COMMISSION CASE REVIEW PERIOD.

Mr. Marvin Sowers presented the staff report, and indicated the Planning Commission had approved the initiating proposal to amend the Zoning Ordinance at the last Planning Commission meeting in October to extend the Commission's review period from 90 to 100 days for public hearing cases.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened and closed the public hearing.

Mr. John Hagee made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

5. PLANNING COMMISSION CONSIDERATION

A. 2003 PLANNING COMMISSION CALENDAR

Mr. Joe Poole suggested the December 1<sup>st</sup> meeting be moved to December 8<sup>th</sup>.

Mr. Wilford Kale suggested the July 7<sup>th</sup> meeting be moved to July 14<sup>th</sup>.

Mr. Joe Poole asked if there were any objections to these suggestions.

Everyone agreed and the 2003 calendar was adopted.

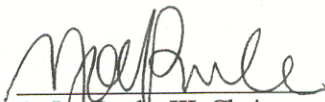
6. PLANNING DIRECTOR'S REPORT


Mr. Marvin Sowers touched on a few topics that were in the report, including hiring Sarah Weisiger to replace Jill Schmidle, the Comprehensive Plan Community Conversations meetings, the starting up of the Steering Committee meetings and the continuance of the CPT meetings.

Mr. Joe Poole urged people to attend the Community Conversations meetings.

7. ADJOURNMENT

There being no further business, the November 4, 2002, meeting of the Planning Commission was adjourned approximately at 9:00 p.m.

  
A. Joe Poole, III, Chairman

  
Marvin Sowers, Secretary

## **DEVELOPMENT REVIEW COMMITTEE ACTION REPORT**

### **Meeting of November 26, 2002**

**Case No. SP-122-02**

#### **Jamestown High School Parking Lot Expansion**

Mr. Mick Harvey of WPL engineers on behalf of the school division has applied for approval of 107 new parking spaces at Jamestown High School. The project is located off of Route 5 and can be further identified as Tax Map #(46-1)(1-2D). DRC review is necessary under Section 24-147(a)(1) of the Zoning Ordinance that requires DRC review when a site plan proposes two entrances on the same road.

**DRC Action: The request for a second driveway entrance to Greensprings Planation Dr. was recommended for approval by the DRC.**

**Case No. S-22-02**

#### **George Roper Subdivision**

Ms. Nancy Herman-Thompson has applied on behalf of George Roper for an exception to the Subdivision Ordinance, Section 19-71 –shared driveway requirements for minor subdivisions. The applicant seeks to place three driveways onto an arterial road instead of a single driveway as required by the ordinance. The property is located at 7460 Little Creek Dam Road and is further identified as Tax Map #(21-1)(1-28).

**DRC Action: DRC approved Roper Subdivision exception request, 4-0**

**Case No. SP-85-01**

#### **Greensprings Apartments and Condos**

Mr. Marc Sharp of Greensprings Plantation, Inc. has applied for approval of 192 Apartments and 90 Condominiums located on Monticello Extended between Centerville Road and Greensprings Plantation Drive and further identified as Tax Map #(37-3)(1-6). DRC approval is necessary because the applicant is requesting an extension of preliminary approval and because the development proposes more than 50 multifamily units.

**DRC Action: The DRC recommended that preliminary approval be granted subject to agency comments.**

**Case No. S-73-02 & SP-104-02 Colonial Heritage Phase I, Section 3 and 3A**

Mr. Richard Smith of AES Consulting Engineers has applied for approval 86 residential units as part of the Colonial Heritage development. The project is located on Richmond Road across from the Williamsburg Pottery and is further identified as Tax Map #(24-3)(1-32). DRC review is necessary because more than 50 lots are proposed.

**DRC Action: The DRC recommended preliminary approval be granted to Colonial Heritage Sections 3 and 3a**

**Case No. S-63-02 & SP-88-02 Colonial Heritage Phase I, Section 2**

Mr. Richard Smith of AES Consulting Engineers has applied for approval for 88 lots and 6 townhomes as part of the Colonial Heritage development. The project is located on Richmond Road across from the Williamsburg Pottery and is further identified as Tax Map #(24-3)(1-32). DRC review is necessary because the combined size of the units exceeds 30,000 square feet.

**DRC Action: The DRC recommended that preliminary approval be granted subject to agency comments.**

**JAMES CITY COUNTY**  
**DEVELOPMENT REVIEW COMMITTEE REPORT**  
**FROM: 11/1/2002 THROUGH: 11/27/2002**

**I. SITE PLANS**

**A. PENDING PRELIMINARY APPROVAL**

SP-144-98	Williamsburg Pottery Warehouse/Retail Building
SP-116-99	New Town, Wmbg./JCC Courthouse SP Amendment
SP-051-01	Zooms Gas Station
SP-087-01	The Vineyards Phs. 3 at Jockey's Neck
SP-089-01	Ewell Station Storm Water Management Fac. Mod.
SP-100-01	Williamsburg Crossing Frontage Road
SP-109-01	Monticello Avenue Extended - SP Amendment
SP-116-01	Powhatan Secondary - Ph. 7, Sanitary Sewer Ext.
SP-003-02	New Zion Baptist Church-addition & parking lot exp
SP-007-02	Season's Trace - Winter Park Section 2
SP-009-02	Hairworks Beauty Salon Parking Space Addition
SP-019-02	Williamsburg Plantation Sec 9,10,11 Units 184-251
SP-027-02	120' Stealth Tower--3900 John Tyler Highway
SP-045-02	Powhatan Plantation Maintenance Bldg SP Amend
SP-061-02	Powhatan Plantation Recreation Bldg Amd
SP-088-02	Colonial Heritage, Phase 1 Section 2
SP-104-02	Colonial Heritage, Phase 1, Section 3 & 3A
SP-106-02	Truswood Waterline Extension
SP-112-02	Ford's Colony Recreation Park
SP-115-02	Stonehouse Community Church Tent
SP-117-02	Ford's Colony -Blue Heron Golf Course Comfort Sta.
SP-118-02	Toano Force Main
SP-121-02	Grace Covenant Presbyterian Church - SP Amendment
SP-122-02	Jamestown High School Parking Lot Expansion
SP-124-02	King's Way Church Water Line
SP-126-02	Christmas Mouse Warehouse & Distribution Center
SP-128-02	Come Scrap with Me Shed
SP-129-02	Storage Trailer at Landfill
SP-130-02	Powhatan Place Townhomes Amendment
SP-131-02	Jamestown High School - Soccer Field Expansion
SP-132-02	Sprint Generator Placement

**B. PENDING FINAL APPROVAL**

**EXPIRE DATE**

SP-002-01	JCC HSC Parking Area Expansion	10/ 1/2003
SP-110-01	Williamsburg Christian Academy	12/ 3/2002
SP-002-02	Williamsburg-Jamestown Airport Hangar Additions	2/ 8/2003

SP-044-02	Ford's Colony, Sect. 31, BMP #1 Regrading Plan	5/ 8/2003
SP-048-02	New Town Office Building	6/ 3/2003
SP-049-02	SunTrust Office Building	6/ 3/2003
SP-050-02	New Town Sec 2 & 4 - Road/Utility Infrastructure	8/22/2003
SP-051-02	Landmark Auto Parts	5/ 6/2003
SP-062-02	WindsorMeade Way Road Construction Plan	6/ 4/2003
SP-075-02	US Home/Colonial Heritage Blvd, Phs 1	6/27/2003
SP-084-02	Colonial Heritage, Phase 1, Section 1	11/25/2003
SP-091-02	District Park Sports Complex, Phase III	8/16/2003
SP-095-02	Faith Fellowship Assembly of God	9/ 9/2003
SP-102-02	Powhatan Creek Access Park	9/30/2003
SP-105-02	Kristiansand Sewer Extension	10/ 2/2003
SP-107-02	First Colony Water and Sewer System Replacement	9/18/2003
SP-110-02	Ewell Station - Phase II	10/ 7/2003
SP-113-02	Ready Mixed Concrete Storage Yard Expansion	10/ 7/2003
SP-119-02	Williamsburg West & Country Club Dr. Improvements	11/ 4/2003
SP-120-02	Water Production Facility W-5 Upgrade	11/22/2003
SP-123-02	Well Facilities W-29 W-30 W-31 & W-36 Improvements	11/22/2003

#### **C. FINAL APPROVAL**

#### **DATE**

SP-035-02	Jamestown 4-H Educational Center	11/18/2002
SP-036-02	McKinley Office Building	11/22/2002
SP-072-02	JCSA Water Treatment Facility, Site Prep. Plan	11/12/2002
SP-097-02	Lift Station 1-2 Replacement	11/18/2002
SP-098-02	Powhatan Creek Force Main	11/19/2002
SP-114-02	Williamsburg Pottery Warehouse Addition	11/21/2002
SP-116-02	Williamsburg Unitarian Universalist Parking Lot	11/21/2002

#### **D. EXPIRED**

#### **EXPIRE DATE**

SP-085-01	Greensprings Apartments and Condominiums	11/ 5/2002
SP-105-01	Voice Stream Wireless - Regional Jail Co-Location	11/ 9/2002

## **II. SUBDIVISION PLANS**

### **A. PENDING PRELIMINARY APPROVAL**

S-062-98	Ball Metal Conservation Easement
S-104-98	Skiffes Creek Indus. Park, VA Trusses, Lots 1,2,4
S-013-99	JCSA Mission Bank ROW Acquisition
S-074-99	Longhill Station, Section 2B
S-086-99	Peleg's Point, Section 5
S-110-99	George White & City of Newport News BLA
S-006-00	Ewell Station, Lots 1, 4 & 5
S-091-00	Greensprings West, Plat of Subdv Parcel A&B
S-103-00	Villages at Powhatan - Powhatan Secondary
S-032-01	Subdivision and BLE Plat of New Town AssociatesLLC
S-077-01	Ford's Colony - Section 32 (Lots 72-78, 93-129)
S-008-02	James F. & Celia Ann Cowles Subdivision
S-023-02	Stonehouse, Mill Pond Run right-of-way
S-031-02	Bruce's Super Body Shop, Lot 2 subdivision
S-035-02	Villages at Powhatan, Ph. 4
S-052-02	The Retreat--Fence Amendment
S-063-02	Colonial Heritage, Phase 1, Section 2
S-067-02	Powhatan Secondary Phase VI-B plat
S-068-02	Forrest Lee Hazelwood BLA
S-073-02	Colonial Heritage, Phase 1, Sec 3 & 3A
S-079-02	Tankard Tract Subdivision
S-084-02	Skiffes Creek BLE Lots 2 & 3
S-086-02	The Vineyards Phase 3 BLA Lots 1, 5-9, 52
S-092-02	Mertens Subdivison Lot 2
S-093-02	Ironbound Village Phase II
S-094-02	Powhatan Secondary Phase VII-C
S-095-02	Powhatan Secondary Phase V-II B
S-096-02	5813 Richmond Road BLE
S-097-02	Colonial Heritage BLA & BLE
S-098-02	Chickahominy Haven Lots 20 & 21, Sec 7 BLA
S-099-02	Ford's Colony Section XXX - Sanitary Sewer Amend.
S-100-02	Richardson's Mill Sec. 1
S-101-02	Lynette Drive Subdivison
S-102-02	Greensprings Apartments and Condominiums
S-103-02	Alex Harwood Subdivision BLA
S-105-02	Mark Urick & Heather Pons Residence

### **B. PENDING FINAL APPROVAL**

		<b>EXPIRE DATE</b>
S-034-00	The Pointe at Jamestown, Phase 2	6/ 5/2003
S-041-00	Powhatan Secondary, Phase 6-B	7/27/2003

Wednesday, November 27, 2002

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S-058-00	Powhatan Secondary, Phase 7-A	10/ 2/2003
S-037-01	Wellington Section II & III Construction Plans	5/ 7/2003
S-101-01	Greensprings West, Phase 4A	12/17/2002
S-022-02	George W. Roper, Parcel B	3/19/2003
S-024-02	Stonehouse, Fieldstone Parkway right-of-way & BLA	3/19/2003
S-027-02	Stonehouse, Lisburn, Sect. 5-A, Construction Plans	5/ 6/2003
S-030-02	Waterford at Powhatan Sec., Ph. 33, BLA	4/ 9/2003
S-037-02	Village Housing at the Vineyards, Phase III	5/10/2003
S-039-02	Powhatan Secondary, Phase 6-C	5/ 8/2003
S-042-02	Lake Powell Forest Phase 4	5/23/2003
S-045-02	The Pointe at Jamestown Section 2-A plat	5/30/2003
S-051-02	Ford's Colony, Section 12 Construction Plans	11/ 4/2003
S-057-02	Colonial Heritage - Ph 1, Sec 1, Const Plans	11/25/2003
S-064-02	Stonehouse - Mill Pond Run Section 2	7/29/2003
S-071-02	Stonehouse Commerce Park- ROW extension & realign	9/ 3/2003
S-076-02	Marion Taylor Subdivision	10/ 3/2003
S-078-02	Donald L. Hazelwood Subdivision	9/30/2003
S-081-02	Scott's Pond Section 2	10/ 7/2003
S-082-02	Nice Commercial Properties	10/12/2003
S-083-02	Toano Auto Parts BLA	10/ 9/2003
S-087-02	Pointe at Jamestown Phase 1B BLA Plat Correction	11/12/2003
S-090-02	Ford's Colony Section VII, Lots 119 & 120 BLE	10/25/2003
S-091-02	Williamsburg Landing BLA	11/ 3/2003

#### **C. FINAL APPROVAL**

#### **DATE**

S-058-02	Hazelwood Subdivision and BLA	11/22/2002
S-077-02	Powhatan Place BLA Lots 51-56	11/ 5/2002
S-085-02	Gilliam Subdivision Lots 2 & 3 BLA	11/25/2002
S-104-02	CWTW Williamsburg L.P Property BLA	11/25/2002



**Special Use Permit-20-02. Nationwide Transmission Auto Sales  
Staff Report for December 2, 2002, 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**

Planning Commission: December 2, 2002 - 7:00 p.m. Building C Board Room  
Board of Supervisors: January 14, 2003 - 7:00 p.m. Building C Board Room (tentative)

**SUMMARY FACTS**

Applicant: Henry Gregory

Land Owner: JL HC, LLC of Virginia

Proposed Use: Allow for the sale of cars from the parking lot of the existing Nationwide Transmission business.

Location: 7211 Merrimac Trail; Roberts District

Tax Map/Parcel No.: (41-4)(1-7A)

Primary Service Area: Inside

Parcel Size: 0.50 acres

Existing Zoning: B-1, General Business

Comprehensive Plan: Community Commercial

Surrounding Zoning: North, South and West: B-1, General Business  
East (directly across Merrimac Trail and South): B-1, General Business  
East (across Merrimac Trail and heading north): R-2, General Residential

Staff Contact: David Anderson Phone: 253-6685

**STAFF RECOMMENDATION:**

Staff finds the proposal to be compatible with the surrounding zoning and development, and consistent with the Community Commercial designation of the Comprehensive Plan. The proposed conditions will mitigate any adverse impacts of this operation.

**Project Description**

Mr. Henry Gregory, owner and operator of Nationwide Transmission, has applied for a special use permit to allow for the sale of cars from the parking lot of his transmission business located at 7211 Merrimac Trail. No new construction is proposed in conjunction with this proposal. Car sales will be a secondary use while the transmission business will remain the primary use of the property. A maximum of 20 cars are proposed to be displayed for sale at any given time.



## **Physical Features**

The property fronts on Merrimac Trail and access is limited to a single entrance/exit. The Nationwide Transmission Business occupies a 4000 square foot single-story building. Adjacent to the building is a large fenced in area for storage related to the transmission business. The site has a large paved area for parking, which will accommodate the proposed maximum of 20 cars for sale. The cars for sale will be located at the corner of the parking lot opposite the building (see attached physical survey of site).

## **Surrounding Zoning and Development**

Neighboring the site on either side and to the rear is property zoned B-1, General Business, as is the property directly across Merrimac Trail and to the south. Property across Merrimac Trail and to the north is zoned R-2, General Residential consisting of single-family homes in the James Terrace subdivision. Staff believes the car sales operation is consistent with the surrounding B-1 zoning and compatible with the R-2 zoning, given the small scale of the proposed use and nature of the existing uses. The car sales operation will not substantially change the character of the property and will result in a minimal amount of additional traffic. To minimize any negative impacts to the residents of James Terrace, staff has added conditions to the special use permit which call for additional landscaping on the property, exterior improvements to the building and a new fence - all of which should result in a visually more attractive business. Staff has also added conditions prohibiting any additional lighting of the vehicles, flags, banners, bull horns and any other potentially visually or audibly negative means for advertising the car sales operation. The conditions limit advertisement to an additional sign below the existing pole mounted sign advertising the transmission business and windshield signs for the vehicles to be sold.

## **Comprehensive Plan Designation**

This site is designated Community Commercial in the Comprehensive Plan. General business activities, located within the PSA and usually having a moderate impact on nearby development, are designated Community Commercial. Staff feels that this proposal has a minimal impact on nearby development and thus fits within the character of the Community Commercial designation in the Comprehensive Plan.

Although not a Community Character Corridor, Route 143 is an important entry point into the County and Williamsburg. As such, the adjoining land uses play an important part in visitors and citizens perceptions of the community. Most of the developments in the City and County were constructed prior to the current landscaping requirements. Both private and public landscaping (street trees) and beautification efforts have significantly improved the visual quality of the portion of Route 143 within the City. The applicant is proposing several improvements to the site, including replacing an existing wooden fence which is in a state of disrepair and brick facing the building. Staff is also recommending a condition requiring street trees and other landscaping to improve the appearance of the site and the corridor. As noted above, conditions addressing advertising have also been included. These conditions are consistent with a strategy in the Comprehensive Plan which states, "encouraging beautification of existing development to improve the overall visual quality of the County".

## **RECOMMENDATION**

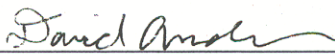
Staff finds this proposal to be compatible with the surrounding zoning and development, due to the minimal amount of potential traffic generated and the mitigation of any potential adverse impacts of the car sales operation through the attached conditions. Staff also finds that this proposal is consistent with the Comprehensive Plan and recommends the Planning Commission approve this special use permit application with the following conditions:


1. If the front of the building is to be brick faced as the applicant has proposed, the brick shall be of a natural brick color and the siding on the remainder of the building shall be of a compatible color as



approved by the planning director.

2. The existing building face sign (under the current Nationwide Transmission building face sign) shall be removed. If the front of the building is not to be brick faced, the siding in that location shall be repaired.
3. A new fence shall be erected to replace the existing fence that screens the storage area. The new fence shall be wooden, a natural wood color, a design and height to screen the storage area from Route 143, and shall be approved by the Planning Director.
4. A landscape area, to be approved by the County Landscape Planner, shall be planted adjacent to the right-of-way and shall consist at a minimum of 3 deciduous shade trees and 12 shrubs.
5. Except as provided for in Condition No. 6, freestanding signage to advertise the car sales shall be limited to one pole mounted sign located on the existing freestanding sign pole below the existing sign advertising the transmission business. Any new freestanding sign to replace the existing freestanding pole sign shall be approved by the Planning Director.
6. Additional advertising for the car sales shall be limited to windshield displays in the vehicles to be sold. No flags, banners, additional lighting, bull horns, loudspeakers, open hoods, or any additional means of advertising the cars to be sold shall be utilized.
7. The car sales operation shall be limited to the hours between 8:00am and 8:00pm, Monday through Saturday.
8. The cars for sale shall be parked in the existing paved parking area on the property.
9. A maximum of 20 cars may be displayed at a time.
10. The car sales operation shall commence within 18 months, or the permit shall become void.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

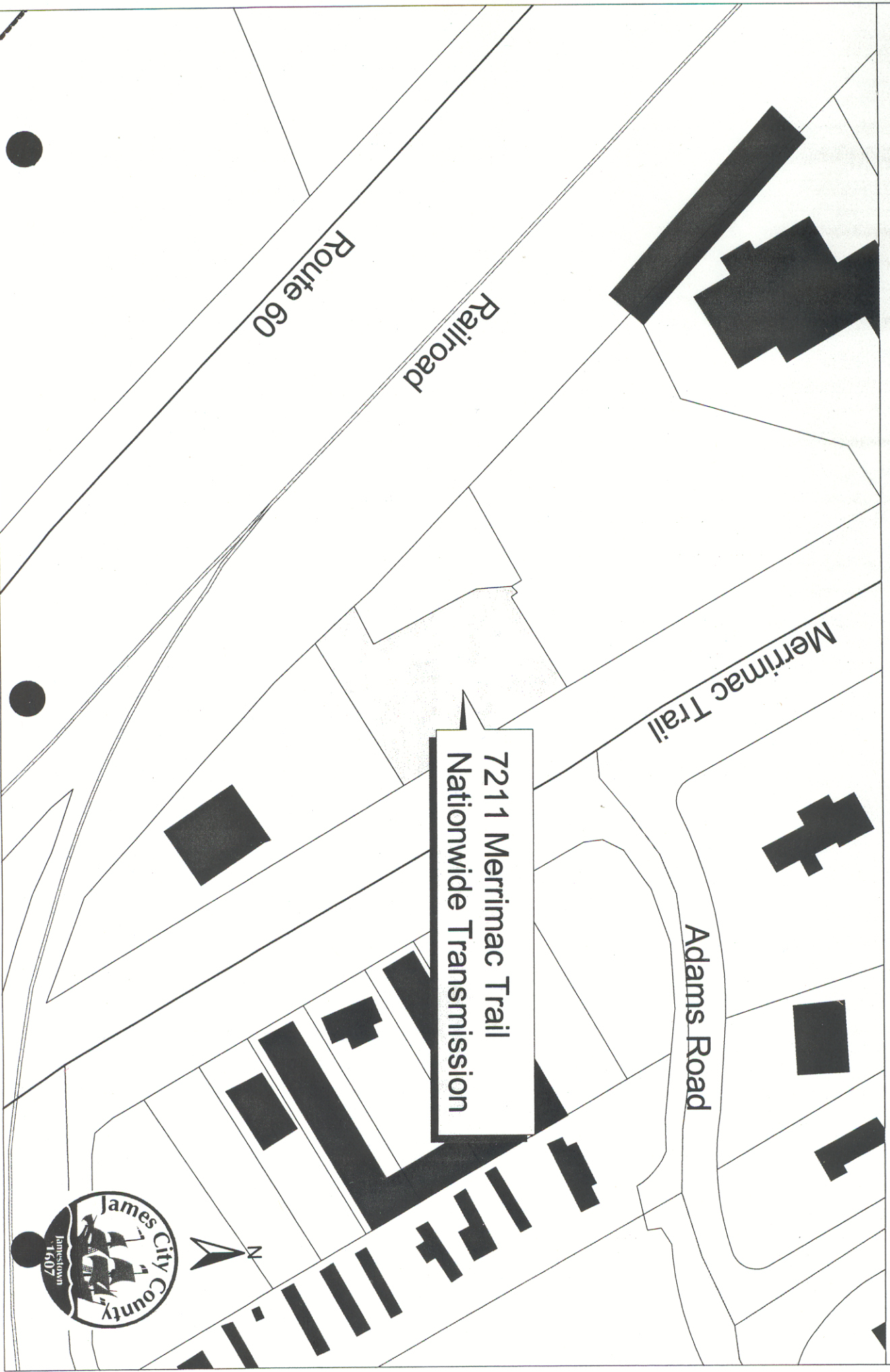
  
Dave Anderson

CONCUR:  
  
O. Marvin Sowers, Jr.

Attachments:

1. Location Map
2. Physical Survey of Site

Case Number: SUP-20-02  
Case Title: Nationwide Transmission and Auto Sales

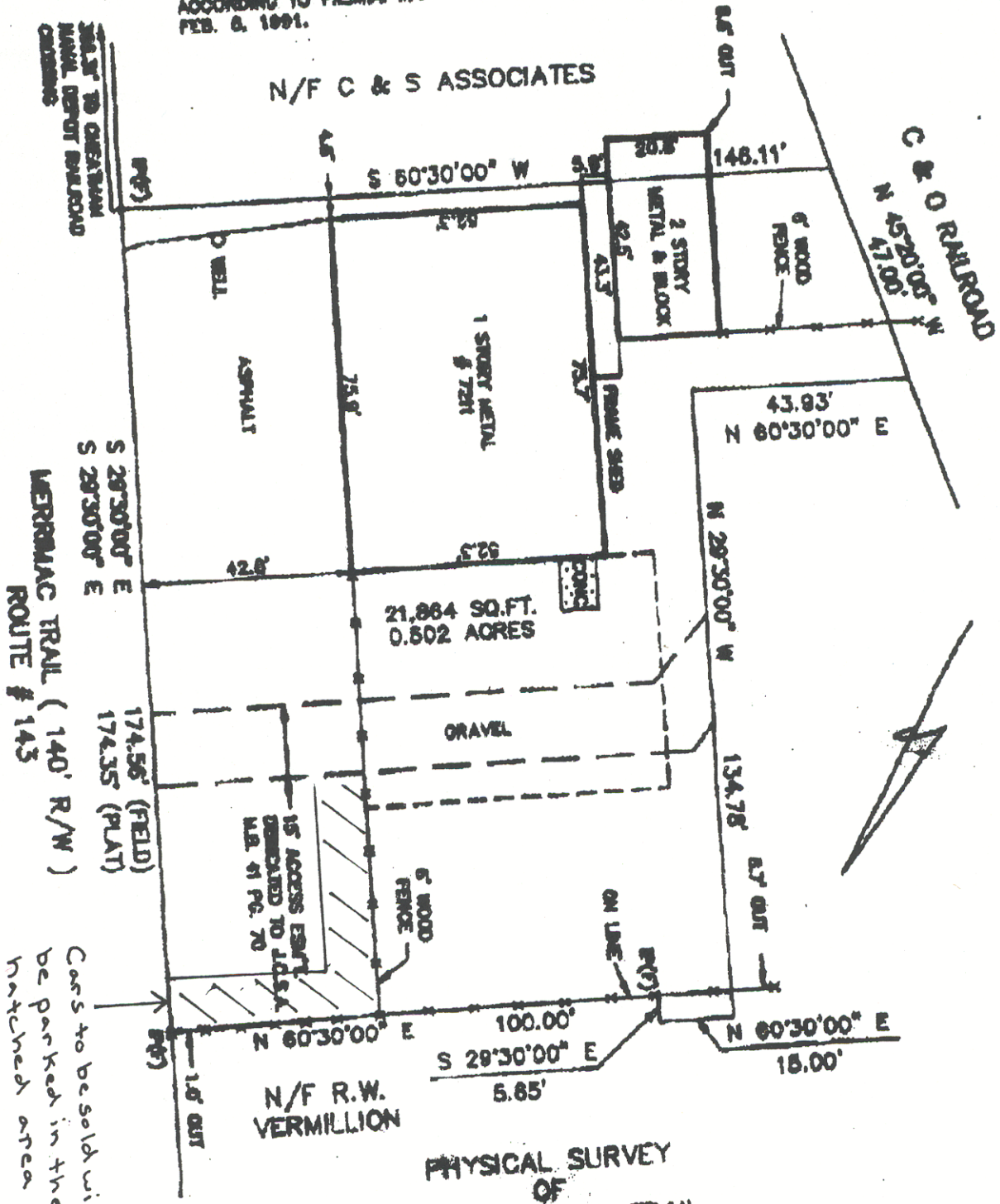




THIS IS TO CERTIFY THAT I, ON 6-5-97, SURVEYED THE PROPERTY SHOWN HEREON, AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

SIGNED: *Edward Holmes*

NOTE: THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "C" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 810201-00508, REVISED FEB. 8, 1991.



The purpose of this special use permit application is to allow for the sale of cars from the property. No new construction is proposed in conjunction with this proposal - car sales will be a secondary use while the transmission business will remain the primary use. A maximum of 20 cars are proposed to be displayed for sale at any given time.

7211 MERRIMAC TRAIL  
AS SHOWN ON PLAT TO ACCOMPANY A  
BOUNDARY LINE ADJUSTMENT BETWEEN THE PROPERTIES OF  
CHARLES E. MORRELL AND JAMES CITY COUNTY BOARD OF SUPERVISORS  
ROBERTS DISTRICT  
JAMES CITY COUNTY, VIRGINIA

**REZONING 3-02 / REZONING 4-02 / MASTER PLAN 1-02. U.S. Home - Colonial Heritage, Boy Scouts of America, Inc. Property, Proffer Amendment and Master Plan Amendment Staff Report for the December 2, 2002, Planning Commission Public Hearing**

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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.

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**PUBLIC HEARINGS**

Planning Commission:

Building C Board Room; County Government Center

November 4, 2002 - 7:00 p.m.

December 2, 2002 - 7:00 p.m.

Board of Supervisors:

January 14, 2003 - 7:00 p.m. (Tentative)

**SUMMARY FACTS**

Applicant:

Alvin Anderson and Greg Davis, on behalf of U.S. Home Corporation

Landowners:

Colonial Virginia Council, Boy Scouts of America, Inc; L. Wallace Sink, Trustee of the David W. Ware Marital Trust; VAJACK, LLC; and Massie Corporation

Proposed Use:

Amend the existing Colonial Heritage Master Plan and Proffers and incorporate the Boy Scouts of America, Inc. property into the previously approved Colonial Heritage development with no increase in the number of residential units.

Location:

499 Jolly Pond Road

Tax Map and Parcel No.:

(22-4)(1-7)

Primary Service Area:

± 229 acres inside the PSA, ± 503 acres outside the PSA

Parcel Size:

± 732 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

MU, with Proffers for the portion inside the PSA  
A-1, with Proffers for the portion outside the PSA

Comprehensive Plan:

Low Density Residential / Rural Lands

Surrounding Zoning:

North: Kristiansand (R-2)      East: Williamsburg Pottery (M-1)  
South: Adam's Hunt (R-1)      West: Hidden Acres Farm (A-1)

Staff Contact:

Christopher M. Johnson - Phone: 253-6685

**STAFF RECOMMENDATION:**

This case was deferred by the Planning Commission at the November 4, 2002, meeting. On November 26, 2002, the applicant requested that this case be indefinitely deferred. Staff concurs with the applicant's request. Should the applicant wish to proceed in the future, the cases will be re-advertised, new signs will be posted, and adjoining property owners will be notified in writing.

**History**

On November 25, 2001, the Board of Supervisors approved a rezoning and master plan application for a 2,000-unit, 18-hole golf course, gated, age restricted community. The original application rezoned approximately 777 acres from A-1, General Agricultural, and M-1, Limited Business/Industrial, to Mixed Use, with proffers. The master plan for the development included 425,000 square feet of commercial development fronting on Richmond Road. The owner, U.S. Home Corporation, is marketing the community to retirees and those approaching retirement, and restricts the age of residents through proffers and covenants. The community focuses on the golf course and associated amenities and will provide several residential products, including single-family, townhomes, and multi-family condominiums.

This case was deferred by the Planning Commission at the November 4, 2002, meeting in order to allow time for staff and the applicant to address outstanding issues regarding this proposal.

### **Description of Project**

Mr. Alvin Anderson, on behalf of U.S. Home Corporation and property owner Colonial Virginia Council, Boy Scouts of America, Inc, has applied for a Master Plan Amendment and rezoning of approximately 229 acres from A-1, General Agricultural, to MU, Mixed Use, with proffers to incorporate the Boy Scout property into the previously approved Colonial Heritage development with no increase to the approved 2,000 residential dwelling units. This would bring the total acreage of the planned community to approximately 1,006 acres. The applicant has also applied to rezone approximately 503 acres of the Boy Scout property from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The 503 acre portion of the Boy Scout property would not be part of nor subject to the Master Plan Amendment for Colonial Heritage. Although the 503 acre portion would not be part of the Amended Master Plan, the 2,000 unit cap would apply to that portion as well. The 229 acre portion of the property is located within the Primary Service Area (PSA) and is designated Low Density on the Comprehensive Plan Land Use Map. The 503 acre portion of the Boy Scout property is located outside the PSA and is designated as Rural Lands on the Comprehensive Plan Land Use Map. The Boy Scout property can be further identified as 499 Jolly Pond Road.

In addition, the applicant has applied on behalf of property owners L. Wallace Sink, Trustee of the David W. Ware Marital Trust, VAJACK, LLC, a Virginia Limited Liability Company, and Massie Corporation, a Virginia Company to rezone the existing 777 acre Colonial Heritage site from MU, Mixed Use, with proffers, to MU, Mixed Use, with amended proffers. The purpose of the rezoning is to amend the proffers for the existing Colonial Heritage development. The amended proffers would also apply to the Boy Scout property. The existing Colonial Heritage development area consists of five parcels of land that are designated Low Density Residential, Moderate Density Residential, and Mixed Use on the Comprehensive Plan Land Use Map. The properties can be further identified as 6175, 6799, 6895, 6991, and 6993 Richmond Road.

The Master Plan proposes approximately 1,400 single-family residential lots, 800 townhomes, 240 condominiums, and 425,000 square feet of commercial, retail, and office space, 18 holes of golf course, amenities, and open space. *(Please note that the higher unit numbers stated on the Master Plan are meant to provide U.S. Home with product flexibility. The 2,000 unit cap is the maximum number of dwelling units that can be built).* The proposed Master Plan Amendment and Rezoning applications effectively decreases the density by spreading the project over an additional 229 acres. The proposed overall density under this proposal is reduced from 2.6 dwelling units per acre to 2.0 dwelling units per acre.

### **Staff Comments**

The applicant submitted amended and restated proffers, an amended Master Plan, and revised studies for the project which are discussed throughout this staff report. The staff comment letter which was sent to the applicant is also included as an attachment to this report. This letter goes into greater detail regarding specific issues that staff has with the proposed changes to the Colonial Heritage proffers.

## **Surrounding Zoning and Development**

Properties to the east of the Colonial Heritage development along Richmond Road are zoned B-1, General Business, and M-1, Limited Business/Industrial. These B-1 properties include the Colonial Towne Plaza which lies in front of the Ware property adjacent to Richmond Road. Also along Richmond Road and adjacent to the Massie property is the Williamsburg Pottery which is zoned M-1, Limited Business/Industrial. To the west of the Boy Scout property is Hidden Acre Farm which is zoned A-1, General Agricultural. The northern boundary line of the existing Colonial Heritage site borders the Kristiansand subdivision, zoned R-2, General Residential. The majority of the properties to the south of the Colonial Heritage and Boy Scout properties, located across Centerville Road and Jolly Pond Road are small residential communities including Adam's Hunt, zoned R-1, Limited Residential, Briarwood Park Condominiums and several single-family dwellings all zoned A-1, General Agricultural. Staff finds the proposal consistent with the surrounding zoning and land uses.

## **Environmental Considerations**

The Boy Scout property located inside the PSA contains approximately 229 acres and includes the land south of Yarmouth Creek, and generally north of Jolly Pond Road. The site is generally forested with evidence of recent and historical harvesting activities. The property is generally level and does not contain extensive severe slopes; however, steep slopes (25% or greater grade) and hydric soils are common adjacent to and within Yarmouth Creek and associated tributaries throughout the site. Several natural streams extend through the central and eastern regions of the property which produce a topography characterized by nearly level ridge lines and moderately to steeply sloping valleys. Surface water features on the Boy Scout property are located within Yarmouth Creek and its associated tributaries. Wetlands are present in the drainage network that generally bisects the site from south to north perpendicular to Yarmouth Creek. Resource Protection Areas (RPA) are present on the site.

Yarmouth Creek contains over 1,500 acres of wetlands which provide habitat for a diversity of fish, waterfowl, and wildlife, which collectively contribute to the area's exceptional recreational potential for hunting, fishing, bird watching and nature enjoyment. These wetlands are also home to at least one blue heron rookery, multiple bald eagle nesting sites, and several globally rare or state rare plant species. The development of Colonial Heritage at the headwaters of the watershed necessitates the immediate need for effective conservation planning to protect this environmental resource for the future.

A Natural Resource Inventory was conducted for the existing 777 acre Colonial Heritage development in accordance with the proffers. The study concluded that potential small whorled pogonia habitat exists along upland slopes in the forested regions of the property. Further field investigation revealed that six individual small whorled pogonia plants were present during the 2001 field season in the area of the planned roadway crossing from Public Use Site A to the Boy Scout property. Further investigation will be necessary in this area of the development to avoid any impacts to the small whorled pogonia colony.

The Deer Lake Natural Area is centered on a small ravine that feeds Deer Lake on the Boy Scout



property located outside the PSA. The ravine is covered by relatively young forest composed of American beech, black walnut, and white oak. The forests surrounding the natural area are young, and there has been substantial clear-cutting in recent years. The natural area and surrounding slopes should be protected to maintain the necessary habitat regions for globally rare plants such as the small whorled pogonia.

The initial phases of development within Colonial Heritage have provided staff with an abundance of new information on which to base these conclusions. Unacceptable protection has been provided for environmentally sensitive features adjacent to unnamed tributaries of Yarmouth Creek. Without changes in development practices, a substantial negative impact to the water quality of Yarmouth Creek is likely. These environmentally sensitive features include contiguous forest areas, Resource Protection area components and associated buffer, perennial streams, non-tidal wetlands, highly erodible soils, intermittent streams, 25 percent slope areas and areas proposed for dedication as natural open space areas. In addition, uncontrolled drainage from stormwater piping systems and lots onto man-made slopes, natural steep slope areas and proposed dedicated open space is a serious concern.

Detailed discussions are underway with U. S. Home as part of the development review of site and subdivision plans for Colonial Heritage. Ordinance requirements may prove to be inadequate to fully protect environmental features on this site. Amended proffers may be necessary to provide adequate environmental protection.

The amended master plan does not offer any additional mitigation or protection measures to offset the impacts to environmentally sensitive areas. Non-fragmented, contiguous forest areas are important to provide uninterrupted movement of wildlife, protection of shell-marl ravine forest habitats which are unique to this area, erosion protection on slopes, habitat for native trees, shrubs and ground cover, and characteristics to filter and infiltrate natural runoff for recharge of groundwater sources and wetland habitat.

## **Fiscal Impact**

James City County Financial and Management Services has reviewed the Fiscal Impact Statement submitted with these applications and offered the following comments:

“With the addition of the 229 acre portion of the Boy Scout property located inside the PSA, the fiscal impact statement assumes that U.S. Home will offer a different product design that will increase the average home value from \$300,000 to \$350,000. The impact on the County is calculated to be an additional \$126,000 to \$144,000 in tax revenue in Year 5, because of higher real estate property values for all 1,200 homes.

Even with the planned development spread out on the additional 229 acres, the fiscal impact statement assumes that there will be no incremental increase in County expenditures. Public spending would apparently be the same, under the model used, if 1,200 homes are on 500 acres or 5,000 acres. The case could certainly be made that street mileage has an impact on public service expenditures, most significantly public safety. The fiscal impact statement apparently assumes that these increased costs will be paid for by all users under a utility model and would not be paid by these new properties.

The proffers do not currently stipulate an average home value, with or without this rezoning, so a fiscal impact statement based on changing the assumption of average market value can't really be validated. It might be useful to compare the incremental net revenue associated with the rezoning to the estimated impact of a by-right development of the

portion of the Boy Scout property located inside the PSA. That would more clearly demonstrate the fiscal impact of the rezoning.”

The Fiscal Impact Study should be revised to address these issues.

### **Public Use Sites**

In order to mitigate public impacts associated with the Colonial Heritage development, the applicant provided a proffer with the initial rezoning application that gave the Board of Supervisors discretion to elect a cash contribution in the amount of \$750,000 or the conveyance of real property shown on the existing Master Plan as Public Use Site A or Public Use Site B. The proffer requires the Board of Supervisors to adopt a resolution electing either cash or real property on or before thirty calendar days following the receipt of a draft groundwater withdrawal permit from the Department of Environmental Quality. The Board will be considering its options regarding this proffer at their November 26, 2002, meeting.

Included in the Public Use Site/Cash Contribution proffer is a list of restricted uses that would be permitted on one of the public use sites if the Board elects to choose the conveyance of real property. This list includes such uses as community recreation facilities, fire stations, hospitals, library, schools, and public meeting halls. The Board originally agreed that the list of potential uses identified in the proffer were appropriate uses for one of the sites. It was anticipated that the public use site could be developed as a school site; however, subsequent engineering analysis of both sites by the School Board has concluded that neither site is an appropriate location for a school.

The Board and staff have been engaged in a discussion over the public use site/cash contribution proffer following notification of the receipt of the draft withdrawal permit by the JCSEA in early November. A majority of the Board members have let it be known that they would like to see the list of permitted uses for the public use sites modified in the proffers in consideration of this rezoning application for the Boy Scout property. Since the proffers are voluntary, any modification to the permitted uses list would be done at the applicant's sole discretion. The applicant has provided a written response to this request in a letter attached to this report.

### **Traffic/Access**

The residential portion of the existing Colonial Heritage development contains two main access points: an entrance/exit off of Richmond Road and an entrance/exit on the southern boundary on Centerville Road. A separate access point will be constructed for the commercial/retail/office area along Richmond Road. Given that the current applications do not propose to increase the total number of residential dwelling units in the development above the 2,000 which are currently approved, the proposed expansion onto the Boy Scout property has relatively few additional traffic related impacts/effects over the original rezoning. A revised traffic study prepared by DRW Consultants, Inc. concludes that there will be no effect on general trip distribution for residential development within Colonial Heritage. The primary change which would result from an expansion onto the Boy Scout property is a shift in the split of residential traffic to the east and north via Centerville Road versus Richmond Road. In other words, the midpoint on the internal main collector road for equal travel time via Richmond Road versus Centerville Road will shift to the west as more traffic would exit onto Centerville Road than was originally suggested in previous traffic models. Staff is awaiting comments from VDOT on the impacts of this shift on Centerville Road and Richmond Road.

### **Greenways**

When the original Colonial Heritage rezoning and Master Plan applications were submitted for staff review, the Board of Supervisors had not yet adopted the Greenway Master Plan. The amended Master Plan submitted with this proposal does not comply with the recommendations of the Greenway Master Plan with respect to the provision of trails and multi-use paths along all property boundaries. In addition, there are numerous opportunities for interconnections between proffered trails and paths to existing or planned facilities on adjacent properties.

## **Comprehensive Plan**

The 229 acre portion of the Boy Scout property located inside the PSA is designated Low Density Residential on the Comprehensive Plan Land Use Map. Low density areas are residential developments on land suitable for such developments with overall densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential development with greater density than one unit per acre is not recommended unless it offers particular benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Such design may include maintaining open fields, retaining natural vegetative buffers around water bodies or wetlands, preserving historic sites, creating adequate recreational areas, designing effective pedestrian circulation to include trail systems, and ensuring that the common land adjoins open space on adjacent parcels.

Low Density Residential areas are located inside the PSA 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 be expanded to serve the site over the next 20 years. Timing and density of the development of particular sites within low density areas will depend on an acceptable level of service of roads and other public services. The timing and density of development for a Low Density Residential site may also be conditioned upon the provision of least cost housing or the provision of open space.

The 503 acre portion of the Boy Scout property located outside the PSA is designated Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests and scattered houses, exclusively outside the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist or are not planned for the future. Rural residential uses associated with limited agricultural and forestal activities are appropriate when overall density is no more than one unit per three acres and soils are suitable for individual waste disposal systems. Residential development is only appropriate when they meet the Rural lands Development Standards of the Comprehensive Plan and minimize adverse impacts on rural lands. Concentrations of residential development such as large scale subdivisions will interrupt rural qualities sought to be preserved.

The Comprehensive Plan Development Standards are intended to provide a basic framework for evaluating rezoning and special use permit proposals and to provide a guide for accommodating land uses in a manner harmonious with the natural and built environment. Rural Land Use Standards are meant to further provide a means to preserve the natural, wooded, and rural character of the County. The Rural Standards seek to discourage conventional large lot residential subdivisions in the rural areas through a preferred pattern of guidelines which include minimizing the impact of residential development by preserving a substantial amount (more than half) of the development in an undivided block of land for permanent open space. The goals of preserving open space are intended to preserve wetlands, steep slopes, stream corridors, wildlife habitats, and

environmentally sensitive lands. Any open space provided to meet these standards should be placed in a conservation easement to ensure that the land would remain undeveloped. It should be noted that the Amended Master Plan identifies the 503 acre portion of the Boy Scout property located outside the PSA as "Area Not Subject of Master Plan." Unless this property is included in the Master Plan and the environmental controls of the proffers, this area could be developed by the applicant at some point in the future as 100 -150 three-acre lots that would not be subject to the same environmental controls that the rest of the Colonial Heritage development inside the PSA would be subject to. The application does not address ways to meet the Rural Land Use Standards.

The Comprehensive Plan discusses at length the need for affordable housing in the County. The Housing element states "while the newer developments provide an abundant supply of certain types of housing, affordability to large numbers of local citizens remains a concern." Figures included in the Comprehensive Plan indicate a shortage of affordable homes in the County. The County has higher than average housing and rental costs which add to the shortage of affordable housing for low and moderate income citizens. Developments such as Colonial Heritage generate the demand for services which need employees that require low to moderate priced housing, particularly on- and off-site service employees and retail employees. One goal of the Housing element of the Comprehensive Plan is to "achieve a range of choice in housing type, density, and price range." As previously stated in the staff report for the original rezoning, this development does not assist in addressing the need for affordable housing in the County.

#### **RECOMMENDATION:**

Staff recommends denial of these applications. Staff does not believe that this application adequately mitigates the environmental impacts created by the development through the preservation of open space, contiguous forest or proffered controls such as increased RPA buffers or design standards. In addition, staff does not believe that the proposed expansion onto the Boy Scout property offers a significant public benefit. The Comprehensive Plan specifically encourages the timing and density of development in Low Density Areas to be conditioned on the provision of affordable housing and the preservation of open space. Finally, staff has identified several unresolved issues with the amended proffers which must be corrected in order for the proffers to adequately protect the public interest.

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Christopher Johnson

#### **Attachments:**

1. Location Map
2. Staff comment later dated October 30, 2002
3. Applicant response letter dated November 14, 2002
4. Updated Traffic Impact Study prepared by DRW Consultants, Inc. Dated June 18, 2002
5. Incremental Fiscal Impact Statement, dated June 2002
6. Amended Master Plan (separate cover)
7. Comparative Draft Amended and Restated Proffers (separate cover)
8. Updated Community Impact Statement, dated June 21, 2002 (separate cover)

## PLANNING DIRECTOR'S REPORT

DECEMBER, 2002

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

1. New Town DRB Cases. The New Town Design Review Board (DRB) met on Thursday, November 21st, to discuss two new projects. The first project, currently known as the Kniest/Hopke Building, is a three story bank and office building to be located generally across the street from the Sun Trust building. The second project is being designed for an existing County business. The Corner Pocket is proposing a two-story, 5,000+/- square foot restaurant and entertainment building adjacent to Sun Trust on Court Street. Both projects received beneficial DRB feedback and both projects are expected to be resubmitted for consideration of final design approval at the December DRB meeting.
2. Comprehensive Plan Update. The reading file contains a detailed discussion of progress on the Comprehensive Plan update. In short, the CPT continued to meet, implementing the Listening Station idea and preparing for the other advertising mechanisms. Staff and the CPT conducted the four Community Conversations. More than 150 people attended the first round of Community Conversations, while staff and the consultants prepared technical reports for the Steering Committee's review. The participants' comments will be forwarded to the Steering Committee. The Steering Committee reviewed the Population section on November 25<sup>th</sup>. Youth and Economic sections are on the agenda for December. The draft Comprehensive Plan is due to the Planning Commission is eight months.
3. Purchase of Development Rights. The County received 14 applications representing approximately 1188 acres from property owners interested in participating in the PDR program. This is the first application period for the program. The Board of Supervisors has reviewed the applications and negotiations with property owners are underway.
4. Zoning Ordinance Amendment: Commission Case Review Period. At its November meeting the Commission approved an amendment to increase the Commission's review period for rezonings, SUPs and ordinance amendment from 90 to 100 days.
5. Light Rail. County staff and City of Williamsburg staff met with Hampton Roads Transit in November to discuss the status of the proposed Light Rail Project. The rail project would use the existing CSX railway between Williamsburg and Hampton. The feasibility study for the project is concluding and a presentation will be made to the Board of Supervisors early next year.
6. Centerville Road Bikeway. Construction of the last segment of the Centerville Road bikeway is nearing completion. This last section, which is between Jolly Pond Road and Longhill Road, was funded by a federal grant obtained by the Planning Division. The other sections were constructed when the road was widened.
7. Other Board Action. At its November 12th meeting, the Board of Supervisors approved Case No. ZO-02-02, Zoning Ordinance Amendment – Manufactured Homes. There were no cases for the November 26<sup>th</sup> Board of Supervisors meeting.
8. Upcoming Cases. New cases that are tentatively scheduled for the January 13, 2003, Planning Commission meeting:

### CASE NO. Z-05-02 LONGHILL GROVE APARTMENTS

A request to rezone approximately 15 acres from Limited Business (LB) to Multi-family Residential (R-5) to accommodate up to 165 apartments has been filed by Chris Basic of AES Consulting Engineers on behalf of Carter Chinnis of UCP Limited Partnership. The site is located next to the existing Burton Woods Apartments at the corner of Longhill and Centerville Roads.

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O. Marvin Sowers, Jr.

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

1. ROLL CALL

A. Joe Poole, III  
George Billups  
John Hagee  
Don Hunt  
Joe McCleary  
Wilford Kale  
Peggy Wildman

ALSO PRESENT

Greg Dohrman, Asst. County Attorney  
Marvin Sowers, Planning Director  
Cynthia Grom, Administrative Services Coordinator  
Christopher Johnson, Senior Planner  
David Anderson, Planner

2. MINUTES

The Commission approved the minutes of the October 7, 2002 meeting as is with a unanimous voice vote.

3. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. John Hagee presented the DRC report stating there were four cases that were heard at the last meeting: the Ford's Colony Williamsburg West/Country Club Dr. Road Improvements, Ford's Colony Section 12, Colonial Heritage, Phase I, Section 2, and Colonial Heritage, Phase I, Sections 3 and 3A. For the Ford's Colony Proffers case, the DRC found the plans consistent with the preliminary intersection plan which was included with Case No. Z-5-01 and recommended that preliminary approval be granted subject to agency comments. The plans will be revised to fully address the conditions of approval submitted by the Williamsburg West Civic Association, including a note which states that the Ford's Colony HOA will assume responsibility for maintaining the landscaped median from Williamsburg West Drive to Lexington Drive. The DRC recommended preliminary approval of Sect 12, subject to agency comments. For the Colonial Heritage cases, there was concern about the safety of the roads, so all the cases were deferred to the November 26<sup>th</sup> meeting.

In a unanimous voice vote the Commission approved the DRC report.

4. PUBLIC HEARINGS

A. CASE NO. SUP-18-01 WALTRIP TOWER

Mr. Christopher Johnson presented the staff report stating the applicant had requested an indefinite deferral. Staff concurred with this request.

Mr. Joe Poole reopened and closed the public hearing. Hearing no further questions, the Planning Commission deferred the case indefinitely.

B. CASE NO. AFD-9-86 GORDON CREEK KANE ADDITION

Mr. David Anderson presented the staff report. In February of 1995 the Board of Supervisors approved the addition of the Kane property to the Gordon Creek AFD. The Kane property is comprised of five parcels totaling 164.33 acres and further identified as Tax Map Nos. (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1) and (36-1)(1-2). Four of the parcels are located off of Jolly Pond Road and one parcel is located off of Deerwood Drive. During the 2002 renewal period, Mr. Kane inadvertently withdrew his property from the Gordon Creek AFD. Upon realizing his mistake, Mr. Kane contacted the County immediately and requested the addition of his property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Gordon Creek AFD contains 3,111.340

acres. If the 164.33-acre addition is approved, the district will have 3,275.67 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Commission approve the Kane addition to the Gordon Creek AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members.

Mr. Donald Hunt asked how the applicant unintentionally withdrew his land from the AFD.

Mr. David Anderson replied that the client filled out the withdrawal form and sent it in without understanding what it was for. If they wanted to keep their land in the AFD designation, they didn't have to send it in.

Mr. Joe Poole opened and closed the public hearing.

Mr. Joe McCleary made a motion to approve.

Mrs. Peggy Wildman seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

C. CASE NO. AFD-6-86 CRANSTON'S POND MARSTON ADDITION

Mr. David Anderson presented the staff report. This property is located at 308 Bush Springs Road and was part of the original Cranston's Pond AFD formed in 1986. During the 1998 renewal period, the property owner chose not to renew this parcel in the AFD. Therefore the property was subject to roll-back taxes covering the years 1993 to 1998. The owner now wishes to place the property back into the AFD. The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Cranston's Pond AFD contains 1,073.579 acres. If the 14.00-acre addition is approved, the district will have 1,087.579 acres. At the October 23<sup>rd</sup> meeting, the AFD Advisory Committee voted 6-0 to recommend approval of the addition. Staff recommends the Planning Committee approve the Marston addition to the Cranston's Pond AFD subject to the conditions of the existing district.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened then closed the public hearing.

Mr. John Hagee made a motion to approve.

Mr. Donald Hunt seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

D. CASE NO. SUP-17-02 GATEHOUSE FARMS ACCESSORY APARTMENT

Mr. David Anderson presented the staff report. Mr. Vance Elkins has applied for a special use permit to allow an accessory apartment in an R-1, Limited Residential District. The accessory apartment would be located within an existing single-family structure at 112 Smokehouse Lane in the Gatehouse Farms subdivision. The property is further identified as parcel (7-40) on James City County Real Estate Tax Map No. (47-3). Staff finds the proposal compatible with the surrounding residential properties, since it will maintain the appearance of a single-family residence and will retain the residential character of the area. Staff also finds the proposal consistent with the Comprehensive Plan since the Comprehensive Plan encourages accessory apartments. The covenants governing the Gatehouse Farms subdivision do not restrict accessory apartments. Therefore, staff recommends the Planning Commission approve the special use permit with the attached conditions.

Mr. Joe Poole opened up the questioning from commission members.

Mr. Joe McCleary questioned the enforceability of the conditions, particularly limiting the renting only to one person.

Mr. Donald Hunt inquired about the owner occupied condition.

Mr. David Anderson stated the owner must live in the home in order to rent the accessory apartment.

Mr. John Hagee noted that enforceability of limitation of renters is not enforceable in any part of the county, even in rental apartment complexes.

Mr. Marvin Sowers noted the county would have to rely on a complaint basis.

Mr. Joe McCleary commented even in that event, it is still very hard to enforce because one can claim the extra person was a guest.

Mr. John Hagee asked if there was some kind of provision that could be put on the special use permit to void it out if the owner sold the property.

Mr. David Anderson replied that we are unable to do that.

Mr. Joe Poole opened the public hearing.

Mr. Reed Wier, the President of the Gatehouse Farms Home Owners Association, spoke on behalf of the neighbors that signed a petition not in favor of the accessory apartment. The list represented about 75% of the neighborhood. He urged the planning commission members to take into consideration their opinions.

Mr. Shane Reed, a member of the Gatehouse Farms Home Owners Association, also spoke on behalf of all the home owners in the neighborhood. They believe that granting the special use permit would be negative in many ways and listed the negative impacts they felt this would have on the neighborhood, such as traffic, privacy and trash concerns, affect on the property value of the homes, the unenforceability of the owner occupied condition and the alteration of the character of the neighborhood.

Mr. Vance Elkins, the applicant, presented the background on how this case came about and why he wanted to build the accessory apartment. He also addressed many of the negative impacts that Mr. Reed had spoke about, such as property upkeep and improvements, since he has to live with the renter, has no desire to rent to an undesirable person, that the Gatehouse Farms covenants were not being violated, and that he was not looking to make a profit, only wanted to help out someone in need. He also noted that there were a few houses in the neighborhood that were rental properties.

Mr. Joe Musica, a resident of Gatehouse Farms, voiced his concern about what happens when Mr. Elkins leaves and sells his property, or if someone else decides they want to build an accessory apartment in their home also.

Mr. Joe Poole closed the public hearing.

Mr. Wilford Kale asked if property owners could ask for an elimination of a special use permit.

Mr. Greg Dohrman answered that it was possible, but they would have to go through the process to amend the special use permit.

Mr. Donald Hunt asked if you can put an expiration date on a special use permit.

Mr. Greg Dohrman answered that a sunset clause could be put on as a condition of the



special use permit, especially if the applicant asks for it and agrees to it.

Mr. Billups asked about what the justification for denial would be if another special use permit came up again. He questioned the equity of treatment of these types of cases.

Mr. Donald Hunt answered that the Planning Commission's function is oversight, and that they make judgments on individual cases.

Mr. Joe Poole stated that he thought the conditions as is were good with the addition of the sunset clause. He proposed to add a five year sunset clause to the special use permit.

Mr. Joe McCleary noted that the Planning Commission members had all been involved with drafting the Zoning Ordinance. A special use permit needs a special reason for why it should be approved. He stated that he was not comfortable with this.

Mr. Donald Hunt made a motion to approve the special use permit with the inclusion of a five year sunset clause.

Mr. Wilford Kale seconded.

Mrs. Peggy Wildman noted that she was not in agreement with it, being that the property is zoned R-1.

Mr. Joe Poole noted that the motion and seconded for approval of the special use permit with the five conditions was on the floor.

Mr. Marvin Sowers listed the five conditions.

Mr. Joe Poole called for a roll call vote. In a roll call vote, motion passed (4-3). AYE: Hagee, Hunt, Kale, Poole (4); NAY: Wildman, Billups, McCleary (3).

E. CASE NO. SUP-18-02 WELLSPRING ADULT DAY CARE CENTER.

Mr. Christopher Johnson presented the staff report. Ms. Linda Tompkins has applied on behalf of Wellspring United Methodist Church to operate an adult day care center out of the existing church building at 4871 Longhill Road. The adult center would be operated by professionals currently working with senior adults. The center would provide a safe environment for elderly adults, allowing their children and care providers to keep their employment and provide a much needed break for families who provide round-the-clock care. Given the growing retired and elderly population in the area, the demand for adult day care centers will likely increase in the coming years and facilities such as the one proposed clearly meet this growing community need. Staff finds the proposed use consistent with surrounding zoning and development and consistent with the Comprehensive Plan and recommends that the Planning Commission recommend approval of this application with conditions.

Mr. Joe Poole opened the public hearing.

Ms. Margaret Kutz, Pastor of Wellspring Church, stated that the day care served two purposes, one for the church's own use and second for the community's use. They were very excited about the prospect of this day care center and comfortable with the conditions set forth by staff.

Mr. Wilford Kale asked her if any building additions were needed. He also noted that he lives in the adjacent neighborhood and neighborhood reaction has been very positive.

Ms. Margaret Kutz answered that it looked like no changes would be needed.

Mr. Joe McCleary noted that he visited the facility and it is very well set up.

Ms. Lynn Warner, one of the two registered nurses that will be running the day care

center, stated that the day care center was licensed by the Department of Social Services and it would be strictly regulated.

Hearing no further questions, Mr. Poole closed the public hearing.

Mr. Joe McCleary made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

F. CASE NO. SUP-19-02 JCSA WATER TREATMENT FACILITY CONCENTRATE MAIN.

This case was withdrawn per the request of the James County Service Authority. Mr. Greg Dohrman, Assistant County Attorney, stated that the property owner failed to sign the application. On behalf of the applicant, Mr. Dohrman withdrew the application.

G. CASE NO. Z-03-02 US HOMES PROFFERS AMENDMENT.  
CASE NO. Z-04-02 BOY SCOUT PROPERTY REZONING.  
CASE NO. MP-01-02 US HOMES AMENDED MASTER PLAN.

Mr. Christopher Johnson presented the staff report and requested a deferral of this application until the December 2<sup>nd</sup> meeting. The applicant notified staff that they would not be present this evening. Staff will continue to work with the applicant to address outstanding issues and areas of concern and anticipates being able to offer a recommendation at the December meeting.

A general discussion ensued about concerns the Planning Commission members had that they wanted to be covered when the case came to the next meeting. Questions were asked about the previous proffers, the Greenway master plan, extension of the PSA, and development of the Boy Scout property.

Mr. Joe Poole opened the public hearing and noted it would be continued in December.

H. CASE NO. ZO-03-02 ZONING ORDINANCE AMENDMENT – PLANNING COMMISSION CASE REVIEW PERIOD.

Mr. Marvin Sowers presented the staff report, and indicated the Planning Commission had approved the initiating proposal to amend the Zoning Ordinance at the last Planning Commission meeting in October to extend the Commission's review period from 90 to 100 days for public hearing cases.

Mr. Joe Poole asked for questions from the Planning Commission members. Hearing none, he opened and closed the public hearing.

Mr. John Hagee made the motion to approve.

Mr. Wilford Kale seconded.

In a roll call vote, motion passed (7-0). AYE: Wildman, McCleary, Hagee, Hunt, Kale, Billups, Poole (7); NAY: (0).

5. PLANNING COMMISSION CONSIDERATION

A. 2003 PLANNING COMMISSION CALENDAR

Mr. Joe Poole suggested the December 1<sup>st</sup> meeting be moved to December 8<sup>th</sup>.

Mr. Wilford Kale suggested the July 7<sup>th</sup> meeting be moved to July 14<sup>th</sup>.

Mr. Joe Poole asked if there were any objections to these suggestions.

Everyone agreed and the 2003 calendar was adopted.

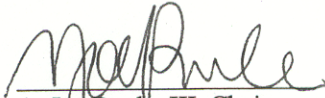
6. PLANNING DIRECTOR'S REPORT


Mr. Marvin Sowers touched on a few topics that were in the report, including hiring Sarah Weisiger to replace Jill Schmidle, the Comprehensive Plan Community Conversations meetings, the starting up of the Steering Committee meetings and the continuance of the CPT meetings.

Mr. Joe Poole urged people to attend the Community Conversations meetings.

7. ADJOURNMENT

There being no further business, the November 4, 2002, meeting of the Planning Commission was adjourned approximately at 9:00 p.m.

  
A. Joe Poole, III, Chairman

  
Marvin Sowers, Secretary



**Special Use Permit-20-02. Nationwide Transmission Auto Sales  
Staff Report for December 2, 2002, Planning Commission Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission: December 2, 2002 - 7:00 p.m. Building C Board Room  
Board of Supervisors: January 14, 2003 - 7:00 p.m. Building C Board Room (tentative)

**SUMMARY FACTS**

Applicant: Henry Gregory

Land Owner: JL HC, LLC of Virginia

Proposed Use: Allow for the sale of cars from the parking lot of the existing Nationwide Transmission business.

Location: 7211 Merrimac Trail; Roberts District

Tax Map/Parcel No.: (41-4)(1-7A)

Primary Service Area: Inside

Parcel Size: 0.50 acres

Existing Zoning: B-1, General Business

Comprehensive Plan: Community Commercial

Surrounding Zoning: North, South and West: B-1, General Business  
East (directly across Merrimac Trail and South): B-1, General Business  
East (across Merrimac Trail and heading north): R-2, General Residential

Staff Contact: David Anderson Phone: 253-6685

**STAFF RECOMMENDATION:**

Staff finds the proposal to be compatible with the surrounding zoning and development, and consistent with the Community Commercial designation of the Comprehensive Plan. The proposed conditions will mitigate any adverse impacts of this operation.

**Project Description**

Mr. Henry Gregory, owner and operator of Nationwide Transmission, has applied for a special use permit to allow for the sale of cars from the parking lot of his transmission business located at 7211 Merrimac Trail. No new construction is proposed in conjunction with this proposal. Car sales will be a secondary use while the transmission business will remain the primary use of the property. A maximum of 20 cars are proposed to be displayed for sale at any given time.



## **Physical Features**

The property fronts on Merrimac Trail and access is limited to a single entrance/exit. The Nationwide Transmission Business occupies a 4000 square foot single-story building. Adjacent to the building is a large fenced in area for storage related to the transmission business. The site has a large paved area for parking, which will accommodate the proposed maximum of 20 cars for sale. The cars for sale will be located at the corner of the parking lot opposite the building (see attached physical survey of site).

## **Surrounding Zoning and Development**

Neighboring the site on either side and to the rear is property zoned B-1, General Business, as is the property directly across Merrimac Trail and to the south. Property across Merrimac Trail and to the north is zoned R-2, General Residential consisting of single-family homes in the James Terrace subdivision. Staff believes the car sales operation is consistent with the surrounding B-1 zoning and compatible with the R-2 zoning, given the small scale of the proposed use and nature of the existing uses. The car sales operation will not substantially change the character of the property and will result in a minimal amount of additional traffic. To minimize any negative impacts to the residents of James Terrace, staff has added conditions to the special use permit which call for additional landscaping on the property, exterior improvements to the building and a new fence - all of which should result in a visually more attractive business. Staff has also added conditions prohibiting any additional lighting of the vehicles, flags, banners, bull horns and any other potentially visually or audibly negative means for advertising the car sales operation. The conditions limit advertisement to an additional sign below the existing pole mounted sign advertising the transmission business and windshield signs for the vehicles to be sold.

## **Comprehensive Plan Designation**

This site is designated Community Commercial in the Comprehensive Plan. General business activities, located within the PSA and usually having a moderate impact on nearby development, are designated Community Commercial. Staff feels that this proposal has a minimal impact on nearby development and thus fits within the character of the Community Commercial designation in the Comprehensive Plan.

Although not a Community Character Corridor, Route 143 is an important entry point into the County and Williamsburg. As such, the adjoining land uses play an important part in visitors and citizens perceptions of the community. Most of the developments in the City and County were constructed prior to the current landscaping requirements. Both private and public landscaping (street trees) and beautification efforts have significantly improved the visual quality of the portion of Route 143 within the City. The applicant is proposing several improvements to the site, including replacing an existing wooden fence which is in a state of disrepair and brick facing the building. Staff is also recommending a condition requiring street trees and other landscaping to improve the appearance of the site and the corridor. As noted above, conditions addressing advertising have also been included. These conditions are consistent with a strategy in the Comprehensive Plan which states, "encouraging beautification of existing development to improve the overall visual quality of the County".

## **RECOMMENDATION**

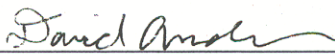
Staff finds this proposal to be compatible with the surrounding zoning and development, due to the minimal amount of potential traffic generated and the mitigation of any potential adverse impacts of the car sales operation through the attached conditions. Staff also finds that this proposal is consistent with the Comprehensive Plan and recommends the Planning Commission approve this special use permit application with the following conditions:


1. If the front of the building is to be brick faced as the applicant has proposed, the brick shall be of a natural brick color and the siding on the remainder of the building shall be of a compatible color as



approved by the planning director.

2. The existing building face sign (under the current Nationwide Transmission building face sign) shall be removed. If the front of the building is not to be brick faced, the siding in that location shall be repaired.
3. A new fence shall be erected to replace the existing fence that screens the storage area. The new fence shall be wooden, a natural wood color, a design and height to screen the storage area from Route 143, and shall be approved by the Planning Director.
4. A landscape area, to be approved by the County Landscape Planner, shall be planted adjacent to the right-of-way and shall consist at a minimum of 3 deciduous shade trees and 12 shrubs.
5. Except as provided for in Condition No. 6, freestanding signage to advertise the car sales shall be limited to one pole mounted sign located on the existing freestanding sign pole below the existing sign advertising the transmission business. Any new freestanding sign to replace the existing freestanding pole sign shall be approved by the Planning Director.
6. Additional advertising for the car sales shall be limited to windshield displays in the vehicles to be sold. No flags, banners, additional lighting, bull horns, loudspeakers, open hoods, or any additional means of advertising the cars to be sold shall be utilized.
7. The car sales operation shall be limited to the hours between 8:00am and 8:00pm, Monday through Saturday.
8. The cars for sale shall be parked in the existing paved parking area on the property.
9. A maximum of 20 cars may be displayed at a time.
10. The car sales operation shall commence within 18 months, or the permit shall become void.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

  
Dave Anderson

CONCUR:  
  
O. Marvin Sowers, Jr.

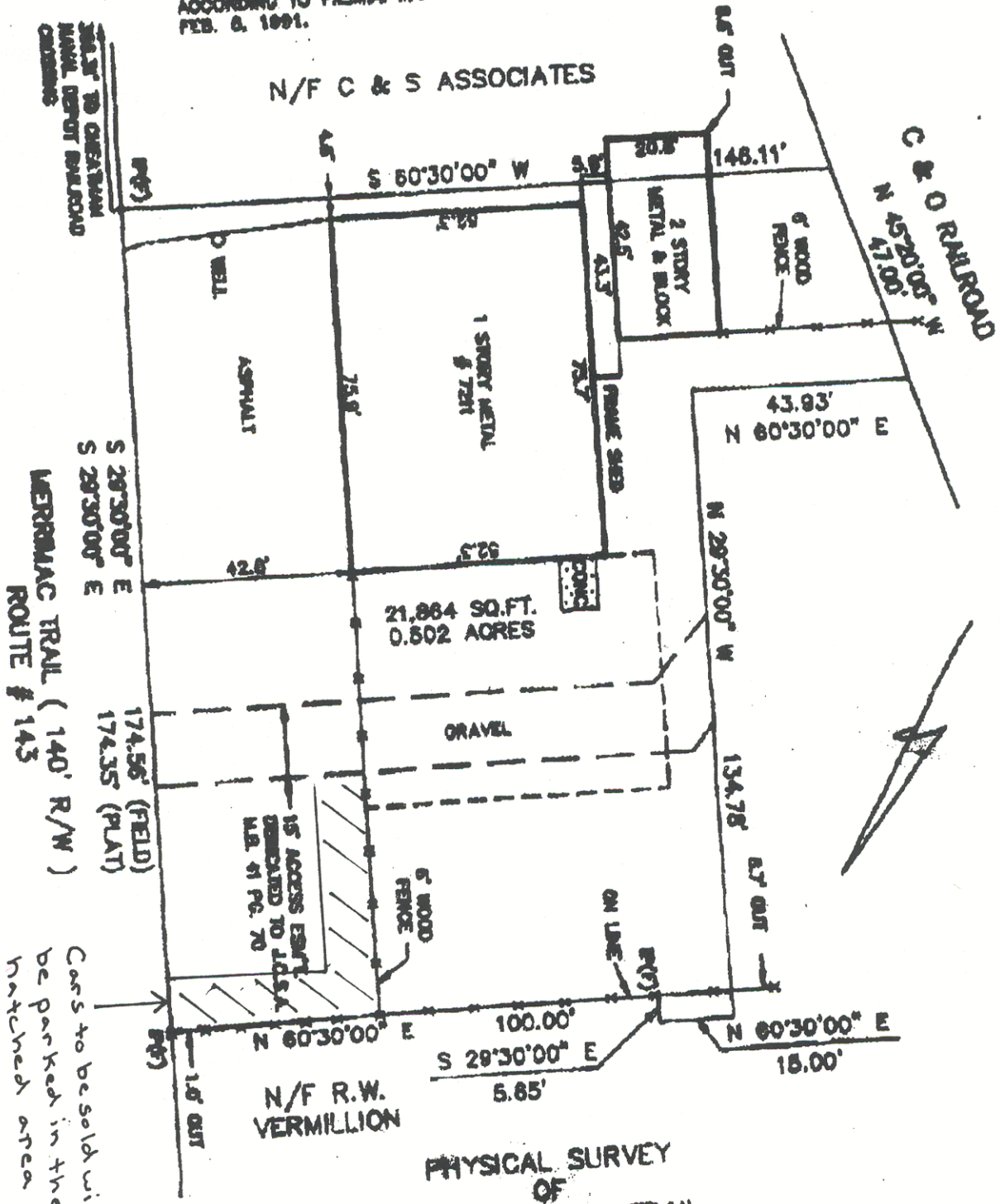
Attachments:

1. Location Map
2. Physical Survey of Site

THIS IS TO CERTIFY THAT I, ON 6-5-97, SURVEYED THE PROPERTY SHOWN HEREON, AND THAT THE TITLE LINES AND PHYSICAL IMPROVEMENTS ARE AS SHOWN HEREON. THE IMPROVEMENTS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

SIGNED: *Edward Holmes*

NOTE: THE PROPERTY SHOWN HEREON APPEARS TO LIE IN "C" FLOOD ZONE ACCORDING TO F.E.M.A. MAP PANEL NO. 810201-00508, REVISED FEB. 8, 1991.

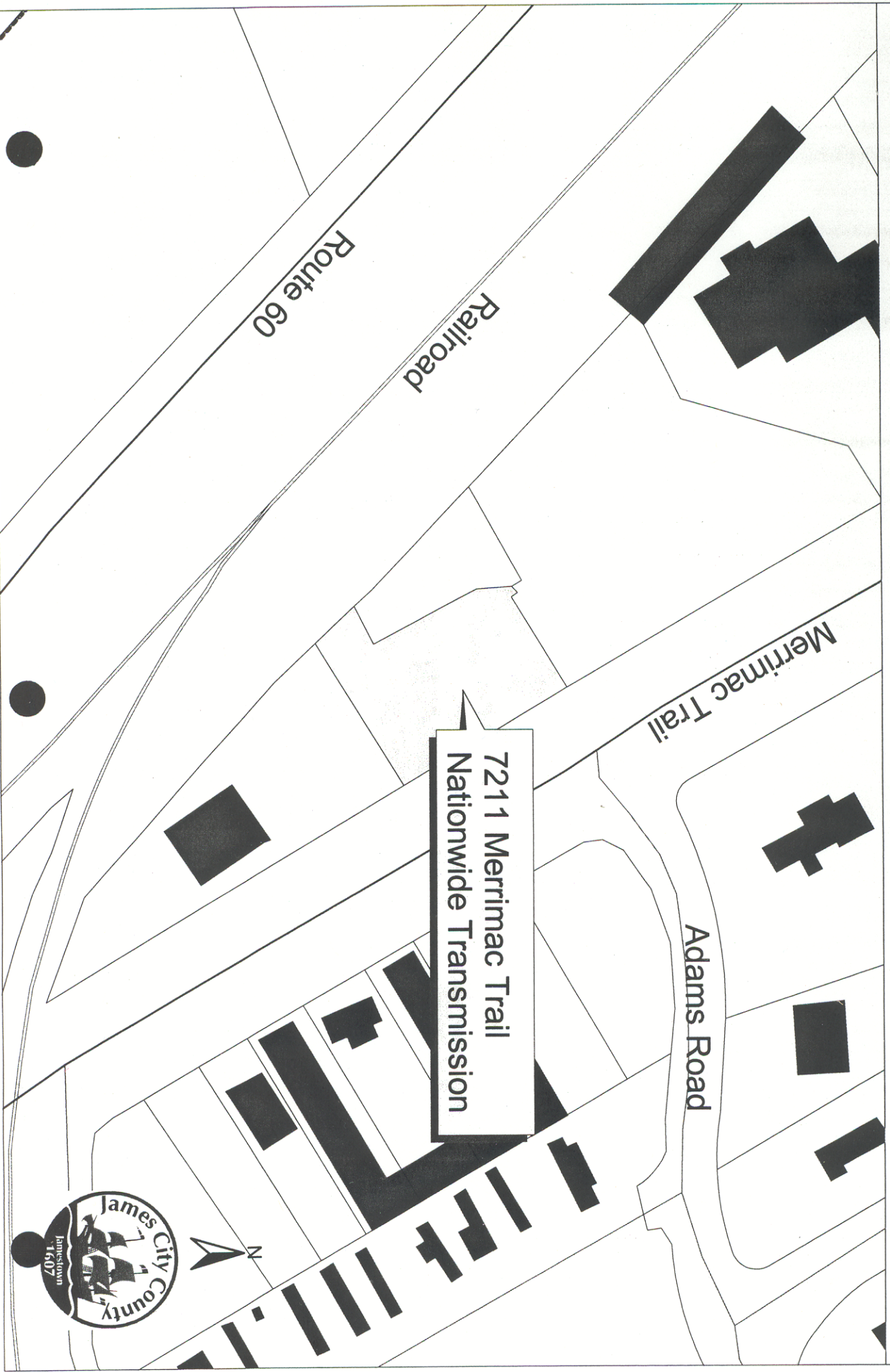


The purpose of this special use permit application is to allow for the sale of cars from the property. No new construction is proposed in conjunction with this proposal - car sales will be a secondary use while the transmission business will remain the primary use. A maximum of 20 cars are proposed to be displayed for sale at any given time.

PHYSICAL SURVEY OF  
7211 MERRIMAC TRAIL  
AS SHOWN ON PLAT TO ACCOMPANY A  
BOUNDARY LINE ADJUSTMENT BETWEEN THE PROPERTIES OF  
CHARLES E. MORRELL AND JAMES CITY COUNTY BOARD OF SUPERVISORS  
ROBERTS DISTRICT  
JAMES CITY COUNTY, VIRGINIA



Case Number: SUP-20-02  
Case Title: Nationwide Transmission and Auto Sales





## **DEVELOPMENT REVIEW COMMITTEE ACTION REPORT**

### **Meeting of November 26, 2002**

**Case No. SP-122-02**

#### **Jamestown High School Parking Lot Expansion**

Mr. Mick Harvey of WPL engineers on behalf of the school division has applied for approval of 107 new parking spaces at Jamestown High School. The project is located off of Route 5 and can be further identified as Tax Map #(46-1)(1-2D). DRC review is necessary under Section 24-147(a)(1) of the Zoning Ordinance that requires DRC review when a site plan proposes two entrances on the same road.

**DRC Action: The request for a second driveway entrance to Greensprings Planation Dr. was recommended for approval by the DRC.**

**Case No. S-22-02**

#### **George Roper Subdivision**

Ms. Nancy Herman-Thompson has applied on behalf of George Roper for an exception to the Subdivision Ordinance, Section 19-71 –shared driveway requirements for minor subdivisions. The applicant seeks to place three driveways onto an arterial road instead of a single driveway as required by the ordinance. The property is located at 7460 Little Creek Dam Road and is further identified as Tax Map #(21-1)(1-28).

**DRC Action: DRC approved Roper Subdivision exception request, 4-0**

**Case No. SP-85-01**

#### **Greensprings Apartments and Condos**

Mr. Marc Sharp of Greensprings Plantation, Inc. has applied for approval of 192 Apartments and 90 Condominiums located on Monticello Extended between Centerville Road and Greensprings Plantation Drive and further identified as Tax Map #(37-3)(1-6). DRC approval is necessary because the applicant is requesting an extension of preliminary approval and because the development proposes more than 50 multifamily units.

**DRC Action: The DRC recommended that preliminary approval be granted subject to agency comments.**

**Case No. S-73-02 & SP-104-02 Colonial Heritage Phase I, Section 3 and 3A**

Mr. Richard Smith of AES Consulting Engineers has applied for approval 86 residential units as part of the Colonial Heritage development. The project is located on Richmond Road across from the Williamsburg Pottery and is further identified as Tax Map #(24-3)(1-32). DRC review is necessary because more than 50 lots are proposed.

**DRC Action: The DRC recommended preliminary approval be granted to Colonial Heritage Sections 3 and 3a**

**Case No. S-63-02 & SP-88-02 Colonial Heritage Phase I, Section 2**

Mr. Richard Smith of AES Consulting Engineers has applied for approval for 88 lots and 6 townhomes as part of the Colonial Heritage development. The project is located on Richmond Road across from the Williamsburg Pottery and is further identified as Tax Map #(24-3)(1-32). DRC review is necessary because the combined size of the units exceeds 30,000 square feet.

**DRC Action: The DRC recommended that preliminary approval be granted subject to agency comments.**

**JAMES CITY COUNTY  
DEVELOPMENT REVIEW COMMITTEE REPORT**  
**FROM: 11/1/2002 THROUGH: 11/27/2002**

**I. SITE PLANS**

**A. PENDING PRELIMINARY APPROVAL**

SP-144-98	Williamsburg Pottery Warehouse/Retail Building
SP-116-99	New Town, Wmbg./JCC Courthouse SP Amendment
SP-051-01	Zooms Gas Station
SP-087-01	The Vineyards Phs. 3 at Jockey's Neck
SP-089-01	Ewell Station Storm Water Management Fac. Mod.
SP-100-01	Williamsburg Crossing Frontage Road
SP-109-01	Monticello Avenue Extended - SP Amendment
SP-116-01	Powhatan Secondary - Ph. 7, Sanitary Sewer Ext.
SP-003-02	New Zion Baptist Church-addition & parking lot exp
SP-007-02	Season's Trace - Winter Park Section 2
SP-009-02	Hairworks Beauty Salon Parking Space Addition
SP-019-02	Williamsburg Plantation Sec 9,10,11 Units 184-251
SP-027-02	120' Stealth Tower--3900 John Tyler Highway
SP-045-02	Powhatan Plantation Maintenance Bldg SP Amend
SP-061-02	Powhatan Plantation Recreation Bldg Amd
SP-088-02	Colonial Heritage, Phase 1 Section 2
SP-104-02	Colonial Heritage, Phase 1, Section 3 & 3A
SP-106-02	Truswood Waterline Extension
SP-112-02	Ford's Colony Recreation Park
SP-115-02	Stonehouse Community Church Tent
SP-117-02	Ford's Colony -Blue Heron Golf Course Comfort Sta.
SP-118-02	Toano Force Main
SP-121-02	Grace Covenant Presbyterian Church - SP Amendment
SP-122-02	Jamestown High School Parking Lot Expansion
SP-124-02	King's Way Church Water Line
SP-126-02	Christmas Mouse Warehouse & Distribution Center
SP-128-02	Come Scrap with Me Shed
SP-129-02	Storage Trailer at Landfill
SP-130-02	Powhatan Place Townhomes Amendment
SP-131-02	Jamestown High School - Soccer Field Expansion
SP-132-02	Sprint Generator Placement

**B. PENDING FINAL APPROVAL**

**EXPIRE DATE**

SP-002-01	JCC HSC Parking Area Expansion	10/ 1/2003
SP-110-01	Williamsburg Christian Academy	12/ 3/2002
SP-002-02	Williamsburg-Jamestown Airport Hangar Additions	2/ 8/2003

SP-044-02	Ford's Colony, Sect. 31, BMP #1 Regrading Plan	5/ 8/2003
SP-048-02	New Town Office Building	6/ 3/2003
SP-049-02	SunTrust Office Building	6/ 3/2003
SP-050-02	New Town Sec 2 & 4 - Road/Utility Infrastructure	8/22/2003
SP-051-02	Landmark Auto Parts	5/ 6/2003
SP-062-02	WindsorMeade Way Road Construction Plan	6/ 4/2003
SP-075-02	US Home/Colonial Heritage Blvd, Phs 1	6/27/2003
SP-084-02	Colonial Heritage, Phase 1, Section 1	11/25/2003
SP-091-02	District Park Sports Complex, Phase III	8/16/2003
SP-095-02	Faith Fellowship Assembly of God	9/ 9/2003
SP-102-02	Powhatan Creek Access Park	9/30/2003
SP-105-02	Kristiansand Sewer Extension	10/ 2/2003
SP-107-02	First Colony Water and Sewer System Replacement	9/18/2003
SP-110-02	Ewell Station - Phase II	10/ 7/2003
SP-113-02	Ready Mixed Concrete Storage Yard Expansion	10/ 7/2003
SP-119-02	Williamsburg West & Country Club Dr. Improvements	11/ 4/2003
SP-120-02	Water Production Facility W-5 Upgrade	11/22/2003
SP-123-02	Well Facilities W-29 W-30 W-31 & W-36 Improvements	11/22/2003

#### **C. FINAL APPROVAL**

#### **DATE**

SP-035-02	Jamestown 4-H Educational Center	11/18/2002
SP-036-02	McKinley Office Building	11/22/2002
SP-072-02	JCSA Water Treatment Facility, Site Prep. Plan	11/12/2002
SP-097-02	Lift Station 1-2 Replacement	11/18/2002
SP-098-02	Powhatan Creek Force Main	11/19/2002
SP-114-02	Williamsburg Pottery Warehouse Addition	11/21/2002
SP-116-02	Williamsburg Unitarian Universalist Parking Lot	11/21/2002

#### **D. EXPIRED**

#### **EXPIRE DATE**

SP-085-01	Greensprings Apartments and Condominiums	11/ 5/2002
SP-105-01	Voice Stream Wireless - Regional Jail Co-Location	11/ 9/2002

## II. SUBDIVISION PLANS

### A. PENDING PRELIMINARY APPROVAL

S-062-98	Ball Metal Conservation Easement
S-104-98	Skiffes Creek Indus. Park, VA Trusses, Lots 1,2,4
S-013-99	JCSA Mission Bank ROW Acquisition
S-074-99	Longhill Station, Section 2B
S-086-99	Peleg's Point, Section 5
S-110-99	George White & City of Newport News BLA
S-006-00	Ewell Station, Lots 1, 4 & 5
S-091-00	Greensprings West, Plat of Subdv Parcel A&B
S-103-00	Villages at Powhatan - Powhatan Secondary
S-032-01	Subdivision and BLE Plat of New Town AssociatesLLC
S-077-01	Ford's Colony - Section 32 (Lots 72-78, 93-129)
S-008-02	James F. & Celia Ann Cowles Subdivision
S-023-02	Stonehouse, Mill Pond Run right-of-way
S-031-02	Bruce's Super Body Shop, Lot 2 subdivision
S-035-02	Villages at Powhatan, Ph. 4
S-052-02	The Retreat--Fence Amendment
S-063-02	Colonial Heritage, Phase 1, Section 2
S-067-02	Powhatan Secondary Phase VI-B plat
S-068-02	Forrest Lee Hazelwood BLA
S-073-02	Colonial Heritage, Phase 1, Sec 3 & 3A
S-079-02	Tankard Tract Subdivision
S-084-02	Skiffes Creek BLE Lots 2 & 3
S-086-02	The Vineyards Phase 3 BLA Lots 1, 5-9, 52
S-092-02	Mertens Subdivison Lot 2
S-093-02	Ironbound Village Phase II
S-094-02	Powhatan Secondary Phase VII-C
S-095-02	Powhatan Secondary Phase V-II B
S-096-02	5813 Richmond Road BLE
S-097-02	Colonial Heritage BLA & BLE
S-098-02	Chickahominy Haven Lots 20 & 21, Sec 7 BLA
S-099-02	Ford's Colony Section XXX - Sanitary Sewer Amend.
S-100-02	Richardson's Mill Sec. 1
S-101-02	Lynette Drive Subdivison
S-102-02	Greensprings Apartments and Condominiums
S-103-02	Alex Harwood Subdivision BLA
S-105-02	Mark Urick & Heather Pons Residence

### B. PENDING FINAL APPROVAL

		EXPIRE DATE
S-034-00	The Pointe at Jamestown, Phase 2	6/ 5/2003
S-041-00	Powhatan Secondary, Phase 6-B	7/27/2003

Wednesday, November 27, 2002

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S-058-00	Powhatan Secondary, Phase 7-A	10/ 2/2003
S-037-01	Wellington Section II & III Construction Plans	5/ 7/2003
S-101-01	Greensprings West, Phase 4A	12/17/2002
S-022-02	George W. Roper, Parcel B	3/19/2003
S-024-02	Stonehouse, Fieldstone Parkway right-of-way & BLA	3/19/2003
S-027-02	Stonehouse, Lisburn, Sect. 5-A, Construction Plans	5/ 6/2003
S-030-02	Waterford at Powhatan Sec., Ph. 33, BLA	4/ 9/2003
S-037-02	Village Housing at the Vineyards, Phase III	5/10/2003
S-039-02	Powhatan Secondary, Phase 6-C	5/ 8/2003
S-042-02	Lake Powell Forest Phase 4	5/23/2003
S-045-02	The Pointe at Jamestown Section 2-A plat	5/30/2003
S-051-02	Ford's Colony, Section 12 Construction Plans	11/ 4/2003
S-057-02	Colonial Heritage - Ph 1, Sec 1, Const Plans	11/25/2003
S-064-02	Stonehouse - Mill Pond Run Section 2	7/29/2003
S-071-02	Stonehouse Commerce Park- ROW extension & realign	9/ 3/2003
S-076-02	Marion Taylor Subdivision	10/ 3/2003
S-078-02	Donald L. Hazelwood Subdivision	9/30/2003
S-081-02	Scott's Pond Section 2	10/ 7/2003
S-082-02	Nice Commercial Properties	10/12/2003
S-083-02	Toano Auto Parts BLA	10/ 9/2003
S-087-02	Pointe at Jamestown Phase 1B BLA Plat Correction	11/12/2003
S-090-02	Ford's Colony Section VII, Lots 119 & 120 BLE	10/25/2003
S-091-02	Williamsburg Landing BLA	11/ 3/2003

#### **C. FINAL APPROVAL**

#### **DATE**

S-058-02	Hazelwood Subdivision and BLA	11/22/2002
S-077-02	Powhatan Place BLA Lots 51-56	11/ 5/2002
S-085-02	Gilliam Subdivision Lots 2 & 3 BLA	11/25/2002
S-104-02	CWTW Williamsburg L.P Property BLA	11/25/2002

**REZONING 3-02 / REZONING 4-02 / MASTER PLAN 1-02. U.S. Home - Colonial Heritage, Boy Scouts of America, Inc. Property, Proffer Amendment and Master Plan Amendment Staff Report for the December 2, 2002, Planning Commission Public Hearing**

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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.

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**PUBLIC HEARINGS**

Planning Commission:

Building C Board Room; County Government Center

November 4, 2002 - 7:00 p.m.

December 2, 2002 - 7:00 p.m.

Board of Supervisors:

January 14, 2003 - 7:00 p.m. (Tentative)

**SUMMARY FACTS**

Applicant:

Alvin Anderson and Greg Davis, on behalf of U.S. Home Corporation

Landowners:

Colonial Virginia Council, Boy Scouts of America, Inc; L. Wallace Sink, Trustee of the David W. Ware Marital Trust; VAJACK, LLC; and Massie Corporation

Proposed Use:

Amend the existing Colonial Heritage Master Plan and Proffers and incorporate the Boy Scouts of America, Inc. property into the previously approved Colonial Heritage development with no increase in the number of residential units.

Location:

499 Jolly Pond Road

Tax Map and Parcel No.:

(22-4)(1-7)

Primary Service Area:

± 229 acres inside the PSA, ± 503 acres outside the PSA

Parcel Size:

± 732 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

MU, with Proffers for the portion inside the PSA  
A-1, with Proffers for the portion outside the PSA

Comprehensive Plan:

Low Density Residential / Rural Lands

Surrounding Zoning:

North: Kristiansand (R-2)      East: Williamsburg Pottery (M-1)  
South: Adam's Hunt (R-1)      West: Hidden Acres Farm (A-1)

Staff Contact:

Christopher M. Johnson - Phone: 253-6685

**STAFF RECOMMENDATION:**

This case was deferred by the Planning Commission at the November 4, 2002, meeting. On November 26, 2002, the applicant requested that this case be indefinitely deferred. Staff concurs with the applicant's request. Should the applicant wish to proceed in the future, the cases will be re-advertised, new signs will be posted, and adjoining property owners will be notified in writing.

**History**

On November 25, 2001, the Board of Supervisors approved a rezoning and master plan application for a 2,000-unit, 18-hole golf course, gated, age restricted community. The original application rezoned approximately 777 acres from A-1, General Agricultural, and M-1, Limited Business/Industrial, to Mixed Use, with proffers. The master plan for the development included 425,000 square feet of commercial development fronting on Richmond Road. The owner, U.S. Home Corporation, is marketing the community to retirees and those approaching retirement, and restricts the age of residents through proffers and covenants. The community focuses on the golf course and associated amenities and will provide several residential products, including single-family, townhomes, and multi-family condominiums.

This case was deferred by the Planning Commission at the November 4, 2002, meeting in order to allow time for staff and the applicant to address outstanding issues regarding this proposal.

### **Description of Project**

Mr. Alvin Anderson, on behalf of U.S. Home Corporation and property owner Colonial Virginia Council, Boy Scouts of America, Inc, has applied for a Master Plan Amendment and rezoning of approximately 229 acres from A-1, General Agricultural, to MU, Mixed Use, with proffers to incorporate the Boy Scout property into the previously approved Colonial Heritage development with no increase to the approved 2,000 residential dwelling units. This would bring the total acreage of the planned community to approximately 1,006 acres. The applicant has also applied to rezone approximately 503 acres of the Boy Scout property from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The 503 acre portion of the Boy Scout property would not be part of nor subject to the Master Plan Amendment for Colonial Heritage. Although the 503 acre portion would not be part of the Amended Master Plan, the 2,000 unit cap would apply to that portion as well. The 229 acre portion of the property is located within the Primary Service Area (PSA) and is designated Low Density on the Comprehensive Plan Land Use Map. The 503 acre portion of the Boy Scout property is located outside the PSA and is designated as Rural Lands on the Comprehensive Plan Land Use Map. The Boy Scout property can be further identified as 499 Jolly Pond Road.

In addition, the applicant has applied on behalf of property owners L. Wallace Sink, Trustee of the David W. Ware Marital Trust, VAJACK, LLC, a Virginia Limited Liability Company, and Massie Corporation, a Virginia Company to rezone the existing 777 acre Colonial Heritage site from MU, Mixed Use, with proffers, to MU, Mixed Use, with amended proffers. The purpose of the rezoning is to amend the proffers for the existing Colonial Heritage development. The amended proffers would also apply to the Boy Scout property. The existing Colonial Heritage development area consists of five parcels of land that are designated Low Density Residential, Moderate Density Residential, and Mixed Use on the Comprehensive Plan Land Use Map. The properties can be further identified as 6175, 6799, 6895, 6991, and 6993 Richmond Road.

The Master Plan proposes approximately 1,400 single-family residential lots, 800 townhomes, 240 condominiums, and 425,000 square feet of commercial, retail, and office space, 18 holes of golf course, amenities, and open space. *(Please note that the higher unit numbers stated on the Master Plan are meant to provide U.S. Home with product flexibility. The 2,000 unit cap is the maximum number of dwelling units that can be built).* The proposed Master Plan Amendment and Rezoning applications effectively decreases the density by spreading the project over an additional 229 acres. The proposed overall density under this proposal is reduced from 2.6 dwelling units per acre to 2.0 dwelling units per acre.

### **Staff Comments**

The applicant submitted amended and restated proffers, an amended Master Plan, and revised studies for the project which are discussed throughout this staff report. The staff comment letter which was sent to the applicant is also included as an attachment to this report. This letter goes into greater detail regarding specific issues that staff has with the proposed changes to the Colonial Heritage proffers.

## **Surrounding Zoning and Development**

Properties to the east of the Colonial Heritage development along Richmond Road are zoned B-1, General Business, and M-1, Limited Business/Industrial. These B-1 properties include the Colonial Towne Plaza which lies in front of the Ware property adjacent to Richmond Road. Also along Richmond Road and adjacent to the Massie property is the Williamsburg Pottery which is zoned M-1, Limited Business/Industrial. To the west of the Boy Scout property is Hidden Acre Farm which is zoned A-1, General Agricultural. The northern boundary line of the existing Colonial Heritage site borders the Kristiansand subdivision, zoned R-2, General Residential. The majority of the properties to the south of the Colonial Heritage and Boy Scout properties, located across Centerville Road and Jolly Pond Road are small residential communities including Adam's Hunt, zoned R-1, Limited Residential, Briarwood Park Condominiums and several single-family dwellings all zoned A-1, General Agricultural. Staff finds the proposal consistent with the surrounding zoning and land uses.

## **Environmental Considerations**

The Boy Scout property located inside the PSA contains approximately 229 acres and includes the land south of Yarmouth Creek, and generally north of Jolly Pond Road. The site is generally forested with evidence of recent and historical harvesting activities. The property is generally level and does not contain extensive severe slopes; however, steep slopes (25% or greater grade) and hydric soils are common adjacent to and within Yarmouth Creek and associated tributaries throughout the site. Several natural streams extend through the central and eastern regions of the property which produce a topography characterized by nearly level ridge lines and moderately to steeply sloping valleys. Surface water features on the Boy Scout property are located within Yarmouth Creek and its associated tributaries. Wetlands are present in the drainage network that generally bisects the site from south to north perpendicular to Yarmouth Creek. Resource Protection Areas (RPA) are present on the site.

Yarmouth Creek contains over 1,500 acres of wetlands which provide habitat for a diversity of fish, waterfowl, and wildlife, which collectively contribute to the area's exceptional recreational potential for hunting, fishing, bird watching and nature enjoyment. These wetlands are also home to at least one blue heron rookery, multiple bald eagle nesting sites, and several globally rare or state rare plant species. The development of Colonial Heritage at the headwaters of the watershed necessitates the immediate need for effective conservation planning to protect this environmental resource for the future.

A Natural Resource Inventory was conducted for the existing 777 acre Colonial Heritage development in accordance with the proffers. The study concluded that potential small whorled pogonia habitat exists along upland slopes in the forested regions of the property. Further field investigation revealed that six individual small whorled pogonia plants were present during the 2001 field season in the area of the planned roadway crossing from Public Use Site A to the Boy Scout property. Further investigation will be necessary in this area of the development to avoid any impacts to the small whorled pogonia colony.

The Deer Lake Natural Area is centered on a small ravine that feeds Deer Lake on the Boy Scout



property located outside the PSA. The ravine is covered by relatively young forest composed of American beech, black walnut, and white oak. The forests surrounding the natural area are young, and there has been substantial clear-cutting in recent years. The natural area and surrounding slopes should be protected to maintain the necessary habitat regions for globally rare plants such as the small whorled pogonia.

The initial phases of development within Colonial Heritage have provided staff with an abundance of new information on which to base these conclusions. Unacceptable protection has been provided for environmentally sensitive features adjacent to unnamed tributaries of Yarmouth Creek. Without changes in development practices, a substantial negative impact to the water quality of Yarmouth Creek is likely. These environmentally sensitive features include contiguous forest areas, Resource Protection area components and associated buffer, perennial streams, non-tidal wetlands, highly erodible soils, intermittent streams, 25 percent slope areas and areas proposed for dedication as natural open space areas. In addition, uncontrolled drainage from stormwater piping systems and lots onto man-made slopes, natural steep slope areas and proposed dedicated open space is a serious concern.

Detailed discussions are underway with U. S. Home as part of the development review of site and subdivision plans for Colonial Heritage. Ordinance requirements may prove to be inadequate to fully protect environmental features on this site. Amended proffers may be necessary to provide adequate environmental protection.

The amended master plan does not offer any additional mitigation or protection measures to offset the impacts to environmentally sensitive areas. Non-fragmented, contiguous forest areas are important to provide uninterrupted movement of wildlife, protection of shell-marl ravine forest habitats which are unique to this area, erosion protection on slopes, habitat for native trees, shrubs and ground cover, and characteristics to filter and infiltrate natural runoff for recharge of groundwater sources and wetland habitat.

## **Fiscal Impact**

James City County Financial and Management Services has reviewed the Fiscal Impact Statement submitted with these applications and offered the following comments:

“With the addition of the 229 acre portion of the Boy Scout property located inside the PSA, the fiscal impact statement assumes that U.S. Home will offer a different product design that will increase the average home value from \$300,000 to \$350,000. The impact on the County is calculated to be an additional \$126,000 to \$144,000 in tax revenue in Year 5, because of higher real estate property values for all 1,200 homes.

Even with the planned development spread out on the additional 229 acres, the fiscal impact statement assumes that there will be no incremental increase in County expenditures. Public spending would apparently be the same, under the model used, if 1,200 homes are on 500 acres or 5,000 acres. The case could certainly be made that street mileage has an impact on public service expenditures, most significantly public safety. The fiscal impact statement apparently assumes that these increased costs will be paid for by all users under a utility model and would not be paid by these new properties.

The proffers do not currently stipulate an average home value, with or without this rezoning, so a fiscal impact statement based on changing the assumption of average market value can't really be validated. It might be useful to compare the incremental net revenue associated with the rezoning to the estimated impact of a by-right development of the

portion of the Boy Scout property located inside the PSA. That would more clearly demonstrate the fiscal impact of the rezoning.”

The Fiscal Impact Study should be revised to address these issues.

### **Public Use Sites**

In order to mitigate public impacts associated with the Colonial Heritage development, the applicant provided a proffer with the initial rezoning application that gave the Board of Supervisors discretion to elect a cash contribution in the amount of \$750,000 or the conveyance of real property shown on the existing Master Plan as Public Use Site A or Public Use Site B. The proffer requires the Board of Supervisors to adopt a resolution electing either cash or real property on or before thirty calendar days following the receipt of a draft groundwater withdrawal permit from the Department of Environmental Quality. The Board will be considering its options regarding this proffer at their November 26, 2002, meeting.

Included in the Public Use Site/Cash Contribution proffer is a list of restricted uses that would be permitted on one of the public use sites if the Board elects to choose the conveyance of real property. This list includes such uses as community recreation facilities, fire stations, hospitals, library, schools, and public meeting halls. The Board originally agreed that the list of potential uses identified in the proffer were appropriate uses for one of the sites. It was anticipated that the public use site could be developed as a school site; however, subsequent engineering analysis of both sites by the School Board has concluded that neither site is an appropriate location for a school.

The Board and staff have been engaged in a discussion over the public use site/cash contribution proffer following notification of the receipt of the draft withdrawal permit by the JCSEA in early November. A majority of the Board members have let it be known that they would like to see the list of permitted uses for the public use sites modified in the proffers in consideration of this rezoning application for the Boy Scout property. Since the proffers are voluntary, any modification to the permitted uses list would be done at the applicant's sole discretion. The applicant has provided a written response to this request in a letter attached to this report.

### **Traffic/Access**

The residential portion of the existing Colonial Heritage development contains two main access points: an entrance/exit off of Richmond Road and an entrance/exit on the southern boundary on Centerville Road. A separate access point will be constructed for the commercial/retail/office area along Richmond Road. Given that the current applications do not propose to increase the total number of residential dwelling units in the development above the 2,000 which are currently approved, the proposed expansion onto the Boy Scout property has relatively few additional traffic related impacts/effects over the original rezoning. A revised traffic study prepared by DRW Consultants, Inc. concludes that there will be no effect on general trip distribution for residential development within Colonial Heritage. The primary change which would result from an expansion onto the Boy Scout property is a shift in the split of residential traffic to the east and north via Centerville Road versus Richmond Road. In other words, the midpoint on the internal main collector road for equal travel time via Richmond Road versus Centerville Road will shift to the west as more traffic would exit onto Centerville Road than was originally suggested in previous traffic models. Staff is awaiting comments from VDOT on the impacts of this shift on Centerville Road and Richmond Road.

### **Greenways**

When the original Colonial Heritage rezoning and Master Plan applications were submitted for staff review, the Board of Supervisors had not yet adopted the Greenway Master Plan. The amended Master Plan submitted with this proposal does not comply with the recommendations of the Greenway Master Plan with respect to the provision of trails and multi-use paths along all property boundaries. In addition, there are numerous opportunities for interconnections between proffered trails and paths to existing or planned facilities on adjacent properties.

## **Comprehensive Plan**

The 229 acre portion of the Boy Scout property located inside the PSA is designated Low Density Residential on the Comprehensive Plan Land Use Map. Low density areas are residential developments on land suitable for such developments with overall densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwellings in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. In order to encourage higher quality design, a residential development with greater density than one unit per acre is not recommended unless it offers particular benefits to the community. Examples of such benefits include mixed-cost housing, affordable housing, unusual environmental protection, or development that adheres to the principles of open space development design. Such design may include maintaining open fields, retaining natural vegetative buffers around water bodies or wetlands, preserving historic sites, creating adequate recreational areas, designing effective pedestrian circulation to include trail systems, and ensuring that the common land adjoins open space on adjacent parcels.

Low Density Residential areas are located inside the PSA 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 be expanded to serve the site over the next 20 years. Timing and density of the development of particular sites within low density areas will depend on an acceptable level of service of roads and other public services. The timing and density of development for a Low Density Residential site may also be conditioned upon the provision of least cost housing or the provision of open space.

The 503 acre portion of the Boy Scout property located outside the PSA is designated Rural Lands on the Comprehensive Plan Land Use Map. Rural Lands are areas containing farms, forests and scattered houses, exclusively outside the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist or are not planned for the future. Rural residential uses associated with limited agricultural and forestal activities are appropriate when overall density is no more than one unit per three acres and soils are suitable for individual waste disposal systems. Residential development is only appropriate when they meet the Rural lands Development Standards of the Comprehensive Plan and minimize adverse impacts on rural lands. Concentrations of residential development such as large scale subdivisions will interrupt rural qualities sought to be preserved.

The Comprehensive Plan Development Standards are intended to provide a basic framework for evaluating rezoning and special use permit proposals and to provide a guide for accommodating land uses in a manner harmonious with the natural and built environment. Rural Land Use Standards are meant to further provide a means to preserve the natural, wooded, and rural character of the County. The Rural Standards seek to discourage conventional large lot residential subdivisions in the rural areas through a preferred pattern of guidelines which include minimizing the impact of residential development by preserving a substantial amount (more than half) of the development in an undivided block of land for permanent open space. The goals of preserving open space are intended to preserve wetlands, steep slopes, stream corridors, wildlife habitats, and

environmentally sensitive lands. Any open space provided to meet these standards should be placed in a conservation easement to ensure that the land would remain undeveloped. It should be noted that the Amended Master Plan identifies the 503 acre portion of the Boy Scout property located outside the PSA as "Area Not Subject of Master Plan." Unless this property is included in the Master Plan and the environmental controls of the proffers, this area could be developed by the applicant at some point in the future as 100 -150 three-acre lots that would not be subject to the same environmental controls that the rest of the Colonial Heritage development inside the PSA would be subject to. The application does not address ways to meet the Rural Land Use Standards.

The Comprehensive Plan discusses at length the need for affordable housing in the County. The Housing element states "while the newer developments provide an abundant supply of certain types of housing, affordability to large numbers of local citizens remains a concern." Figures included in the Comprehensive Plan indicate a shortage of affordable homes in the County. The County has higher than average housing and rental costs which add to the shortage of affordable housing for low and moderate income citizens. Developments such as Colonial Heritage generate the demand for services which need employees that require low to moderate priced housing, particularly on- and off-site service employees and retail employees. One goal of the Housing element of the Comprehensive Plan is to "achieve a range of choice in housing type, density, and price range." As previously stated in the staff report for the original rezoning, this development does not assist in addressing the need for affordable housing in the County.

#### **RECOMMENDATION:**

Staff recommends denial of these applications. Staff does not believe that this application adequately mitigates the environmental impacts created by the development through the preservation of open space, contiguous forest or proffered controls such as increased RPA buffers or design standards. In addition, staff does not believe that the proposed expansion onto the Boy Scout property offers a significant public benefit. The Comprehensive Plan specifically encourages the timing and density of development in Low Density Areas to be conditioned on the provision of affordable housing and the preservation of open space. Finally, staff has identified several unresolved issues with the amended proffers which must be corrected in order for the proffers to adequately protect the public interest.

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Christopher Johnson

#### **Attachments:**

1. Location Map
2. Staff comment later dated October 30, 2002
3. Applicant response letter dated November 14, 2002
4. Updated Traffic Impact Study prepared by DRW Consultants, Inc. Dated June 18, 2002
5. Incremental Fiscal Impact Statement, dated June 2002
6. Amended Master Plan (separate cover)
7. Comparative Draft Amended and Restated Proffers (separate cover)
8. Updated Community Impact Statement, dated June 21, 2002 (separate cover)

## PLANNING DIRECTOR'S REPORT

DECEMBER, 2002

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

1. New Town DRB Cases. The New Town Design Review Board (DRB) met on Thursday, November 21st, to discuss two new projects. The first project, currently known as the Kniest/Hopke Building, is a three story bank and office building to be located generally across the street from the Sun Trust building. The second project is being designed for an existing County business. The Corner Pocket is proposing a two-story, 5,000+/- square foot restaurant and entertainment building adjacent to Sun Trust on Court Street. Both projects received beneficial DRB feedback and both projects are expected to be resubmitted for consideration of final design approval at the December DRB meeting.
2. Comprehensive Plan Update. The reading file contains a detailed discussion of progress on the Comprehensive Plan update. In short, the CPT continued to meet, implementing the Listening Station idea and preparing for the other advertising mechanisms. Staff and the CPT conducted the four Community Conversations. More than 150 people attended the first round of Community Conversations, while staff and the consultants prepared technical reports for the Steering Committee's review. The participants' comments will be forwarded to the Steering Committee. The Steering Committee reviewed the Population section on November 25<sup>th</sup>. Youth and Economic sections are on the agenda for December. The draft Comprehensive Plan is due to the Planning Commission is eight months.
3. Purchase of Development Rights. The County received 14 applications representing approximately 1188 acres from property owners interested in participating in the PDR program. This is the first application period for the program. The Board of Supervisors has reviewed the applications and negotiations with property owners are underway.
4. Zoning Ordinance Amendment: Commission Case Review Period. At its November meeting the Commission approved an amendment to increase the Commission's review period for rezonings, SUPs and ordinance amendment from 90 to 100 days.
5. Light Rail. County staff and City of Williamsburg staff met with Hampton Roads Transit in November to discuss the status of the proposed Light Rail Project. The rail project would use the existing CSX railway between Williamsburg and Hampton. The feasibility study for the project is concluding and a presentation will be made to the Board of Supervisors early next year.
6. Centerville Road Bikeway. Construction of the last segment of the Centerville Road bikeway is nearing completion. This last section, which is between Jolly Pond Road and Longhill Road, was funded by a federal grant obtained by the Planning Division. The other sections were constructed when the road was widened.
7. Other Board Action. At its November 12th meeting, the Board of Supervisors approved Case No. ZO-02-02, Zoning Ordinance Amendment – Manufactured Homes. There were no cases for the November 26<sup>th</sup> Board of Supervisors meeting.
8. Upcoming Cases. New cases that are tentatively scheduled for the January 13, 2003, Planning Commission meeting:

### CASE NO. Z-05-02 LONGHILL GROVE APARTMENTS

A request to rezone approximately 15 acres from Limited Business (LB) to Multi-family Residential (R-5) to accommodate up to 165 apartments has been filed by Chris Basic of AES Consulting Engineers on behalf of Carter Chinnis of UCP Limited Partnership. The site is located next to the existing Burton Woods Apartments at the corner of Longhill and Centerville Roads.

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O. Marvin Sowers, Jr.