

# A G E N D A

## JAMES CITY COUNTY PLANNING COMMISSION

MAY 5, 2003 - 7:00 P.M.

1. ROLL CALL
2. MINUTES
  - A. April 7, 2003
3. COMMITTEE AND COMMISSION REPORTS
  - A. Development Review Committee Report
  - B. Other Committees
4. PUBLIC HEARINGS
  - A. Z-02-03/MP-1-03. Hiden Property Proffers Amendment.
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 SEVENTH DAY OF APRIL, TWO-THOUSAND AND THREE, 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  
John Hagee  
Donald Hunt  
Peggy Wildman  
Joseph McCleary  
George Billups  
Wilford Kale

ALSO PRESENT

Leo Rogers, Deputy County Attorney  
Michael Drewry, Assistant County Attorney  
O. Marvin Sowers, Jr., Planning Director  
Cynthia Grom, Administrative Services Coordinator  
Karen Drake, Senior Planner  
Matthew Arcieri, Planner

2. MINUTES

The Commission approved the minutes of the March 3, 2003 meeting 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 two cases that were heard at the last meeting, one for Wexford Hills subdivision for alternative septic systems for four lots and one for the Tewning Road office building for two entrances. Both were recommended for approval by the DRC.

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

B. OTHER COMMITTEES

Mr. Joe McCleary presented to the Planning Commission a brief summary on where the Comprehensive Plan Steering Committee (SC) was in their review process. He commented that the April Planning Commission reading file included the latest minutes of the March SC meetings. He explained the format that was going to be used for the next section of Land Use. He gave a run down on the itinerary of the next four SC meetings, the tour of the Land Use change properties, possible joint work sessions with the Board of Supervisors in June, and final Planning Commission consideration occurring during the July 14<sup>th</sup> Planning Commission meeting. If completed at that meeting, the Plan would then be forwarded to the Board of Supervisors. He also mentioned the Virginia Gazette had included a pull out Land Use Map in Saturday's paper (April 5<sup>th</sup>). He asked his fellow Planning Commission members if they are amicable to the two work sessions with the Board of Supervisors members.

Mr. Joe Poole expressed his appreciation for the itinerary, and endorsed the proposal for the work sessions, and asked the other Planning Commission members if they concurred.

All members of the Planning Commission concurred.

4. PUBLIC HEARINGS

A. CASE NO. Z-2-03/MP-1-03 Hiden Property Proffers Amendment.

Mr. Matthew Arcieri presented the staff report. The applicant requested deferral until the next Planning Commission meeting in May.

Mr. Joe Poole, III, opened up the public hearing and continued it until May 5th.

B. CASE NO. SUP- 2-03 Hankins Industrial Park Ready Mixed Concrete Plant.

Ms. Karen Drake presented the staff report. She stated that Mr. Vernon Geddy has applied on behalf of the Southern Equipment Company, Inc. for a Special Use Permit (SUP) to allow the construction and operation of a Ready Mixed Concrete plant at 190 Industrial Boulevard in the Hankins Industrial Park, Toano, VA. The property is zoned M-2, General Industrial with the manufacture of cement, bricks and stone products, a specially permitted use in the M-2 Zoning District. Currently, the property is ±145.34 acres in size and the proposed SUP would apply to only ±16.22 acres that would be subdivided upon approval of this SUP. The property can be further identified as Parcel No. (1-13) on James City County Real Estate Tax Map No. (12-4). Proposed operational details of the Ready Mixed Concrete Plant are as follows: The facility will start with 5 employees, 4 drivers and 1 plant manager; Normal working hours will be 7:00am until 5:00pm; Equipment on site will include a concrete batch plant, 4 concrete mixer trucks and one wheel loader; Buildings on site include one metal building serving as an office, driver's room and a small warehouse for storage; Facility estimates for the first year are 12,000 to 15,000 cubic yards, (8 to 9 truck trips per day). The proposed Ready Mixed Concrete plant in the Hankins Industrial Park is consistent with the surrounding zoning, development and the 1997 Comprehensive Plan. Given the applicants stated intent to subdivide and create the ±16.22 acre site, the project will be buffered on all but one side by land within the Hankins Industrial Park. Staff recommended the Planning Commission approve this Special Use Permit application with conditions.

Mr. Wilford Kale asked for clarification on the two driveways.

Mr. Joe Poole, III invited the applicant, Mr. Vernon Geddy, Esq., to approach the podium.

Mr. Vernon Geddy, representing Southern Equipment, discussed their application for a special use permit. He stated the property the plant would be on is a well buffered site and would be a small operation with only 5 employees and 4 concrete trucks. He explained the dust collection equipment to be used is 99.8% effective and is regulated by the VA Dept. of Environmental Quality, and an erosion and settlement plan as well as a spill and prevention plan that would be in place. He also described the truck wash down area where the water would be collected, recycled and reused.

Mr. Joe McCleary asked for clarification on the size of the operation, wondering if it would be equal to the Jack Massie, Inc., operation.

Mr. Vernon Geddy replied it would be smaller.

Mr. Joe Poole, III, asked if the 15 conditions attached to the special use permit were acceptable.

Mr. Vernon Geddy replied yes, they were.

Mr. Joe Poole, III, opened the public hearing.

Mr. Tony Dion, resident of 102 Fairmont Drive, in the Mirror Lakes subdivision, stated his reasons for opposition to the special use permit and strongly recommended the Planning Commission not approve the permit.

Ms. Teresa Hudgins of 111 Knollwood Drive, representing the Stonehouse District Citizen's Association, also stated her concerns regarding the special use permit and recommended the Planning Commission not approve the permit.

Hearing no other request to speak, Mr. Joe Poole, III, closed the public hearing. He questioned Mr. Geddy regarding the distance the plant would be from the Mirror Lakes subdivision, truck traffic and environmental issues.

Mr. Vernon Geddy replied the shortest distance the plant would be to the subdivision would be 1500 feet, that the truck traffic was based on the capacity of the plant and average loads the trucks could carry, and the environmental issues were highly regulated by the DEQ and James City County. He mentioned that the sand and gravel would be stored in outdoor storage bins, and that all aggregates would arrive via trailer trucks.

Mr. Wilford Kale asked if the James City Service Authority was concerned about contamination to the well facilities that would be next door.

Ms. Karen Drake explained that the well facilities were raw water and were sent to a treatment plant from that location. Also, she didn't receive any comments from JCSA expressing such concerns.

Mr. Vernon Geddy was asked if the VEDQ permit had been applied for, and he stated it has not.

Mr. Wilford Kale asked if there would be a chance of surface or ground water contamination.

Mr. Vernon Geddy stated it would be surface water but there would be a containment system.

Mr. John Hagee made a motion to approve.

Mr. Joe McCleary seconded the motion.

Mr. John Hagee, Mr. Joe McCleary, Mrs. Peggy Wildman and Mr. Joe Poole, III, all stated their support for the special use permit. They felt it was an appropriate use for the property, located in a heavy industrial area and supported by the Comprehensive Plan.

In a roll call vote, motion passed (6-1). AYE: Wildman, McCleary, Hagee, Hunt, Billups, Poole (6); NAY: Kale (1).

C. CASE NO. ZO-2-03/SO-1-03 Zoning and Subdivision Ordinance Fee Changes.

Mr. Matthew Arcieri presented the staff report. He stated that on March 11, 2003, the Board of Supervisors adopted an initiating resolution to consider making fee changes to the zoning and subdivision ordinances. Fees were last reviewed in 1998. At that time, a detailed study of actual costs was prepared. While most fees were increased, they still fell short of recovering all actual costs. Since then there has been a steady increase in costs and staff time associated with review of all case types. In addition, fees have not kept pace with inflation, the costs of advertising public hearing cases through the newspapers, and direct mailings to adjacent property owners. In preparing this proposal staff surveyed eleven local governments: Albemarle, Chesterfield, Fauquier, Hampton, Hanover, Henrico, Newport News, Richmond, Stafford, Williamsburg & York. Staff's recommended increases are based on a general comparison with these jurisdictions and will bring fees in line with some of the high-growth communities in the Commonwealth. Even with these proposed increases, the Division will still recoup less than 50% of the County's actual costs.

Mr. Donald Hunt asked when the fee schedule was last reviewed.

Mr. Matthew Arcieri replied in 1998.

Mr. Donald Hunt asked if the fees go into the general fund for the County.

Mr. O. Marvin Sowers, Jr. replied yes, they did. He explained that staff was asked to bring this forward by the Board of Supervisors as part of the budget process.

Mr. Joe Poole, III, opened the public hearing. Hearing no other requests to speak, he closed the public hearing.

Mr. Joe Poole, III, and Mr. John Hagee voiced their support for the fee changes.

Mr. John Hagee made a motion to approve.

Mr. Joe McCleary seconded the motion.

Mr. George Billups and Mrs. Peggy Wildman also stated their support for the ordinance changes.

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

5. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers discussed the upcoming Steering Committee meetings on Land Use starting Monday, April 14th. He encouraged everyone to attend the meetings or watch on TV. He also mentioned the Comprehensive Plan section of the website that included all land use applications and links to leave comments.

6. ADJOURNMENT

There being no further business, the April 7, 2003, meeting of the Planning Commission was adjourned at 7:58 p.m.

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A. Joe Poole, III, Chairman

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O. Marvin Sowers, Jr., Secretary

**JAMES CITY COUNTY**  
**DEVELOPMENT REVIEW COMMITTEE REPORT**  
**FROM: 4/1/2003 THROUGH: 4/30/2003**

**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-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-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-061-02	Powhatan Plantation Recreation Bldg Amd
SP-088-02	Colonial Heritage, Phase 1 Section 2
SP-112-02	Ford's Colony Recreation Park
SP-129-02	Storage Trailer at Landfill
SP-133-02	Busch Corporate Center - Wheat Center
SP-140-02	Jamestown Area Water System Improvement
SP-001-03	Colonial Heritage 13th Hole Irrigation Pond
SP-005-03	Hankins Farm Water and Sewer Extension
SP-009-03	Energy Services Group Metal Fabrication Shop
SP-013-03	Williamsburg Business Center, Phs. 3, SP Amendment
SP-020-03	Jolly Pond Veterinary Hospital
SP-021-03	Colonial Heritage, Cross Country Sewer Mains
SP-030-03	Old Capitol Lodge Site Plan Amendment
SP-033-03	Colonies at Williamsburg Entrance Road
SP-035-03	Prime Outlets, Ph. 5-A & 5-B - SP Amendment
SP-043-03	Ford's Colony Section 7, Sewer Upgrade
SP-044-03	Longhill Grove Apartment Complex
SP-045-03	Noah's Ark Vet Hospital SP Amendment
SP-047-03	JCSA Well Facilities Erosion Repairs
SP-049-03	James River Commerce Center Columbia Drive
SP-050-03	Wmbg-Jamestown Airport T-Hanger & Parking Exp.
SP-051-03	Ford's Colony Country Club Golf Academy
SP-052-03	Kingsmill Access Ramp for Pool Access Bldg.
SP-053-03	George Nice & Sons Fill Project
SP-056-03	Shell Building - James River Commerce Center

SP-057-03	New Town - William E. Wood Building
SP-060-03	Williamsburg Plantation Sec 9,10,11 Units 184-251
SP-061-03	Pottery Farmer's Market

**B. PENDING FINAL APPROVAL**

**EXPIRE DATE**

SP-044-02	Ford's Colony, Sect. 31, BMP #1 Regrading Plan	5/ 8/2003
SP-050-02	New Town Sec 2 & 4 - Road/Utility Infrastructure	8/22/2003
SP-062-02	WindsorMeade Way Road Construction Plan	6/ 4/2003
SP-084-02	Colonial Heritage, Phase 1, Section 1	11/25/2003
SP-102-02	Powhatan Creek Access Park	9/30/2003
SP-104-02	Colonial Heritage, Phase 1, Section 3 & 3A	12/ 2/2003
SP-110-02	Ewell Station - Phase II	10/ 7/2003
SP-113-02	Ready Mixed Concrete Storage Yard Expansion	10/ 7/2003
SP-142-02	George Nice & Sons	2/12/2004
SP-144-02	J.W. Crossing, Phase II	2/20/2004
SP-002-03	Colonial Heritage Phase 2, Massie Farm Pond Rehab.	2/21/2004
SP-010-03	Colonial Heritage Residence Clubhouse	3/ 3/2004
SP-015-03	Monticello Woods Community Center	4/10/2004
SP-018-03	St. Bede Catholic Church SP Amendment	4/10/2004
SP-025-03	New Town Block 2	4/ 9/2004
SP-026-03	Schmidt Landscaping	4/10/2004
SP-029-03	SunTrust Building Amendment	4/25/2004
SP-032-03	Greensprings Apts. & Condos. SP Amendment	4/ 3/2004
SP-034-03	Colonial Heritage Sewer Lift Station & Force Main	4/24/2004
SP-038-03	Jamestown High School Temp. Classroom Trailers	4/23/2004
SP-039-03	Stonehouse Elementary Temp. Classrooms Trailer	4/23/2004
SP-040-03	Lafayette High School Temp. Classrooms Trailers	4/23/2004
SP-041-03	Clara Byrd Baker Temp. Classroom Trailer	4/23/2004

**C. FINAL APPROVAL**

**DATE**

SP-002-01	JCC HSC Parking Area Expansion	4/25/2003
SP-045-02	Powhatan Plantation Maintenance Bldg SP Amend	4/25/2003
SP-124-02	King's Way Church Water Line	4/14/2003
SP-128-02	Come Scrap with Me Shed	4/ 3/2003
SP-132-02	Sprint Generator Placement	4/ 8/2003
SP-135-02	Little Creek Phase III Amendment	4/22/2003
SP-014-03	McLaws Park	4/11/2003
SP-022-03	Christmas Mouse Warehouse Amendment	4/ 4/2003
SP-028-03	Hardee's Restaurant Awning SP Amendment	4/28/2003
SP-036-03	Colonial Heritage Blvd. Phase 1, SP Amendment	4/21/2003
SP-042-03	Ford's Colony Entrance Landscape Plan Amendment	4/ 7/2003
SP-046-03	Busch Gardens Stroller Deck Amendment	4/ 1/2003
SP-048-03	Stonehouse Community Church SP Amendment	4/18/2003

SP-054-03	Fairways Villas SP Amendment	4/25/2003
SP-055-03	Busch Gardens-Ireland Freezer Relocation SP Amend.	4/23/2003
SP-058-03	District Park Sports Complex Press Box SP Amend.	4/24/2003
SP-059-03	Faith Fellowship Assembly of God - Picnic Canopy	4/28/2003



## **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-110-99	George White & City of Newport News BLA
S-091-00	Greensprings West, Plat of Subdv Parcel A&B
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-031-02	Bruce's Super Body Shop, Lot 2 subdivision
S-052-02	The Retreat--Fence Amendment
S-068-02	Forrest Lee Hazelwood BLA
S-084-02	Skiffes Creek BLE Lots 2 & 3
S-086-02	The Vineyards Phase 3 BLA Lots 1, 5-9, 52
S-099-02	Ford's Colony Section 30 - Sanitary Sewer Amend.
S-100-02	Richardson's Mill Sec. 1
S-113-02	Martin Farm Estates
S-008-03	Norge-Fenton Mill BLA
S-016-03	Governor's Land Lots 12 & 13 BLA
S-019-03	Lake Powell Pointe Phase 4
S-020-03	114 Howard Drive 2 Lot Subdivision
S-021-03	Stonehouse Section 2-C Easements
S-024-03	Ellis Property BLA
S-025-03	Stonehouse - Richardson's Mill, Sect. 2 Lots 34-37
S-026-03	P.W. Development, Inc.
S-027-03	Stonehouse - Parcel A Plat
S-028-03	Wexford Hills Phase 1-I, Lots 27, 28 & 32
S-029-03	Wexford Hills Phase 3B
S-030-03	Stonehouse, Richardson's Mill, Sect. 2, Lt. 24-27
S-031-03	Busch Properties Inc./Wilde BLA
S-032-03	Greensprings Apts & Condos--JCSA Easement Plat

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

### **EXPIRE DATE**

S-034-00	The Pointe at Jamestown, Phase 2	6/ 5/2003
S-058-00	Powhatan Secondary, Phase 7-A	10/ 2/2003
S-037-01	Wellington Section 2 & 3 Construction Plans	5/ 7/2003
S-101-01	Greensprings West, Phase 4A	12/17/2003
S-027-02	Stonehouse, Lisburn, Sect. 5-A, Construction Plans	5/ 6/2003
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-045-02	The Pointe at Jamestown Section 2-A	5/30/2003
S-057-02	Colonial Heritage - Phase 1, Section 1	11/25/2003
S-063-02	Colonial Heritage, Phase 1, Section 2	12/ 2/2003
S-073-02	Colonial Heritage, Phase 1, Sections 3 & 3A	12/ 2/2003
S-076-02	Marion Taylor Subdivision	10/ 3/2003
S-083-02	Toano Auto Parts BLA	10/ 9/2003
S-091-02	Williamsburg Landing BLA	11/ 3/2003
S-094-02	Powhatan Secondary Phase 7-C	12/30/2003
S-101-02	Sheldon Properties, L.L.C.	12/13/2003
S-103-02	Alex Harwood Subdivision BLA	12/15/2003
S-107-02	Greensprings West, Phase 3-C	1/13/2004
S-108-02	Scott's Pond, Section 3	1/13/2004
S-112-02	Kensington Woods	2/ 6/2004
S-001-03	Ford's Colony Sec 1 Block D Lots 2A, 2B, 2 & 3 BLE	1/16/2004
S-003-03	Ford's Colony/Realtec Properties BLA	2/21/2004
S-007-03	Stonehouse, Richardson's Mill Sec. 2	3/20/2004
S-012-03	Colonial Heritage Blvd. - Private ROW	3/20/2004
S-015-03	Season's Trace Winter Park Lots 51-74	4/15/2004
S-022-03	New Town - Block 2, Parcel B	4/18/2004

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

#### **DATE**

S-023-02	Stonehouse, Mill Pond Run ROW	4/ 3/2003
S-024-02	Stonehouse, Fieldstone Parkway ROW - BLA	4/ 4/2003
S-051-02	Ford's Colony, Section 12	4/15/2003
S-071-02	Stonehouse Commerce Park- ROW extension & realign	4/ 7/2003
S-013-03	Mulberry Place Lots 25 & 26 BLA	4/28/2003
S-014-03	New Town - Casey Office BLA	4/ 9/2003
S-017-03	Lake Powell Forest Phase 5	4/11/2003
S-023-03	Longhill Gate ROW Vacation and Abandonment	4/ 2/2003

#### **D. EXPIRED**

#### **EXPIRE DATE**

S-030-02	Waterford at Powhatan Sec., Ph. 33, BLA	4/ 9/2003
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**Rezoning-2-03/Master Plan-1-03. Hiden Property Proffer Amendment  
Staff Report for May 5, 2003, 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.*

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**PUBLIC HEARINGS**

Planning Commission: April 7, 2003 - 7:00 p.m. Building C Board Room (deferred)  
May 5, 2003 - 7:00 p.m. Building C Board Room  
Board of Supervisors: June 10, 2003 - 7:00 p.m. Building C Board Room (tentative)

**SUMMARY FACTS**

Applicant: Vernon M. Geddy, III

Land Owner: Robert M. Oliver, Powhatan Crossing, Inc.

Proposed Use: The applicant wishes to amend the existing proffers to permit 400 age restricted units in place of the 350 approved timeshares on the southern portion of the property.

Location: 4100 Monticello Avenue (South of Monticello Woods), Powhatan District

Tax Map/Parcel No.: (37-4)(1-10); (37-3)(1-9)

Primary Service Area: Inside

Parcel Size: 218.3 acres

Existing Zoning: PUD-R, Planned Unit Development, Residential

Comprehensive Plan: Low Density Residential  
Conservation Area

Surrounding Zoning: North: Monticello Woods, PUD-R, Planned Unit Development, Residential  
West: Greensprings, R-4, Residential Planned Community  
East: Powhatan Plantation, PUD-R, Planned Unit Development, Residential  
Powhatan Crossing, R-1, Limited Residential  
South: R-8, Rural Residential

Staff Contact: Matthew Arcieri Phone: 253-6685

**RECOMMENDATION**

Staff finds the revised proffers and master plan are consistent with surrounding development and zoning and the Comprehensive Plan. Staff believes that the cash proffers proposed sufficiently address impacts, including water, of the additional fifty units. Finally, the proposal has addressed the recommendations of the Powhatan Creek Watershed Study and the environmental protections afforded by this proposed plan exceed that provided under the current approved plan. Staff therefore recommends approval of this case.

## **Description of Project**

Mr. Vernon Geddy, III on behalf of Powhatan Crossing, Inc. has applied for a Master Plan Amendment and rezoning for the Hiden Property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers. Approval of the proposal would permit the development of 400 age restricted units on the southern portion of the property in place of the approved 350 timeshares. Of the 400 units, 275 would be single family units and the remaining 125 would be multi-family units. The proposed overall density for the southern property under this proposal is increased from 3.46 dwelling units per acre to 3.7 dwelling units per acre.

No changes are proposed for the northern portion of the property and, unless otherwise noted, descriptions and analysis throughout the remainder of this report deal only with the southern property.

## **History**

On November 12, 1997, the Board of Supervisors approved rezoning the 388 acre Hiden property from R-8, Rural Residential, to PUD-R, Planned Unit Development, Residential, with proffers. Construction of Monticello Avenue extended bisected the property into a northern portion of approximately 170 acres and a southern portion of approximately 218 acres. On the northern portion, the approved proffers allow the development of 150 single family detached units. The approved proffers allow for construction of 350 timeshare units on the southern property. Since approval, development of the Hiden property has occurred only on the northern portion known as the Monticello Woods community.

This case was deferred by the Planning Commission at the April 7, 2003, meeting in order to allow time for staff and the applicant to address outstanding issues regarding this proposal.

## **Proffers**

The following has been proffered by the applicant. Staff finds that the voluntary proffers offset potential impacts of the additional fifty units. Staff comments on specific proffers appear when warranted and are further evaluated throughout the rest of this report.

1. Density: The northern portion of the property (Monticello Woods) remains unchanged from the approved proffers and will contain 150 single family dwelling units. The southern portion of the property will contain 400 dwelling units rather than 350 timeshares. These units will be age restricted to persons fifty-five years of age or older.
2. Road Improvements: The owner will contribute \$2,800 for each of the first 250 lots or units on both the northern and southern property for a total contribution of \$700,000. This proffer remains unchanged from the approved proffers and the owner has currently paid this proffer for 52 lots in Monticello Woods.
3. Traffic Signal: The owner will install a traffic signal at the request of VDOT and the County. This proffer remains unchanged from the approved proffers. In addition, the owner will conduct an updated traffic signal warrant analysis at 75% buildout.
4. Monticello Avenue Greenbelt: A 150 foot greenbelt is designated along both sides of Monticello Avenue. This proffer remains unchanged from the approved proffers.
5. Environment Protections: The owner will grant, free of charge, a conservation easement on 147.8 acres (68% of the property) to the Williamsburg Land Conservancy or the County. This proffer remains

unchanged from the approved proffers although the percent of the property protected by the easement has increased in order to satisfy the recommendations of the Powhatan Creek Watershed Management Plan. Stormwater runoff from all paved areas or buildings over 150 square feet must go into a BMP.

6. Greenway: As under the approved plan, the owner will grant the County an easement as shown on the Master Plan for the County to construct a greenway. As part of this proposal, the owner will grant the County parking opportunities for the general public to access the greenway.
7. Recreation: As under the approved plan, the owner will provide recreational areas of at least 2.5 acres with the location and design subject to review and approval by the Development Review Committee. Upon final subdivision or site plan approval of 235 units, the owner will contribute \$19,600 to the County for recreation capital improvements. Upon final subdivision or site plan approval of 100 lots on the northern property (Monticello Woods), the owner will contribute \$14,200 to the County for recreation capital improvements. These monies may be used toward construction of the proffered greenway.
8. Cash Contributions for Community Impacts:
  - a. Water: The owner will contribute \$750 for each of the first 50 lots on the southern property for a total contribution of \$37,500.
  - b. General Impacts : The owner will contribute \$700 for each of the first 50 lots on the southern property for a total contribution of \$35,000.
  - c. Powhatan Creek Impacts : The owner will contribute \$500 for each of the first 50 lots on the southern property for a total contribution of \$25,000.

A total of \$97,500 is proffered to mitigate the impacts of the additional fifty units and impacts on Powhatan Creek.

9. Water Conservation: As part of the revised proffers, the owner will develop and enforce water conservation standards to be submitted and approved by the JCSA.

### **Surrounding Zoning and Development**

The surrounding property has a variety of residential uses. Directly north is Monticello Woods, which is part of the original Hiden rezoning and is zoned PUD-R, Planned Unit Development, Residential. Powhatan Plantation timeshares are due east of the property in an area zoned PUD-R, Planned Unit Development, Residential. Powhatan Crossing subdivision is on the southern end of the property's eastern boundary. It is a low density residential subdivision zoned R-1, Limited Residential. The property to the west across the mainstem of Powhatan Creek is part of Greensprings Plantation and contains a golf course, timeshares and single family homes. Greensprings across the mainstem of Powhatan Creek is zoned R-4, Residential Planned Community. The southern portion of the property is adjacent to undeveloped R-8, Rural Residential Property. These parcels have access onto Powhatan Springs Road, Ingram Road and John Tyler Highway.

Properties zoned PUD-R, Planned Unit Development, Residential are required to maintain a fifty foot perimeter buffer with adjacent properties. In addition, the owner has proffered a 100 foot buffer between the southern property and the Powhatan Crossing community.

### **Physical Features and Environmental Considerations**

The 218.3 acre southern portion of the Hiden Property is bordered on the west by Powhatan Creek. While there

are timbered upland areas suitable for development, much of the site contains broad, forested wetlands and areas subjected to periodic inundation by the creek. These features plus areas of steep slopes render 111.2 acres or 50.9% of the property non-developable. Most of the environmentally sensitive areas would be placed in a conservation easement and conveyed to the County or another approved land conservation entity.

Of the remaining 107.1 acres, 54.5 will be developed for residential use. This represents 25% of the total property. The remainder of the developable area will be part of buffers along Powhatan Creek, Monticello Avenue and adjacent properties. By definition, projects in the PUD-R, Planned Unit Development, Residential district must leave 35% of the gross area as open space. This proposal leaves 75% of the property as open space.

A phase one archaeological study of the property has been conducted and accepted by the County per the conditions of the existing proffers. Although the study noted the “extremely high likelihood” that a number of prehistoric campsites are located along the edge of Powhatan Creek, these areas have been protected by the 100 foot resource protection area (RPA) buffer. The expanded RPA buffer proposed by the applicant as part of the amended master plan will offer further protection to any sites.

### **Powhatan Creek Watershed Study**

The 22 square mile Powhatan Creek watershed, which discharges into James River near Jamestown Island, is a state and national treasure with its historic past and present biodiversity. It was recently ranked as having the greatest significance in biodiversity among natural areas in the Lower Peninsula of Virginia. Rare, threatened, and endangered plants such as the small whorled pogonia and Virginia least trillium are found here. The creek is a bald eagle habitat and an important heron nesting area. Continued development pressures, however, threaten the vitality of the watershed. In November 2001, Development Management completed a watershed study for Powhatan Creek to help prevent further degradation of water quality and maintain the high quality of streams and sensitive areas using land use, conservation tools, and stormwater management. The James City County Board of Supervisors approved, in concept, adoption of the eight goals and 21 priorities associated with the draft Powhatan Creek Watershed Management Plan by resolution dated February 26, 2002.

Recommendations of the Powhatan Creek Watershed Management Plan for this property (located along the non-tidal mainstem of the Powhatan Creek) are:

- Increase the width of mainstem buffers to 300 feet to preserve contiguous forest and prohibit invasive species;
- Allow for clustering - maintaining the same density to increase preservation of the mainstem contiguous forest without reducing the number of units built by the developer; and
- Limit impervious cover.

The applicant states that this proposal addresses the requirements of the Powhatan Creek Watershed Management Plan by offering the following benefits:

- The incorporation of stormwater management facilities/best management practice designed to honor James City County’s stormwater management goals, and maintain high stream quality;
- Reserving 100 foot RPA buffers along Powhatan Creek; and
- Reserving buffers adjacent to headwater streams of the Powhatan Creek (RPA extensions).

In addition the proposal provides expanded RPA buffers along Powhatan Creek where possible. Providing the full 300 foot expanded buffer along Powhatan Creek would severely limit the owner’s ability to develop this property. Working with Development Management, the owner has provided an expanded buffer along much of the site. One critical area on the property for an expanded buffer is along the northern reaches of Powhatan Creek

where developable areas come close to open water. Here the expanded buffer is vital to providing additional forested habitat at times when water levels in the Creek are high. The proposal includes expanded buffers in these areas varying from an average of 200 feet to an average of 300 feet.

The applicant has proffered a cash contribution of \$25,000 (\$500 for the first fifty units) to be used for off-site stream restoration and stormwater management to help offset the impact of not being able to implement the full 300 foot buffer along Powhatan Creek. This proffer money may be used toward restoration of a 3,000 foot long offsite stream channel which is upstream of the project but in severe need of restoration. While \$25,000 will not fully fund the restoration, staff believes it is a reasonable pro rata contribution.

The James City County Environmental Division has reviewed the amended proffers and Master Plan and agree that the proposal meets the objectives of the Powhatan Creek Watershed Study. In summary, the environmental protections afforded by this proposed plan exceed that provided under the current approved plan.

### **Traffic Impacts**

According to the traffic study submitted by the applicant, the 350 timeshares approved for the southern portion of the property would generate 2,051 vehicle trips per day. The 400 proposed residential units would generate 3,828 vehicle trips, an increase of 87%. Despite this increase, the traffic study shows that the through lanes on Monticello Avenue will operate at a Level of Service B.

The applicant's traffic study also states these trip generation numbers are high given that the development will be age restricted. This is based on a comparison with Ford's Colony which, with its older residential character, has shown approximately 60% of conventional single family trip generation. At a 60% trip generation rate, the increase in traffic from 350 timeshares to 400 age-restricted units is 12%. The Virginia Department of Transportation has reviewed this analysis and does not accept the 60% reduction. VDOT has also noted they will require a new traffic impact study be submitted with subdivision plans.

The applicant's traffic consultant has provided additional traffic generation counts from the Heritage Hunt age-restricted community in Prince William County. At the time the counts were taken 745 units had been occupied on this project. The traffic counts taken for this project indicated that Heritage Hunt generated about 25% of conventional single family trip generation.

Although the applicant has proffered installation of a traffic signal if required by VDOT and the County, given that Monticello Avenue is a major east-west thoroughfare, installation of a signal would be detrimental to traffic flow on this road and impair intercounty mobility. The traffic signal warrant analysis submitted by the applicant shows that signal warrants are met only by 100% percent trip generation and only for the peak hour warrant. Using the 60% rate, the traffic counts do not come close to warranting a traffic signal nor is a signal likely to be warranted under the approved timeshares. Given the uncertainty surrounding these counts, the applicant has proffered conducting a traffic signal warrant analysis at 75% buildout using actual traffic counts. However, development could still proceed beyond that point, resulting in the need for a signal should traffic generation be higher than the 60% rate.

Based on the information provided by the applicant regarding traffic generation at other age restricted communities, staff accepts that the proposal will generate less traffic than a non age-restricted development and is not likely to require installation of a traffic signal.

### **Public Utilities**

The property is located inside the Primary Service Area and will be served by public water and sewer. Water service would be provided by the 12 inch water main located along Monticello Avenue. An interconnection with the existing water system of Powhatan Crossing is also planned. The water models submitted with this application indicate there is sufficient water capacity for this proposal. Sewer connections will be made into the existing 21 inch gravity sewer paralleling the eastern bank of Powhatan Creek. This sewer line terminates at Lift Station 1-2. Renovations already underway to this station as well as the completion of the 30 inch Monticello Avenue force main will provide adequate sewer capacity.

The applicant's analysis of the water demand for 350 timeshares versus 400 age-restricted units identifies a 10% reduction in water demand. This is due to each housing unit using 225 gallons per day (based on the usage assumed with the Colonial Heritage project) versus the 300 gallons per day used by a timeshare. The proposal also assumes that all single family lots will be irrigated. The applicant has proffered water conservation measures to be approved by JCSA prior to subdivision or site plan approval.

The applicant is also proffering \$37,500 (\$750 for the first fifty units) to mitigate the impacts on the water supply of developing the additional fifty units on the property. This proffer amount of \$750 per unit is identical to the amount proffered by Colonial Heritage.

### **Fiscal Impacts**

Based on the fiscal impact analysis submitted by the applicant, the proposed age restricted community, primarily due to the lack of school age children, would result in a net fiscal benefit to the County. In addition, the project would provide a higher fiscal benefit than the approved 350 timeshares. A comparison of total positive benefits through the eight year projected buildout is as follows:

*Net Fiscal Impacts - Age Restricted versus Timeshare*

	Year 2	Year 4	Year 6	Year 8
400 Age Restricted Units	\$287,000	\$618,000	\$962,000	\$1,039,000
350 Time Share Units	\$169,000	\$506,000	\$514,000	\$524,000

On a per unit basis, after buildout a timeshare will generate a positive \$1,500 net fiscal impact while the proposed age- restricted units generate a positive \$2,600 net fiscal impact. James City County Financial and Management Services has reviewed the Fiscal Impact Statement submitted with these applications and agrees that lack of school children results in a positive fiscal benefit.

The applicant is also proffering \$35,000 (\$700 for the first fifty units) to mitigate impacts on County emergency, library and other services generated by developing an additional fifty units on the property. This proffer amount per unit is generally based on the amount proffered by Colonial Heritage.

### **Comprehensive Plan**

The majority of the Hiden Property 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. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

The applicant states that this proposal meets the criteria for a density higher than one dwelling unit per acre by offering the following benefits:

- A development that provides large areas of open space throughout the development;
- A development that retains natural vegetative buffers around water bodies and wetland environments;
- A development that provides recreational amenities for this community;
- A development that provides common lands that neighbor open spaces located on adjacent parcels;
- A development that is harmonious with surrounding land developments; and
- A development which meets the definition of a “residential cluster development.”

Portions of the property adjacent to the Powhatan Creek are designated as Conservation Area. Conservation areas are critical environmental areas where ordinary development practices would likely cause significant environmental damage. Lands surrounding or adjacent to conservation areas can also be sensitive, and development of these lands should consider negative impacts and methods to mitigate or eliminate these impacts. Wetlands, marshes, flood hazard areas, steep slopes, critical plant and wildlife habitats, and stream banks are types of conservation areas. Lands designated for conservation are intended to remain in their natural state. Examples of preferred land uses include hunting and fishing clubs, fish and game preserves, parks, and other open space that complement the natural environment.

The Comprehensive Plan also designates Monticello Avenue as a Community Character Corridor. Through proffers, this proposal provides the recommended 150' greenbelts along both sides of the road.

Staff finds this proposal consistent with the Low Density Residential and Conservation Area designation of the Comprehensive Plan.

## **Recommendation**

Staff finds the revised proffers and master plan are consistent with surrounding development and zoning and the Comprehensive Plan. Staff believes that the cash proffers proposed sufficiently address impacts, including water, of the additional fifty units. Finally, the proposal has addressed the recommendations of the Powhatan Creek Watershed Study and the environmental protections afforded by this proposed plan exceed that provided under the current approved plan. Staff therefore recommends approval of this case.

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Matthew D. Arcieri

Attachments:

1. Location Map
2. Proffers
3. Memo from Dexter Williams to Richard Costello dated April 30, 2003
4. Master Plan (separate)



# MEMORANDUM

TO: Rich Costello  
FROM: Dexter R. Williams  
SUBJECT: Hidden Property – Heritage Hunt Trip Generation  
DATE: April 30, 2003

Heritage Hunt is the age-restricted U. S. Home development in Prince William County that is the model for Colonial Heritage. Heritage Hunt has one main access for all residential traffic. VETTRA, a traffic consulting firm, counted hourly directional traffic on December 11, 2002 from 6 AM to 7 PM on the Heritage Hunt access. The VETTRA counts were undertaken to evaluate signal warrants for access to Heritage Hunt.

Mike Dillard of U. S. Home provided a housing count of 745 housing closings as of November 30, 2002. This provides an 11 day window for occupancy after closing.

Enclosed Exhibit A shows the results of VETTRA 13 hour counts with trip rates using 745 units. The average trip rates for the AM and PM peak hours are no more than 27% of ITE values for two-way traffic. The 13 hour trip rate of 1.81 trip per unit probably equates to a daily trip rate of no more than 2.5 trips per day per unit, or approximately 25% of the VDOT 10 daily trip standard.

The Heritage Hunt results are substantially lower than the Ford's Colony trip generation cited in previous forecasts for the Hidden property. With this type of age-restricted trip rate, there will be no possibility of meeting traffic signal warrants with 400 units on the Hidden property.

Table 1 - ITE TRIP GENERATION VALUES

				WEEKDAY TRIP GENERATION						
TRACT	LAND USE	ITE CODE	SQ.FT., OTHER UNITS	AM PEAK HOUR			PM PEAK HOUR			DAILY
				Enter	Exit	Total	Enter	Exit	Total	
eq.-adj. st.	Single-Family	210	745 units	133	398	531	420	236	656	6577
			Average rate derived from equation values	0.18	0.53	0.71	0.56	0.32	0.88	8.83
avg. rate-adj. st.	Single-Family	210	745 units	140	419	559	481	271	752	7130
			Average rate	0.19	0.56	0.75	0.65	0.36	1.01	9.57

Table 2 - HERITAGE HUNT COUNTS 12-11-02

Table 2 - HERITAGE HUNT COUNTS 12-11-02				WEEKDAY TRIP GENERATION							
TRACT		LAND USE	ITE CODE	SQ.FT., OTHER UNITS	AM PEAK HOUR			PM PEAK HOUR			6A-7P 13 Hr.
					Enter	Exit	Total	Enter	Exit	Total	
12-1-02 COUNTS				47	58	105	97	77	174	1347	
12-1-02 AVG. TRIP RATES				0.06	0.08	0.14	0.13	0.10	0.23	1.81	
PERCENT ITE EQUATION				35%	15%	20%	23%	33%	27%	20% %Daily	
PERCENT ITE RATE				34%	14%	19%	20%	28%	23%	19% %Daily	

Housing unit count based on closings as of November 30, 2002

Trip generation rates from Trip Generation, 6th Edition (TG6) by  
the Institute of Transportation Engineers (ITE)

HERITAGE HUNT TRIP GENERATION DECEMBER 11, 2002  
COMPARISON TO ITE TRIP GENERATION

DRW Consultants, Inc.  
804-794-7312

Exhibit A

## Exhibit A

All that certain piece, or parcel of land described as the "Thomas & Martin Tract" containing 390.69 acres, more or less, but said land is sold in gross and not by the acre. The subject property is bordered by the Powhatan Swamp, Powhatan Crossing Subdivision, Powhatan Plantation and Powhatan Secondary Subdivision, as shown on that certain plat, entitled "P.W. Hiden Estate, Plat of Survey of the Thomas & Martin Tracts, Being Part of Powhatan Plantation, situated in Jamestown District, James City County, Virginia, Surveyed, November, 1944...", a copy of which plat is attached hereto and incorporated herein by reference, for a more complete description of the property sold herein.

Subject however to all easements, restrictions and conditions of record affecting the Property or apparent on the ground.

### Legal Description

The following is a description of a portion of the property known as the Hiden Tract, located in James City County, Virginia, and conveyed to Powhatan Crossing, Inc. by deeds recorded in the Circuit Court of James City County as follows; Martha Hiden Estate et al by deed dated December 11, 1996, Deed Book 819 Page 564; Mayo W. Waltrip by deed dated November 22, 1994, Deed Book 715 Page 804; Martha W. Hussey, et al by deed dated January 6, 1997, Document No. 97000170. Said property is a portion of that shown on a survey prepared by Langley & McDonald, Inc. entitled "Plat of Subdivision, HIDDEN TRACT, Powhatan District, James City County" dated December 16, 1999.

Beginning at a point on the southerly right-of-way line of Monticello Avenue at the intersection of the Resource Protection Area (Also known as the RPA) and said right-of-way line, thence along the right-of-way line in a westerly direction S73 08'34"W, 441.70' to a point in the centerline of Powhatan Swamp; thence along the centerline of Powhatan Swamp in a southerly direction S26 16'53"E, 126.41' to a point; thence S11 12'01"W, 405.63' to a point; thence S13 23'33"W, 242.98' to a point; thence S02 14'45"E, 287.24' to a point; thence S16 56'57"E, 308.88' to a point; thence S33 17'37"E, 676.67' to a point; thence S22 52'37"E, 723.84' to a point; thence S25 52'09"E, 163.94' to a point; thence S27 07'04"E, 216.16' to a point; thence S51 08'48"E, 359.77' to a point; thence S74 27'52"E, 472.78' to a point; thence S39 32'10"E, 459.73' to a point; thence S32 35'22"E, 731.42' to a point; thence S31 21'48"E, 346.02' to a point; thence S50 31'44"E, 493.01' to a point, said point being in the centerline of Powhatan Swamp; thence along a branch of Powhatan Swamp in an easterly direction N56 03'42"E, 367.90' to a point; thence N32 39'36"E, 185.00' to a point; thence leaving the branch of Powhatan Swamp in a northerly direction N30 35'12"W, 146.08' to a point; thence N03 31'40"W, 23.68' to a point; thence N29 15'50"W, 38.99' to a point; thence N45 17'30"W, 22.82' to a point; thence N23 14'56"W, 26.07' to a point; thence N34 14'43"W, 29.56' to a point; thence N40 53'16"E, 48.52' to a point; thence N23 21'49"W, 20.94' to a point; thence N29 34'31"W, 26.12' to a point; thence N13 31'38"W, 28.99' to a point; thence N05

02'04"W, 24.00' to a point; thence N03 45'55"W, 50.42' to a point; thence N15 07'58"E, 81.31' to a point; thence N34 06'20"E, 32.87' to a point; thence N40 21'07"E, 21.50' to a point; thence N11 29'56"W, 17.43' to a point; thence N13 39'32"E, 27.94' to a point; thence N71 39'19"W, 28.35' to a point; thence N53 09'04"E, 52.67' to a point; ; thence N47 33'56"E, 34.83' to a point; thence N18 58'38"W, 21.62' to a point at the intersection of said RPA line with the property of Paul R. Griesenauer, et al; thence along the line of Griesenauer in a northeasterly direction N53 40'48"E, 20.81' to a point; thence N51 07'29"E, 9.73' to a point; thence N67 01'13"E, 42.24' to a point; thence N42 47'00"E, 39.49' to a point; thence N13 03'22"E, 26.69' to a point; thence N19 31'49"E, 21.09' to a point; thence N01 51'17"E, 27.38' to a point; thence N30 55'00"E, 10.82' to a point; thence N08 03'43"E, 34.71' to a point; thence N45 06'27"E, 32.63' to a point; thence N57 10'32"E, 12.50'; thence N38 12'43"E, 24.55' to a point; thence N34 58'08"E, 45.82' to a point; thence N20 46'03"E, 26.88' to a point; thence N51 59'19"E, 33.99' to a point; thence N05 36'32"W, 29.35' to a point; thence N31 28'28"E, 45.70' to a point; thence N18 40'47"E, 33.06' to a point; thence N45 51'13"E, 30.39' to a point; thence N74 32'33"E, 27.38' to a point; thence S86 02'45"E, 20.80' to a point; thence N80 52'02"E, 42.91' to a point; thence S27 23'41"E, 17.01' to a point; thence S88 47'23"E, 30.04' to a point; thence N34 55'57"E, 14.54' to a point; thence N70 03'30"E, 20.16' to a point; thence N43 08'15"E, 19.26' to a point; thence N55 57'08"E, 46.75' to a point; thence N34 54'32"E, 6.85' to a point; thence S50 01'24"E, 174.50' to a point on the right of way of Powhatan Springs Road; thence along said right of way N56 17'06"E, 49.47' to a point; thence along the arc of a curve to the right having a radius of 50', a distance of 115.93' to a point; thence N54 11'11"E, 10.31' to a point; thence N34 41'24"W, 234.30' to a point; thence N44 10'37"E, 18.51' to a point; thence N43 18'02"E, 58.01' to a point; thence N36 09'03"E, 30.88' to a point; thence N48 42'36"E, 37.57' to a point; thence N45 12'43"E, 22.74' to a point; thence N52 18'14"E, 43.00' to a point; thence S64 49'25"E, 18.84' to a point; thence N67 00'21"E, 25.94' to a point; thence N63 24'17"E, 31.59' to a point; thence N24 01'08"E, 149.69' to a point on the southerly line of Powhatan Crossing Subdivision; thence along said line N85 50'34"W, 995.41' to a point; thence N04 09'26"E, 204.75' to a point; thence S87 15'25"W, 275.55' to a point; thence S86 37'00"W, 338.81' to a point; thence N08 47'40"E, 57.45' to a point; thence N12 29'19"E, 115.68' to

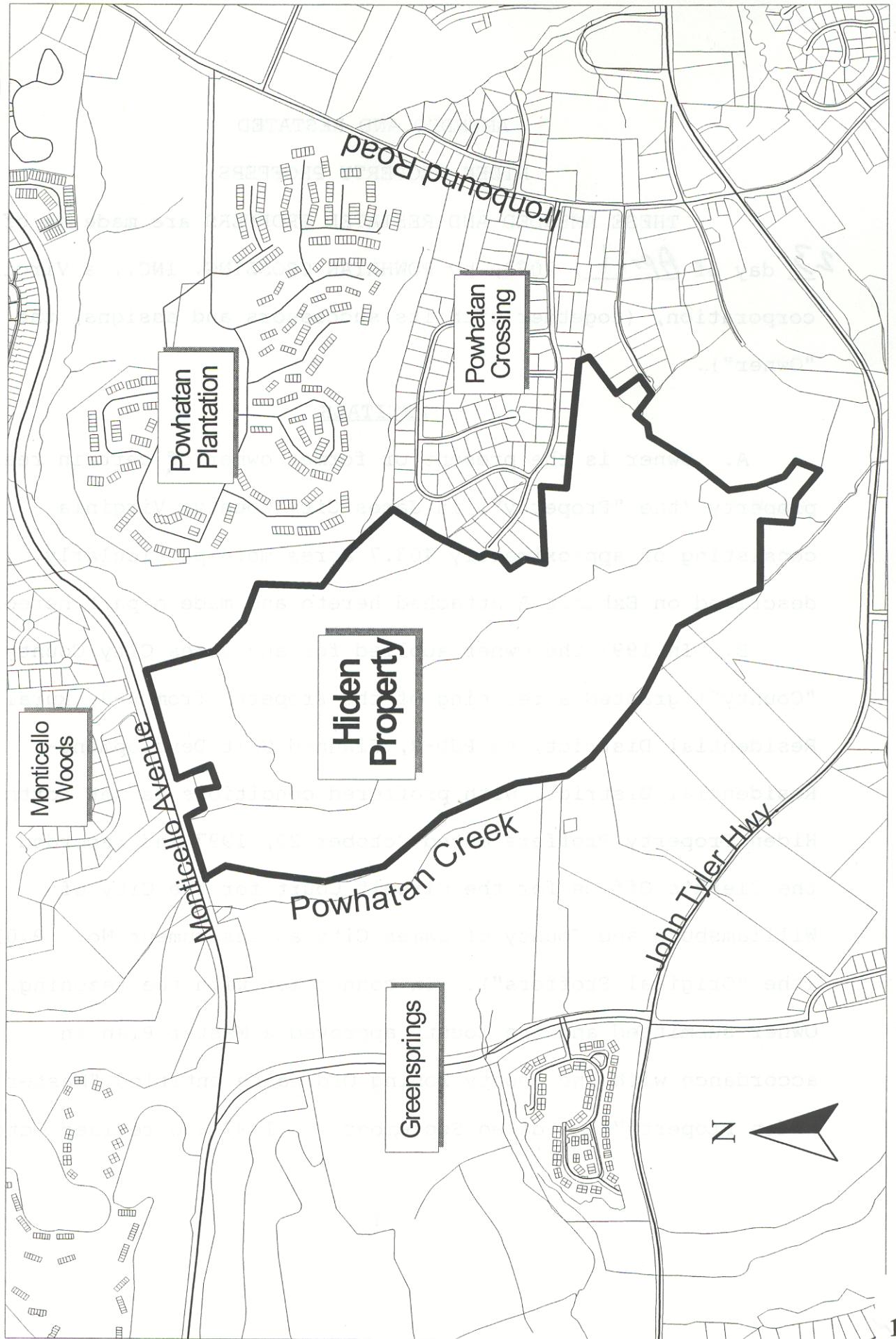
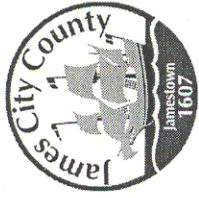
a point; thence N17 40'06"W, 134.93' to a point; thence N42 38'10"E, 100.00' to a point; thence N12 47'00"E, 90.00' to a point; thence N26 19'58"W, 45.59' to a point; thence N30 05'24"E, 99.28' to a point; thence N29 19'39"E, 151.62' to a point; thence N27 18'17"E, 96.13' to a point; thence N22 12'01"E, 106.76' to a point; thence N33 04'45"E, 195.25' to a point; thence N35 32'07"E, 112.18' to a point at the corner of Powhatan Crossing Subdivision and the property of Powhatan Associates; thence along the line of Powhatan Associates N46 07'03"W, 195.50' to a point; thence N45 06'03"W, 108.50' to a point; thence N41 52'03"W, 170.50' to a point; thence N46 28'03"W, 475.30' to a point; thence N46 08'03"W, 126.40' to a point; thence N06 43'57"E, 112.50' to a point; thence N22 46'03"W, 162.00' to a point; thence N36 59'03"W, 255.90' to a point; thence N30 37'03"W, 194.80' to a point; thence N51 04'03"W, 183.00' to a point, thence N22 52'03"W, 143.50' to a point; thence N12 08'03"W, 149.10' to a point; thence N06 25'48"W, 125.82' to a point on the southerly right-of-way of Proposed Alternate Route 5 (Monticello Avenue) thence along said right-of-way in westerly direction S73 08'34"W, 873.10 to a point; thence S16 51'26"E, 150.00' to a point, being a point of said right-of-way line and corner of the HRSD Utility Lot; thence S16 51'26"E, 150.00' along the line of the HRSD Utility Lot; thence S73 08'34"W, 150.00' to a point; thence N16 51'26"W, 150.00' to a point, being a point of said HRSD Utility Lot and the Monticello Avenue right-of-way; thence S73 08'34"W, 132.15' along said Monticello Avenue right-of-way to a point; thence N16 51'26"W, 150.00' to a point; thence S73 08'34"W, 35.98' to the point of beginning.

Said parcel of land containing 218.2 acres, more or less.



Z-2-03/MP-1-03

# Hidden Property Proffer Amendment



AMENDED AND RESTATED  
HIDEN PROPERTY PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made as of this 23 day of April, 2003, by POWHATAN CROSSING, INC., a Virginia corporation, (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the present or former owner of certain real property (the "Property") in James City County, Virginia consisting of approximately 403.7 acres more particularly described on Exhibit A attached hereto and made a part hereof.

B. In 1997 the Owner applied for and James City County (the "County") granted a rezoning of the Property from R-8, Rural Residential District, to PUD-R, Planned Unit Development-Residential District, with proffered conditions as set forth in Hiden Property Proffers dated October 29, 1997 and recorded in the Clerk's Office for the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 97019406 (the "Original Proffers"). In connection with the rezoning, Owner submitted and the County approved a Master Plan in accordance with the County Zoning Ordinance entitled "Master Plan Hiden Property" and dated September 10, 1997 and revised October

15, 1997 (the "Original Master Plan").

C. Owner has now applied for an amendment to the approved Original Master Plan for the Property pursuant to the County Zoning Ordinance and, in connection therewith, desires to amend and restate the Original Proffers.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the applied for amendment to the Original Master Plan and the Original Proffers and pursuant to Section 15.2-2297, et seq. of the Code of Virginia, 1950, as amended, and Section 24-16, et seq. of Chapter 20 of the Code of James City County, Virginia, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the applied for amendments are not granted by the County, these Amended and Restated Proffers shall thereupon be null and void and the Original Proffers and Original Master Plan shall remain in full force and effect.

#### CONDITIONS

1. Owners Association. All owners of lots or units within the Property by virtue of ownership of their lot or unit shall be members of a property owners association with the power to levy mandatory assessments. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents")

creating and governing the association(s) shall be submitted to and reviewed by the County Attorney. The Governing Documents shall require that the association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, private roads and parking areas, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments and for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

2. Density. (a) There shall be no more than 150 single family lots permitted in Area 1 on the Property.

(b) There shall be no more than 400 dwelling units permitted in Area 2 on the Property. All dwelling units developed in Area 2 shall be age restricted to persons fifty-five (55) years of age or older ("Restricted Units") in accordance with the following parameters:

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

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

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

(c) Any accessory commercial uses located in Area 2, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Area 2. Commercial uses shall not be advertised from any public right-of-way.

3. Road Improvements. (a) Monticello Avenue. (i) Owner shall make a contribution of \$2,800.00 to the County for each of the first 250 lots or units shown on subdivision plats or site plans of the Property. Such contributions shall be made available by the County for use by the District for the construction of Monticello Avenue or used by the County for any other project included in the County's capital improvement program, the need for which is generated in whole or in part by the development of the Property. Such contributions shall be made at the time of final subdivision plat or site plan approval for such lots or units.

(ii) There shall be no more than two entrances into the Property from Monticello Avenue, one into the portion of the property south of Monticello Avenue and one into the portion of the property north of Monticello Avenue. The two entrances shall be aligned. Owner shall construct right and left turn lanes on both approaches at the entrances to the Property from Monticello Avenue at the time such entrances are constructed.

(iii) At the request of the County, Owner shall install a traffic signal at the intersection of Monticello Avenue and the entrances to the Property at the earlier of (i) when Virginia Department of Transportation ("VDOT") signal warrants are met or (ii) when development has commenced on either side of Monticello Avenue and the County has issued certificates of occupancy for more than 55 lots or dwelling units utilizing the entrances onto Monticello Avenue; provided that VDOT and the County approves the installation of the traffic signal at that time. When certificates of occupancy for 412 dwelling units on the Property have been issued and if the traffic signal has not been installed at that time, Owner shall cause an updated traffic signal warrant analysis using actual traffic counts shall be submitted to VDOT and the County.

(b) All road improvements proffered hereby shall be constructed in accordance with VDOT standards.

(c) Unless otherwise approved by the Director of Planning, Owner shall reserve a public right-of-way to provide a pedestrian connection from the Powhatan Secondary development to the Property and shall dedicate such right-of-way to the County upon the written request of the County Administrator.

4. Monticello Avenue Greenbelt. At the time of the

conveyance of the Monticello Avenue right-of-way to the County or the District, the Owner shall designate 150-foot greenbelt buffers along the Property's Monticello Avenue frontage measured from a right-of-way line assuming a 120 foot right-of-way for Monticello Avenue (measured 60 feet on either side of the centerline of the right-of-way). The greenbelt buffers shall be exclusive of any lots or units and shall be undisturbed, except for, with the approval of the Development Review Committee, utilities, drainage improvements, community entrance roads as shown generally on the Master Plan, pedestrian/bicycle trails, lighting, entrance features and signs.

5. Archaeology. A Phase I Archaeological Study for Master Plan area shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National



Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and shall be adhered to during the clearing, grading and construction activities thereon.

6. Environmental Protections. (a) The Owner and/or the owners association shall grant, free of charge, to the Williamsburg Land Conservancy, another County approved land

conservation entity and/or the County a conservation easement with terms consistent with these Proffers over the area designated on the Master Plan as Conservation Area generally in the locations shown on the Master Plan. The exact boundaries of the Conservation Area shall be shown on subdivision plats and/or site plans of the Property based on the buffer line and Conservation Area shown and set out on the map entitled "Master Plan Amendment for Hiden Property for Jamestown, LLC" made by AES Consulting Engineers, Project No. 9254, dated 2/24/03, revised 4/25/03. The conservation easement over the Conservation Area shown on each individual subdivision plat or site plan shall be granted at the time of final approval thereof by the County. The Conservation Area shall remain undisturbed and in its natural state, preserving indigenous vegetation except as set forth below. With the prior approval of the Environmental Division or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Conservation Area; (ii) select hand clearing and pruning of trees shall be permitted in the Conservation Area to permit sight lines or vistas, and (iii) utilities, roads, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area. No stormwater best management practices

("BMPs") shall be permitted in the 100 foot Resource Protection Area ("RPA") imposed by County ordinance along the main stem of Powhatan Creek. With the prior approval of the County Environmental Division on a case by case basis, BMPs may be located in other RPAs and elsewhere in the Conservation Area, including RPA extensions shown on the Master Plan, but shall not be located in nor impact the channel flow unless specifically approved by the Environmental Division. The greenway proffered in Proffer 7 below and County trails and passive recreational facilities and structures located therein shall be permitted within the Conservation Area. If vegetation is removed from the Conservation Area it shall be replaced by indigenous vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Owner, at the request of the County, shall retain an environmental consultant acceptable to the County to prepare a three tiered restoration plan for the areas indicated on the "Revised Environmental Constraints Map Hiden Property" made by Williamsburg Environmental Group, Inc. and dated 8/1/97 and revised 9/16/97 where timbering operations resulted in the removal of trees from or land disturbance within the Conservation Area to provide for the restoration of ground cover, shrubs and trees for that

portion of the Conservation Area as determined to be necessary by the consultant. If temporary stormwater BMP's are located in the Conservation Area, the restoration plan shall include a replanting plan for such BMP areas. The restoration plan shall include a phasing plan to ensure areas of the Conservation Area being restored have been stabilized prior to the commencement of development on adjacent developable areas. The restoration plan shall be submitted to the Environmental Division for review and approval. Owner shall implement the recommendations of the approved restoration plan. Road and utility crossings shall be generally perpendicular through the Conservation Area and Owner shall endeavor to design utility systems that do not intrude into the Conservation Area. The Conservation Area shall be maintained by Owner unless the Williamsburg Land Conservancy, the other County approved land conservation entity or the County assumes responsibility therefor under its easement or the Conservation Area is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. The Conservation Area shall be exclusive of Lots.

(b) All stormwater runoff from paved parking areas or roads and from all building structures over 150 square feet in Area 2 of the Property shall be directed into BMPs unless otherwise

approved by the Environmental Division

7. Greenway. Owner shall grant the County an easement within the Conservation Area for a greenway through the Property in the general location shown on the Master Plan as "James City County Greenway Trail" as subdivision plats or site plans for adjacent Property are approved and/or recorded. The County shall be entitled to construct a trail with a minimum 10' wide travel path (which will be open to the general public during daylight hours only), including necessary bridges, if any, through the James City County Greenway Trail and to install passive amenities such as benches, tables, gazebos, educational or descriptive markers or individual fitness stations. The location of the "James City County Greenway Trail" shall be varied within the Conservation Area by the Environmental Division to ensure the ability to construct a viable trail network. Owner shall grant the County suitable parking opportunities (through shared use of parking facilities required by site improvements) to the general public using the trail.

8. Recreation. (a) Owner shall provide the recreational facilities listed below in Area 1 shown on the Master Plan and make the cash contributions to the County described below before the County is obligated to approve final subdivision plats for

more than 100 lots in Area 1:

- Parkland, including one playground of at least 1.9 acres.
- Cash contribution of \$9,900 in lieu of multi-purpose courts.
- Cash contribution of \$4,300 in lieu of playing fields.

(b) Owner shall provide the recreational facilities listed below in Area 2 shown on the Master Plan and make the cash contributions described below to the County before the County is obligated to approve final subdivision plats or site plans for more than 235 dwelling units in Area 2:

- Recreation areas of at total of least 2.5 acres.
- Cash contribution of \$13,650 in lieu of multi-purpose court.
- Cash contribution of \$5,950 in lieu of playing fields.

The recreational facilities in Area 2 may be open only to owners in Area 2.

(c) All cash contributions proffered by this Proffer 8 shall be used by the County for recreation capital improvements, which may include trails within the greenway proffered in Proffer 7. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee. All recreational facilities proffered hereby shall be conveyed to and maintained by the owners association and shall be open to all

members of the association in good standing.

(d) Owner shall construct a shoulder lane bikeway in accordance with VDOT standards along both sides of the main public collector roads within the Property north of Monticello Avenue.

9. Entrance Signs. The entrance signs, lighting, landscaping and entrance features at the entrances to the Property from Monticello Avenue shall be subject to the review and approval of the Director of Planning before a sign permit for such signs is issued. The entrance signs shall be monument type signs.

10. Powhatan Crossing Buffer. The Owner shall maintain a buffer along the Property's common boundary line with the Powhatan Crossing subdivision with the width and in the locations shown on the Master Plan. This buffer shall be exclusive of any lots and shall be undisturbed, except for, with the approval of the Development Review Committee, berms, landscape features, walls or fences or utility easements.

11. Cash Contributions for Community Impacts. (a) A contribution of \$750.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on

the County from the physical development and operation of Area 2 of the Property. The JCSEA may use these funds for development of alternative water sources or any project related to improvements to the JCSEA water system, the need for which is generated by the physical development and operation of Area 2 of the Property.

(b) A contribution of \$700.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of Area 2 of the Property, including, without limitation, for emergency services equipment replacement and supply, traffic signal preemption equipment, library uses, and public use sites.

(c) A contribution of \$500.00 for each of the first 50 dwelling units developed on Area 2 of the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of Area 2 of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated by the physical development and operation of Area 2 of the Property,



including, without limitation, stream stabilization or other stormwater management projects in the Powhatan Creek watershed.

(d) The contributions described above, unless otherwise specified, shall be payable for each of the dwelling units developed within Area 2 of the Property at the time of final subdivision plat or final site plan approval by the County for the particular phase or section of dwelling units.

(e) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) and (b) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI,

then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

12. No Access to Powhatan Crossing. Prior to final approval of the first subdivision plat or site plan for development on the Property, Owner shall (i) convey to the Powhatan Crossing Homeowners Association by quitclaim deed all its right, title and interest in and to the access easement from Powhatan Crossing Drive to the Property adjacent to the recreational lot in Powhatan Crossing, (ii) install a permanent cul de sac at the end of Powhatan Crossing Drive, and (iii) convey to the Powhatan Crossing Homeowners Association by quitclaim deed a strip of land between the permanent cul de sac and the Property such that the public road and the Property are no longer adjacent.

13. Water Conservation. The Owner and/or the owners association shall be responsible for developing water conservation standards to be submitted to and approved by the JCSC and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources, including groundwater. The standards shall be approved by the JCSC prior to final subdivision or site plan approval.

14. Height Limitation. There shall be no building greater than two and one-half stories in height located within 300 feet of the Powhatan Crossing subdivision.

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

16. Severability. If any condition or part thereof set forth herein shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the invalidity or unenforceability of such condition or part thereof shall not invalidate any other remaining condition contained in these Proffers.

WITNESS the following signatures and seals:

POWHATAN CROSSING, INC. 11

By: [Signature]

Title: Pres.

STATE OF VIRGINIA  
CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me  
this 23rd day of April, 2003 by C. LEWIS WALTRIP, IV as \_\_\_\_\_  
President/Owner of Powhatan Crossing, Inc.

Patricia M. Conner  
NOTARY PUBLIC

My commission expires:  
Dec. 21, 2006



**PLANNING DIRECTOR'S REPORT**  
**MAY 2003**

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 reviewed a conceptual plan and design guidelines for WindsorMeade Marketplace.
2. Comprehensive Plan Update. In April, the Comprehensive Plan Steering Committee completed its review of the Housing section. The Steering Committee began its review of the Land Use section on April 14. On April 21, Staff and the Comprehensive Plan consultant Mr. Milton Herd gave recommendations on the Land Use Change Applications. The April 28 meeting of the Steering Committee was dedicated to applicant and public comment on the Land Use Change Applications. The review of the Land Use section will be completed in May. The Steering Committee remains on schedule to deliver the full Comprehensive Plan to the Planning Commission in July 2003.
3. CMAQ and RSTP Allocations. HRPDC has begun the process to allocate CMAQ and RSTP transportation funds for FY2004, FY2005 and FY2006. Project proposals are due June 1<sup>st</sup>, 2003. The County has been successful in receiving these funds in the past for Route 199, Route 199 and Route 31 Intersection, Route 60 relocation and bikeways.
4. VAPA Award. In Richmond last week representatives from the JCC Planning Staff and the Comprehensive Plan Community Participation Team were presented with the 2003 Public Awareness Award from the Virginia Chapter of the American Planning Association (VAPA). This award is given to a public or private entity for a project which has been effective in informing and education the general public about planning. The Community Participation Team was the sole winner of the award from a competitive field of statewide candidates.
5. Subdivision and Zoning Fee Changes. The Board of Supervisors approved an ordinance at its April 22, 2003 meeting revising fees for subdivisions, rezoning, special use permits, site plans, and sign permits. These changes will take effect July 1, 2003.
6. Other Board Action. At its April 8<sup>th</sup> meeting, the Board of Supervisors approved Case No. SUP-4-03, Hankins Farm Water and Sewer Extension. For Case No. SUP-10-03, Leighton-Herrmann Subdivision, the public hearing was opened and continued until May 13. At its April 22<sup>nd</sup> meeting, the Board of Supervisors approved Case Nos. SUP-5-03 through SUP-8-03, Temporary Classroom Trailers.
7. Upcoming Cases. New cases that are tentatively scheduled for the June 2, 2003, Planning Commission meeting.

**SUP-11-03. AJC WOODWORKS.** Mr. Tony Casanave has applied for a Special Use Permit to construct and operate a woodworking shop behind a dwelling at 8305 Richmond Road, Toano, Virginia. The property is zoned General Agricultural and can be further identified as Parcel (1-3) on the JCC Real Estate Tax Map ( 12-4).

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O. Marvin Sowers, Jr.